



PUBLIC RELEASE M E M O R A N D U M

Subject: Non-Fatal Officer-Involved Incident

Involved Officers: Corporal Alfredo Lopez
Deputy Michael Arellano
Deputy Taylor Tarankow

San Bernardino County Sheriff's Department

Involved Subject/DOB: Joseph Allen
DOB: 11/01/1993

Subject's Residence: Rancho Cucamonga, California

Incident Date: 02/01/2022

Incident Time: 4:43 a.m.

Case Agent/Agency: Detective Robert Ripley
San Bernardino County Sheriff's Department

Agency Report #: DR# 112201237
H# 2022-15

DA STAR #: 2024-00-0027570

PREAMBLE

This was a non-fatal officer involved shooting by Corporal Alfredo Lopez, Deputy Michael Arellano, and Deputy Taylor Tarankow from the San Bernardino County Sheriff's Department. The shooting was investigated by the San Bernardino County Sheriff's Department Specialized Investigations – Homicide. This factual summary is based on a thorough review of all the investigative reports, photographs, video recording, and audio recordings submitted by the San Bernardino County Sheriff's Department, under DR # 112201237.

STATEMENT OF FACTS

On Tuesday, February 1, 2022, at approximately 0328 hours Sheriff's Dispatch received a 9-1-1 call from a male, later identified as Joseph Allen. In the first call, Allen stated that he was injured and was being raped. Allen disconnected the call. The dispatcher called Allen back and Allen told the dispatcher that he needed medical aid and again ended the call. Dispatch created an "unknown disturbance" call and Deputies Mario Martinez-Nava, Michael Arellano, Taylor Tarankow, Damon Baca, Joshua Kelly, Todd Johnson, and Corporal Alfredo Lopez responded to the incident location.

Deputy Martinez-Nava arrived and saw Allen run into the residence. Deputy Martinez-Nava spoke with Joseph Allen's mother, Witness One in the front yard of the residence; she related that Allen had caused a self-inflicted injury, that there were two other people inside the home, and she did not know if Allen was still armed with a knife.

Deputy Martinez-Nava looked through a large window in the front of the home and observed Allen with a large amount of blood on his person from an injury to Allen's neck, near his trachea. Allen paced back and forth in the living room and the kitchen, Deputy Martinez-Nava did not see any other people inside.

Deputy Martinez-Nava and Deputy Kelly communicated with Allen through a screen door at the open front door and told him to exit the residence for medical aid. Allen refused and continued to yell inside the residence. Allen repeatedly yelled that he was raped and would not go back to prison.

Corporal Lopez arrived and attempted to persuade Allen to come out of the home so that they could render medical aid. Corporal Lopez went to the back of the home to gain more insight into the layout and asked Deputy Tarankow to arm herself with a less-lethal shotgun. Corporal Lopez allowed Allen's sisters to come near the security screen door to speak with him to try and persuade him to let the deputies help him. Allen refused. Allen continued to pace and mumble to himself and then went into kitchen and closed the French doors behind him which separated and cut off the line of sight to the deputies in the front of the house.

Allen then armed himself with a kitchen knife and charged through the French doors, out into the living room, and then through the screen door where Corporal Lopez,

Deputy Arellano, and Deputy Tarankow were standing on the front porch. Corporal Lopez discharged his firearm approximately three times, Deputy Arellano discharged his firearm approximately three times, and Deputy Tarankow discharged her less-lethal shotgun once. Allen sustained approximately five gunshot wounds and survived. Allen's weapon was recovered at the scene.

STATEMENTS BY POLICE OFFICERS¹

On February 16, 2022, **Corporal Alfredo Lopez** was interviewed by Detective Robert Ripley, and Deputy Vanayes Quezada of the San Bernardino County Sheriff's Department.

On February 1, 2022, Corporal Lopez was employed by the San Bernardino County Sheriff's Department as a deputy sheriff. On February 1, 2022, Corporal Lopez was on duty, assigned to patrol out of the Rancho Cucamonga Police Station. Corporal Lopez drove a marked Sheriff's Department patrol vehicle, and his call sign was 11P61. Corporal Lopez wore a readily identifiable Sheriff's Department approved Class A uniform. Corporal Lopez' firearm was a duty weapon, a .45 caliber Glock 21 handgun which holds a total of 14 bullets when one bullet is chambered.

On February 1, 2022, Corporal Lopez heard dispatch air a call for an unknown problem. Corporal Lopez heard other deputies respond via radio, so Corporal Lopez continued his way to an alarm call. When that was cleared, Corporal Lopez responded to the incident. On his way there, he heard additional details from the radio traffic to include: the suspect, later identified as Joseph Allen, had run back inside the home, and was bleeding heavily from his neck. Corporal Lopez estimated that it took him between ten and fifteen minutes to arrive, and additional deputies were already on scene.

When Corporal Lopez arrived, he found all Sheriff's personnel still assessing the scene and trying to understand what was happening with the suspect. He grabbed a ballistic shield from his vehicle and handed it to Deputy Johnson. He told Deputy Tarankow to arm herself with a less-lethal beanbag shotgun.

Corporal Lopez saw Deputy Martinez-Nava speaking with an older Hispanic couple, later identified as Joseph Allen's parents. Corporal Lopez spoke to the female in Spanish, and she told Corporal Lopez that she believed her son, Joseph Allen, may be on drugs. Corporal Lopez also learned that there were believed to be two additional people inside the house with the suspect. Corporal Lopez considered that perhaps Joseph Allen was experiencing a mental health crisis.

Corporal Lopez stood next to where Deputy Kelly was, approximately two to three feet from the front door in of the house and saw Allen inside the home, between the living room and the dining room. The front door to the residence was open, and there was a white metal security screen door between the deputies and Allen. Corporal Lopez heard Deputy Kelly speaking to Allen in English, and Allen was responding in English

¹ Herein is a summary only. All reports submitted were reviewed, but not all are referenced here.

and appeared to understand. Corporal Lopez could not hear any other occupants in the home and maintained a visual on Allen.

Allen was pacing back and forth between the dining room, kitchen, and living room. Allen was mumbling to himself and was refusing to comply with Deputy Kelly's requests to exit the home. Corporal Lopez heard Allen say, "stop touching me," which indicated to Corporal Lopez that Allen may be experiencing a mental health crisis.

Allen was also bleeding profusely from an injury on his neck. The "gash" interfered with Allen's ability to breathe and caused Allen to periodically take large gasps of air. Corporal Lopez could see through the home to the back where he saw a rear slider for access to the backyard. To establish a perimeter, Corporal Lopez went to the back of the home, while Deputy Kelly remained in the front. Deputies Johnson and Baca joined Corporal Lopez in the backyard. Corporal Lopez maintained visual and believed that Allen did not appear to have a weapon in his hands and did not make furtive movements towards his waistband that would indicate a concealed weapon.

Corporal Lopez described Joseph Allen as "pacing back and forth" and that he appeared like he did not want contact with police. Joseph Allen would turn his back away from deputies and say, "get away from me," or "leave me alone." Corporal Lopez made entry to an "add on" portion of the home to further understand the layout but also clear the room/add-on for any additional persons. There was no one in this add-on portion of the home, but Corporal Lopez noticed some blood on the sink in the tight space.

Corporal Lopez advanced further into the home through this add-on portion and noted several closed doors and could hear deputies speaking to Allen in an attempt to help him and contain the situation. Corporal Lopez did not want to alert Allen to his presence inside the home in case that agitated Allen further. Corporal Lopez exited the home the way he came in, through this add-on, and returned to the backyard.

Corporal Lopez explained that at this point in the incident, while there may be others inside the residence, Joseph Allen was contained in the west portion of the home, and they had visual of him. He did not appear to be armed, although he was bleeding from the wound in his neck. Corporal Lopez did not consider calling for additional backup, either in the form of the SWAT team or a team from the Department of Behavioral Health since there was no crime yet committed, and the situation was generally under control with Joseph Allen contained. Entry was contemplated, but only in the event that Joseph Allen was armed, became incapacitated due to his injury, or there was a commotion or reason to believe he may harm the other occupants believed to be inside.

Corporal Lopez discussed these topics with the other deputies that had followed him into the backyard, Deputies Johnson, Baca, and Martinez-Nava. While in the backyard, Deputy Martinez-Nava noted to Corporal Lopez that the back kitchen window was cracked. Deputy Martinez-Nava attempted to communicate with Joseph Allen through this window, but they abandoned those efforts of communication when they realized

that Deputy Kelly was still speaking to Joseph Allen from the front of the house, and their attempts in the backyard caused Joseph Allen's attention to be divided. Deputy Kelly was still speaking with Allen when Corporal Lopez went back to the front of the house.

Allen's sister arrived on scene, and Corporal Lopez allowed the sister to speak with Joseph Allen in an attempt to gain compliance and allow deputies to render aid. While in front of the house, Deputy Baca secured keys to the residence from Allen's family in case entry needed to be made. Deputy Baca surreptitiously unlocked the security screen on the front door. The inside residence door remained open. Corporal Lopez decided entry from the front of the house would be better tactically since he had observed a large amount of blood on the tiled kitchen floor and worried about traction should a physical event transpire.

While one sister was at the front door with Corporal Lopez, a second sister arrived and attempted to talk Joseph Allen into coming out front. The sisters spoke to Allen softly and asked him to please come out so deputies could help him. Corporal Lopez was next to the door during these conversations and kept one foot on the corner of the screen security door so the sister could not attempt to enter the home, and Allen would be prevented from rushing out the door. Corporal Lopez asked Allen if he had any weapons, and Allen responded, "no." Corporal Lopez asked Allen if an officer could enter the home, and Joseph Allen responded, "no." Allen would still not come outside.

Joseph Allen began to voice concerns about returning back to prison, and he asked to speak with his mother. Joseph Allen seemed to be responding to his sisters speaking with him, he was engaged and did not appear to be agitated by their presence. Corporal Lopez then noticed a change in Joseph Allen's demeanor. Joseph Allen accused the second to arrive sister of giving an officer something. Joseph Allen began to pace more and his speech was more rapid, he was more agitated. Joseph Allen moved towards the back of the house where Deputies Baca and Martinez-Nava were, and closed himself off into a room with double French doors. While some visual was still maintained, Corporal Lopez asked Joseph Allen's family to step away from the door, and out to the curb in front of the home.

Once family was moved further from the house Corporal Lopez asked the deputies in the back to keep visual on Allen via radio. Corporal Lopez believed this incident was turning into more of a barricaded suspect situation, and Corporal Lopez learned that Allen had an active felony warrant for a violation of Penal Code section 69.

There was discussion between Corporal Lopez and Deputy Johnson about tactics. Deputy Johnson suggested going inside to further contain Allen. Corporal Lopez did not want to enter the house since Allen was close to the kitchen and could arm himself with a knife. There was also concern about the amount of blood on the floor as a slipping hazard.

Corporal Lopez heard Deputy Arellano say, “he’s coming out fast.” Corporal Lopez heard a door open which he believed was the French door and saw Allen running toward the security screen front door, towards Corporal Lopez.

Allen ran in a full sprint toward the door while holding a large kitchen knife, elevated above Allen’s head with an overhand grip, knife blade pointed down. The position of the knife in Allen’s hand did not change while Allen ran at Corporal Allen and others. Allen covered the distance between the French doors and the front door quickly and seemed to “effortlessly” go through the front metal security door (that had been previously unlocked) out into the front yard toward deputies.

Corporal Lopez unholstered his duty weapon and ordered Allen to drop the knife three times. Allen did not comply. Corporal Lopez shot five times in rapid succession. As Corporal Lopez shot, he did not have time to utilize his front sights, and he was moving quickly away from Allen backwards to create more space between him and Allen. Corporal Lopez fell backwards over and through an approximate three-foot-high hedge and landed on his back near the sidewalk. He did not fire any shots as he fell but heard others firing during the incident. While Corporal Lopez fell through the hedge, his radio changed channels and when Corporal Lopez broadcasted that there were shots fired, he was broadcasting on the “pursuit channel,” and not the channel that was being used for this incident.

Corporal Lopez quickly stood up and saw Allen on the ground with a knife next to his right hand. Corporal Lopez went to Allen and when the knife was secured away from Allen, Corporal Lopez rendered aid and called for medical emergency services to come to the location. Allen was attempting to sit up and was groaning. Corporal Lopez immediately rendered medical aid to Allen. Allen’s family was outside and immediately were upset. Allen’s family yelled and screamed and approached deputies as they attempted to assess the scene and render aide. The family had to be restrained after the shooting. Corporal Lopez and deputies then cleared the home and asked two male Hispanic occupants to exit the home carefully so as to not disturb the scene.



On February 14, 2022, **Deputy Michael Arellano** was interviewed by Detective Robert Ripley and Deputy Vanayes Quezada of the San Bernardino County Sheriff's Department.

Deputy Michael Arellano was employed by the San Bernardino County Sheriff's Department as a deputy sheriff. On February 1, 2022, Deputy Arellano was on duty, assigned to patrol out of the Rancho Cucamonga Station. Deputy Arellano drove a marked Sheriff's Department patrol vehicle and wore a readily identifiable Sheriff's Department approved Class A uniform. Deputy Arellano carried a Glock 21 .45 caliber that was loaded with 13 rounds in the magazine, plus one in the chamber.

On February 1, 2022, at approximately 3:30 a.m., dispatch aired a call for service where the reporting party said he was being raped and was injured. Deputy Martinez-Nava asked for the call over the radio, and then aired that upon Deputy Martinez-Nava's arrival, a male ran back inside the house. Deputy Arellano responded to the incident location and arrived approximately five minutes after Deputy Martinez-Nava. Upon arrival Deputy Arellano saw Deputy Martinez-Nava speaking with a female, and asked Deputy Martinez-Nava to explain the circumstances.

Deputy Martinez-Nava told Deputy Arellano that there was a man inside the house with a knife to his own neck, and there were two other people inside the home. Deputy Arellano saw that no one had less-lethal available and went to his unit to retrieve his less-lethal beanbag gun. Deputy Arellano loaded four bean bag shells inside the gun

and returned to the front of the incident residence, behind a car in the driveway next to Deputy Baca.

Deputy Kelly was at the front door communicating with the subject identified as Joseph Allen. Deputy Arellano could see the door to the residence was open but there was a white metal security screen door. Allen was smoking a cigarette as evidenced by the ember lit end that Deputy Arellano could see. Deputy Kelly announced to Allen that they were the Sheriff's Department and they were there to help him. Allen responded with, "go away," "you're hurting me," and "leave me alone." Allen had a gash wound to his neck and was bleeding profusely from the wound; blood covered the front of Allen's shirt.

Corporal Lopez arrived approximately fifteen minutes after Deputy Arellano, and he and other deputies on scene briefed Corporal Lopez about their efforts. Corporal Lopez told Deputy Arellano and others to move closer to the house as Allen was moving in between the living room and the back of house in the kitchen area. There were additional deputies stationed in the backyard. As Deputy Arellano moved closer to the front door, Deputy Martinez-Nava was next to a window in the front. Deputy Arellano saw a Hispanic male attempting to climb out of the window where Deputy Martinez-Nava was, and Deputy Arellano alerted him, not knowing whether it was the suspect or another person.

Deputy Martinez-Nava acknowledged the man climbing out the window and confirmed it was not the suspect. Deputy Arellano moved to the front door and saw Allen acted "erratic" and walked back and forth from the living room to the kitchen. Allen grabbed a mirror, held it in front of him with two hands, elbows bent at 45 degrees, and spun in 360-degree circles. Deputies Arellano, Kelly, and Lopez discussed a plan to enter the home if Allen went down the hallway toward where they believed another person was present. The deputies continued to try and communicate with Allen to come out of the home so they could render aid.

Deputy Arellano moved from the front door to the window and kept visual on Allen from that position. Deputy Arellano gave his less-lethal to Deputy Tarankow. While in that position, Allen's sister arrived at the location and deputies allowed her to come to the front door to try and talk to Allen. After approximately fifteen minutes Allen was uncooperative with requests to exit, even from his sister, and Allen made statements like "go away," "they are framing me," and "I don't want to go back to prison." At this time, dispatch aired that Allen had an active felony warrant for a violation of Penal Code section 69.

A second sister arrived at the location, and again deputies allowed her to try and talk Allen into coming out of the house. Multiple attempts were made by this sister to encourage Allen to come outside. At one point, the sister put her hand on the unlocked door and told deputies that Allen would not hurt her if she went inside. Deputy Arellano told her "no," because it was a safety concern. Allen remained inside the home and would not comply. Deputy Arellano remained at the side front window with a visual on

Allen; he was not involved in giving Allen direct commands. The sisters were asked to leave the front door area and wait on the sidewalk, they were also told that if deputies enter the residence to not follow them inside and remain on the sidewalk.

Allen went toward the kitchen and closed the doors between the kitchen and the front rooms and caused Deputy Arellano to lose visual. Deputy Arellano relayed what he saw happen on the radio to those deputies in the back of the house that had a different vantage point.

Deputy Arellano saw Allen rush out of the kitchen into the living room and heard, "he's coming, he's coming, he's coming fast." Deputy Arellano heard someone yell, "he has a knife, he has a knife." Deputy Arellano saw Corporal Lopez run towards the front door and put pressure on the front security screen door and then disengage and back pedal away from the entrance. Someone yelled, "drop the knife." Deputy Arellano saw Allen holding a large kitchen knife; he had it pointed down and held at chest height.

Deputy Arellano yelled "drop the knife, drop the knife." Allen did not comply. Deputy Arellano discharged his duty weapon. Allen fell to the ground on his back and Deputy Arellano approached and kicked the knife away from Allen's hand. Deputy Arellano holstered his duty weapon and attempted to control Allen's right arm. Allen tensed up and tried to get up. Deputy Johnson warned Deputy Arellano that Allen was trying to bite, and Deputy Johnson put the shield up near Allen's face to prevent him from biting deputies. Deputy Arellano put handcuffs on Allen's wrists to the front of his person, while Allen remained on his back. Deputy Arellano saw that Allen had a gunshot wound to the chest. Deputy Baca asked Deputy Kelly to retrieve a trauma kit and Deputy Arellano called for medical attention.

Deputy Arellano and Corporal Lopez went inside the home to clear it and in two separate rooms there were two different Hispanic males. Both the Hispanic males were escorted outside. Deputy Arellano noted a large amount of blood inside the home, which was attributed to the neck wound on Allen.

On February 14, 2022, **Deputy Taylor Tarankow** was interviewed by Detective Robert Ripley and Deputy Vanayes Quezada of the San Bernardino County Sheriff's Department.

Deputy Tarankow was employed by the San Bernardino County Sheriff's Department as a deputy sheriff. On February 1, 2022, Deputy Tarankow was on duty, assigned to patrol out of the Rancho Cucamonga Station. Deputy Tarankow drove a marked Sheriff's Department patrol vehicle and wore a readily identifiable Sheriff's Department approved Class A uniform. Deputy Tarankow carried a Glock 17 9mm as her duty weapon but fired a less-lethal shotgun during this incident.

On February 1, 2022, at approximately 3:30 a.m., dispatch aired a call for service where the reporting party said he was being raped and was injured. Deputy Martinez-Nava asked for the call to be assigned to him, and Deputy Tarankow responded to the scene

as backup. While en route Deputy Martinez-Nava aired on the radio that a subject had run inside the residence, and when Deputy Tarankow arrived, Deputy Martinez-Nava said that the subject had a knife to his own throat and was currently bleeding. Deputies Baca and Kelly arrived on scene at the same time as Deputy Tarankow.

Deputy Tarankow set up along the west side of the residence while Deputy Martinez-Nava gave commands for Allen to exit the home so aid could be rendered. Deputy Tarankow was able to see Allen inside the house and saw Allen "soaked" with blood and erratically moving around the inside of the house. Deputy Tarankow did not see him armed with a knife at this time. Corporal Lopez requested via radio that someone call him to brief him while he was en route, Deputy Tarankow went back to her patrol vehicle and called Corporal Lopez.

Deputy Tarankow told Corporal Lopez that Allen was inside, bleeding heavily, and that multiple other people were inside the home. Deputy Tarankow came back to the front of the residence and saw a Hispanic male, identified as the suspect's father climbing out of a front window on the east side of the front of the house. Deputy Tarankow saw the man open the window, remove the screen, and climb out the window. Deputies knew it was Allen's father because Allen's mother was in the front of the house still and identified the man climbing out of the window as her husband, Allen's father. Deputies were advised that there were two other "roommates" still inside the house with Allen.

Deputy Tarankow set up on the front east side of the home, watching the window in the front to make sure Allen did not exit that way, and also along the side of the house into the backyard. Deputies attempted to contact the additional people inside the home but received no responses. Deputy Johnson arrived, and Deputy Arellano held the less-lethal. Allen was in the kitchen, so Deputy Tarankow went to the backyard to maintain visual and seek a different vantage point. Deputy Tarankow was joined in the backyard by Deputies Martinez-Nava and Johnson. Deputy Tarankow and Deputy Martinez-Nava had their duty weapons drawn, and Deputy Johnson was on non-lethal with a taser and a shield. Deputies Arellano, Kelly, and Baca remained at the front of the house and were attempting to maintain communication with Allen. Deputy Baca then joined the deputies in the back and discussed a crossfire situation if there were shots fired at some point, and then Baca remained in the back of the house.

Deputy Tarankow saw Allen seated at the dining room table talking to himself and bleeding profusely from a wound in his neck. Deputy Martinez-Nava, from the front of the house, gave commands for Allen to exit and explained that deputies did not want to hurt him. Allen got up and started to move to the front of the house, and an unknown officer asked via radio for another deputy to go to the front. Deputy Tarankow went to the front of the residence in response to that request. When Deputy Tarankow arrived, she saw that one of Allen's sisters had arrived in front of the house and was communicating with Allen through the front screen door. Allen seemed to be calmer with his sister there, so Deputy Tarankow put her duty weapon away and got the less-lethal shotgun that was being held by Deputy Arellano.

While in the back of the house, Deputy Tarankow learned via radio that Allen had a felony warrant for a violation of Penal Code section 69. Allen did not exit the residence and instead picked up a mirror and swung it around inside the house. Allen continued talking to himself and "rambling nonsense," repeating that he did not want to go back to prison. A second sister arrived while Deputy Tarankow was still in the front of the house with less-lethal. This second sister attempted to open the screen door to go inside, two to three times, and was stopped by deputies each time. The sisters continued to talk with Allen, but Allen became upset.

Deputy Tarankow did not know what was said that "set off" Allen, but she saw that he became upset and ran into the kitchen. Allen went into the kitchen and shut the French door between the kitchen and the living room, thereby obstructing the view of the deputies that were in the front. Corporal Lopez and Deputy Johnson discussed a plan to possibly attempt to enter the home and Allen remained behind the closed door for approximately five minutes.

At the front of the house, Deputy Tarankow was near the front door and next to Corporal Lopez and Deputy Arellano. Deputy Tarankow had her gun holstered and remained on less lethal. Deputy Tarankow heard a deputy in the back of the house say, "he has a weapon, he has a weapon." Deputy Tarankow saw Allen push and swing open the French doors and run through the living room towards the front door. Corporal Lopez and Deputy Arellano both say, "he has a knife, he has a knife," as Allen ran full speed towards the front screen door. Deputy Tarankow observed this through the front window and estimated that she was approximately three feet from the front door.

Deputy Tarankow saw that Allen had a knife gripped in his right hand with the blade faced down. As Allen ran through the front screen door, Corporal Lopez, Deputy Arellano, and Deputy Tarankow were already backing up to create more space. As Allen ran forward he looked down, but as soon as he hit the screen door and as it opened, Allen looked up and looked directly at Corporal Lopez. Multiple commands of "drop the knife" were given, and Allen did not comply. As Allen exited the front door, Deputy Tarankow fired one round of the less-lethal shotgun at Allen; she heard a volley of gunfire at the same time and estimated it to be between five and six shots.

Allen fell onto his back and Deputy Tarankow turned away to help contain the family members that had run to Allen's aid. Both sisters and Allen's parents rushed toward Allen on the ground and screamed and spoke in Spanish, they were upset that Allen had been shot. One of the sisters advanced up the driveway and pulled away from Deputy Tarankow. The sister turned and swung her fist at Deputy Tarankow who responded by taking the sister to the ground. Corporal Lopez helped subdue the sister while Deputy Tarankow put the less-lethal shotgun inside the back of her patrol vehicle.

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STATEMENTS BY CIVILIAN WITNESSES²

On February 1, 2022, **Witness Two** was interviewed by Detectives Edward Hernandez and Joseph Necochea of the San Bernardino County Sheriff's Department. Witness Two was initially at the Rancho Cucamonga Police Station and declined to speak with law enforcement until she knew her brother was okay. When the detectives stepped away Witness Two and all other family members left the station. When they were contacted later via phone, Ms. Witness Two told investigators that they had hired an attorney and declined to give any statements.

SUSPECT STATEMENT

Detectives attempted to interview Allen after the incident, but he declined to provide a statement. Therefore, no statement was obtained.

INCIDENT AUDIO/VIDEO AND WEAPON

Corporal Lopez' Belt Recording³

At approximately 46 minutes into the belt recording a calm conversation between deputies can be heard. The deputies talked about their positions in relation to the home and discussed areas of entry including the front door and a slightly open window.

At approximately 47 minutes and 25 seconds, someone can be heard to say, "knife," followed by quick movement. Multiple people are heard yelling, "drop the knife!" approximately four times before multiple rounds of gunshots.

Immediately following the gunshots, multiple women can be heard screaming, "no!" and continue to loudly scream. Deputies tell them to "get back," as a deputy calls for medical aid. The women continue to scream unintelligently, and deputies plead with them to stay back. A deputy can be heard saying, "stop fighting!" and Allen can be heard groaning while deputies attempted to attend to Allen. As a deputy called in the shots fired, the women can be heard yelling and screaming in Spanish, and Allen can be heard yelling in the background.

² All reports of civilian statements made were reviewed, though not all are summarized or mentioned here.

³ The dispatch recording was reviewed in its entirety. The summary will cover the events from the beginning of the incident through the point immediately after the incident under review.

SUSPECT WEAPON



SUSPECT INFORMATION

Joseph Allen was 28 years old at the time of this incident and had no prior felony convictions.

DE-ESCALATION ATTEMPTS

From the time that Deputy Martinez-Nava arrived as the first deputy to the incident location to the time of the lethal force encounter was approximately one hour and seven minutes. During the incident deputies became aware that Allen had a felony warrant for a violation of Penal Code section 69, Resisting an Executive Officer. Deputies took the time to communicate with Allen in an effort to de-escalate the situation. Despite Allen's erratic behavior, self-inflicted wound, and access inside the home to more knives, deputies staged in the front and the back in an effort to try and coax him out of the house so that medical aid could be rendered.

Deputies also allowed Allen's two sisters to communicate with him and convince him to come outside. The verbal tactics to de-escalate were ultimately not effective, as Allen did not respond to the de-escalation attempts and continued to advance towards both Deputies while armed with a knife. Allen ran at deputies which communicated clearly that Allen would not comply with the deputies' multiple requests to exit the house so that medical personnel could tend to his neck wound.

APPLICABLE LEGAL PRINCIPLES

Assault With a Deadly Weapon

PENAL CODE SECTION 245 (a)(1). Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars, or by both fine and imprisonment.

(c) Any person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for four, six, or eight years. (Penal Code 245, summarized in pertinent part.)

Reasonable Force

A peace officer may use objectively reasonable force to effect an arrest if he believes that the person to be arrested has committed a public offense. (Calif. Penal Code

§835a(b).)⁴ Should an arresting officer encounter resistance, actual or threatened, he need not retreat from his effort and maintains his right to self-defense. (Penal Code §835a(d).) An officer may use objectively reasonable force to effect an arrest, prevent escape or overcome resistance. (Penal Code §835a(d).)

An arrestee has a duty to refrain from using force or any weapon to resist arrest, if he knows or should know that he is being arrested. (Penal Code §834a.) This duty remains even if the arrest is determined to have been unlawful. (*People v. Coffey* (1967) 67 Cal.2d 204, 221.) In the interest of orderly resolution of disputes between citizens and the government, a *detainee* also has a duty to refrain from using force to resist detention or search. (*Evans v. City of Bakersfield* (1994) 22 Cal.App.4th 321, 332-333.) An arrestee or detainee may be kept in an officer's presence by physical restraint, threat of force, or assertion of the officer's authority. (*In re Gregory S.* (1980) 112 Cal. App. 3d 764, 778, *citing*, *In re Tony C.* (1978) 21 Cal.3d 888, 895.) The force used by the officer to effectuate the arrest or detention can be justified if it satisfies the Constitutional test in *Graham v. Connor* (1989) 490 U.S. 386, 395. (*People v. Perry* (2019) 36 Cal. App. 5th 444, 469-470.)

An officer-involved shooting may be justified as a matter of self-defense, which is codified in Penal Code sections 196 and 197. Both code sections are pertinent to the analysis of the conduct involved in this review and are discussed below.

PENAL CODE SECTION 196. Police officers may use deadly force in the course of their duties, under circumstances not available to members of the general public. Penal Code Section 196 states that homicide by a public officer is justifiable when it results from a use of force that “is in compliance with Section 835a.” Section 835a specifies a ***police officer is justified in using deadly force*** when he reasonably believes based upon the totality of the circumstances, that it is necessary:

- (1) to defend against an imminent threat of death or serious bodily injury to the officer or another; or
- (2) to apprehend a fleeing felon who threatened or caused death or serious bodily injury, if the officer also reasonably believes that the fleeing felon would cause further death or serious bodily injury unless immediately apprehended.

(Penal Code §835a(c)(1).) Discharge of a firearm is “deadly force.” (Penal Code §835a(e)(1).) The “[t]otality of the circumstances” means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.” (Penal Code §835a(e)(3).)

While the appearance of these principals is new to section 835a in 2020,⁵ the courts have been defining the constitutional parameters of use of deadly force for many years.

⁴ All references to code sections here pertain to the California Penal Code.

⁵ Assem. Bill No. 392 (2019-2020 Reg. Sess.) approved by the Governor, August 19, 2019. [Hereinafter “AB-392”]

In 1985, the United States Supreme Court held that when a police officer has probable cause to believe that the suspect he is attempting to apprehend “has committed a crime involving the infliction or threatened infliction of serious physical harm” to the officer or others, using deadly force to prevent escape is not constitutionally unreasonable. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11-12.) California courts have held that when a police officer’s actions are reasonable under the Fourth Amendment of our national Constitution, that the requirements of Penal Code § 196 are also satisfied. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 349; *Brown v. Grinder* (E.D. Cal., Jan. 22, 2019) 2019 WL 280296, at *25.) There is also a vast body of caselaw that has demonstrated *how* to undertake the analysis of what is a reasonable use of force under the totality of the circumstances. (See *Reasonableness* discussion, *infra*.) As such, our pre-2020 state caselaw, developed upon the former iteration of section 196, is still instructive.

There are two new factors in section 835a that did not appear in the section previously, nor did they develop in caselaw pertaining to use of deadly force. First, a peace officer must make reasonable efforts to identify themselves as a peace officer and warn that deadly force may be used, prior to using deadly force to affect arrest. (Penal Code §835a(c)(1).) This requirement will not apply if an officer has objectively reasonable grounds to believe that the person to be arrested is aware of those facts. (Penal Code §835a(c)(1).) Second, deadly force cannot be used against a person who only poses a danger to themselves. (Penal Code §835a(c)(2).)

While the codified standards for use of deadly force in the course of arrest are set forth at subsections (b) through (d) of Section 835a, the legislature also included findings and declarations at subsection (a). These findings and declarations lend guidance to our analysis but are distinct from the binding standards that succeed them within the section. In sum, the findings are as follows:

- (1) that the use of force should be exercised judiciously and with respect for human rights and dignity; that every person has a right to be free from excessive uses of force;
- (2) that use of force should be used only when necessary to defend human life and peace officers shall use de-escalation techniques if it is reasonable, safe and feasible to do so;
- (3) that use of force incidents should be evaluated thoroughly with consideration of gravity and consequence;⁶

⁶ Penal Code §835a (a)(3) conflates a demand for thorough evaluation of a use of force incident with a dictate that it be done “in order to ensure that officers use force consistent with law and agency policies.” On its face, the section is clumsily worded. Nothing included in AB-392 plainly requires that a use of force also be in compliance with agency policies. A provision in the companion bill to AB-392—Senate Bill No. 230 [(2019-2020 Reg. Sess.) approved by the Governor, September 12, 2019] (Hereinafter “SB-230”), does explicitly state that “[a law enforcement agency’s use of force policies and training] may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably, but shall not be considered as imposing a legal

- (4) that the evaluation of use of force is based upon a totality of the circumstances, from the perspective of a reasonable officer in the same situation; and
- (5) that those with disabilities may be affected in their ability to understand and comply with peace officer commands and suffer a greater instance of fatal encounters with law enforcement, therefore.

(Penal Code §835a(a).)

PENAL CODE SECTION 197. California law permits *all persons* to use deadly force to protect themselves from the imminent threat of death or great bodily injury. Penal Code section 197 provides that the use of deadly force by any person is justifiable when used in self-defense or in defense of others.

The pertinent criminal jury instruction to this section is CALCRIM 505 (“Justifiable Homicide: Self-Defense or Defense of Another”). The instruction, rooted in caselaw, states that a person acts in lawful self-defense or defense of another if:

- (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury;
- (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and
- (3) he used no more force than was reasonably necessary to defend against that danger.

(CALCRIM 505.) The showing required under section 197 is principally equivalent to the showing required under section 835a(c)(1), as stated *supra*.

IMMINENCE. “Imminence is a critical component” of self-defense. (*People v. Humphrey* (1996) 13 Cal.4th 1073, 1094.) A person may resort to the use of deadly force in self-defense, or in defense of another, where there is a reasonable need to protect oneself or someone else from an apparent, *imminent* threat of death or great bodily injury. “An imminent peril is one that, from appearances, must be instantly dealt with.” (*In re Christian S.* (1994) 7 Cal.4th 768, 783.) The primary inquiry is whether action was instantly required to avoid death or great bodily injury. (*Humphrey, supra*, 13 Cal.4th at 1088.) What a person knows, and his actual awareness of the risks posed against him are relevant to determine if a reasonable person would believe in the need to defend. (*Id.* at 1083.) In this regard, there is no duty to wait until an injury has been

duty on the officer to act in accordance with such policies and training.” (Sen. Bill No. 230 (2019-2020 Reg. Sess.) §1.) It is noteworthy, however, that this portion of SB-230 is uncoded, unlike the aforementioned portion of Penal Code §835a (a)(3).

inflicted to be sure that deadly force is indeed appropriate. (*Scott v. Henrich, supra*, 39 F. 3d at 915.)

Imminence newly defined in the context of use of force to effect an arrest, is similar:

A threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.

(Penal Code §835a(e)(2).)

REASONABLENESS. Self-defense requires both subjective honesty and objective reasonableness. (*People v. Aris* (1989) 215 Cal.App.3d 1178, 1186.) The United States Supreme Court has held that an officer’s right to use force in the course of an arrest, stop or seizure, deadly or otherwise, must be analyzed under the Fourth Amendment’s “reasonableness” standard. (*Graham v. Connor, supra*, 490 U.S. at 395.)

The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on scene, rather than with the 20/20 vision of hindsight....The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.

(*Id.* at 396-397, citations omitted.)

The “reasonableness” test requires an analysis of “whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.” (*Id.* at 397, citations omitted.) What constitutes “reasonable” self-defense or defense of others is controlled by the circumstances. A person’s right of self-defense is the same whether the danger is real or merely apparent. (*People v. Jackson* (1965) 233 Cal.App.2d 639.) If the person’s beliefs were reasonable, the danger does not need to have actually existed. (CALCRIM 505.) Yet, a person may use no more force than is reasonably necessary to defend against the danger they face. (CALCRIM 505.)

When deciding whether a person’s beliefs were reasonable, a jury is instructed to consider the circumstances as they were known to and appeared to the person and considers what a reasonable person in a similar situation with similar knowledge would have believed. (CALCRIM 505.) It was previously held that in the context of an officer-

involved incident, this standard does not morph into a “reasonable police officer” standard. (*People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147.)⁷ To be clear, the officer’s conduct should be evaluated as “the conduct of a reasonable person functioning as a police officer in a stressful situation.” (*Id.*)

The *Graham* court plainly stated that digestion of the “totality of the circumstances” is fact-driven and considered on a case-by-case basis. (*Graham v. Connor, supra*, 490 U.S. at 396.) As such, “reasonableness” cannot be precisely defined nor can the test be mechanically applied. (*Id.*) Still, *Graham* does grant the following factors to be considered in the “reasonableness” calculus: the severity of the crime committed, whether the threat posed is immediate, whether the person seized is actively resisting arrest or attempting to flee to evade arrest. (*Id.*)

Whether the suspect posed an immediate threat to the safety of the officer or others has been touted as the “most important” *Graham* factor. (*Mattos v. Agarano* (9th Cir. 2011) 661 F.3d 433, 441-442.) The threatened use of a gun or knife, for example, is the sort of immediate threat contemplated by the United States Supreme Court, that justifies an officer’s use of deadly force. (*Reynolds v. County of San Diego* (9th Cir. 1994) 858 F.Supp. 1064, 1071-72 “an officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack.”) Again, the specified factors of *Graham* were not meant to be exclusive; other factors are taken into consideration when “necessary to account for the totality of the circumstances in a given case.” (*Mattos v. Agarano, supra*, 661 F.3d at 441-442.)

The use of force policies and training of an involved officer’s agency *may* also be considered as a factor to determine whether the officer acted reasonably. (Sen. Bill No. 230 (2019-2020 Reg. Sess) §1. See fn. 3, *infra*.)

When undertaking this analysis, courts do not engage in *Monday Morning Quarterbacking*, and nor shall we. Our state appellate court explains,

under *Graham* we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.

(*Martinez v. County of Los Angeles, supra*, 47 Cal.App.4th at 343, citing *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.) Specifically, when a police officer reasonably believes a suspect may be armed or arming himself, it does not change the

⁷ The legislative findings included in Penal Code section 835a(a)(4) suggest to the contrary that “the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation”. As such, if the officer using force was acting in an effort to *effect arrest*, as is governed by section 835a, then it appears the more generous standard included there would apply.

analysis even if subsequent investigation reveals the suspect was unarmed. (*Baldrige v. City of Santa Rosa* (9th Cir. 1999) 1999 U.S. Dist. LEXIS 1414 *1, 27-28.)

The Supreme Court's definition of reasonableness is, therefore, "comparatively generous to the police in cases where potential danger, emergency conditions or other exigent circumstances are present." (*Martinez v. County of Los Angeles, supra*, 47 Cal.App.4th at 343-344, citing *Roy v. Inhabitants of City of Lewiston* (1st Cir. 1994) 42 F.3d 691, 695.) In close-cases therefore, the Supreme Court will surround the police with a fairly wide "zone of protection" when the aggrieved conduct pertains to on-the-spot choices made in dangerous situations. (*Id.* at 343-344.) One court explained that the deference given to police officers (versus a private citizen) as follows:

unlike private citizens, police officers act under color of law to protect the public interest. They are charged with acting affirmatively and using force as part of their duties, because 'the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.'

(*Munoz v. City of Union City* (2004) 120 Cal.App.4th 1077, 1109, citing *Graham v. Connor*, [*supra*] 490 U.S. 386, 396.)

NON-LETHAL FORCE. This does not suggest that anything *less than* deadly force requires no justification. "[A]ll force—lethal and non-lethal—must be justified by the need for the specific level of force employed." (*Bryan v. MacPherson* (9th Cir. 2010) 630 F.3d 805, 825, citing *Graham v. Connor* (1989) 490 U.S. [386], 395.) The *Graham* balancing test, as described *supra*, is used to evaluate the reasonableness of lethal and non-lethal force, alike. (*Deorle v. Rutherford* (9th Cir. 2001) 272 F.3d 1272, 1282-83.)

Use of a Taser or a shotgun-fired bean bag has been categorized as intermediate non-lethal force. (*Bryan v. MacPherson, supra*, 630 F.3d at 825 [Taser]; *Deorle v. Rutherford, supra*, 272 F.3d at 1279-80 [bean bag].) This designation exists despite the fact that such force is *capable* of being used in a manner causing death. (*Id.*) To be deemed "lethal force" the instrumentality must be force that "creates a substantial risk of death or serious bodily injury." (*Smith v. City of Hemet* (9th Cir. 2005) 394 F.3d 689, 693.); use of a Taser or shotgun-fired bean bag both fall short of this definition. (*Bryan v. MacPherson, supra*, 630 F.3d at 825; *Deorle v. Rutherford, supra*, 272 F.3d at 1279-80.) Similarly, the use of a trained police dog does not qualify as "deadly force" as it too has fallen short of the lethal force definition set forth in *Smith*. (*Thompson v. County of Los Angeles* (2006) 142 Cal.App.4th 154, 165-169.)

Beyond the traditional *Graham* factors, and particularly in the use of non-lethal force, the failure of officers to give a warning and the subject's mental infirmity can also be considered when assessing the totality of the circumstances. (*Bryan v. MacPherson, supra*, 630 F.3d at 831; *Deorle v. Rutherford, supra*, 270 F.3d at 1283-84.) Failure to pass-muster under *Graham* can deem the use of non-lethal force as "excessive" and therefore violate the Fourth Amendment. (*Id.*) On the other hand, active resistance could justify multiple applications of non-lethal force to gain compliance and would not

be deemed “excessive” nor violate the Fourth Amendment. (*Sanders v. City of Fresno* (9th Cir. 2008) 551 F.Supp.2d 1149, 1182 [not excessive to use physical force and tase an unarmed but actively resisting subject with 14 Taser cycles where such was needed to gain physical control of him].)

ANALYSIS

To determine whether the deadly force used against Allen was justified, we must look at the facts and circumstances that led up to the use of force. On February 1, 2022, deputies were dispatched to the incident location regarding a 911 call from Joseph Allen that stated he was in distress. Deputy Martinez-Nava was the first to arrive and saw Allen run inside his home while armed with a knife.

Responding officers spent over an hour talking to Allen in an attempt to have him exit the home so that they could render aid for a self-inflicted throat wound that was bleeding profusely. Deputies allowed Allen’s sisters to speak with him outside the home through a metal security screen door. Allen exhibited signs that he was experiencing a mental health crisis throughout, and eventually became upset and ran into the kitchen, and closed the French doors behind him, blocking the view of the deputies that were out front.

Allen armed himself with a large kitchen knife and burst through the French doors, ran through the living room, and proceeded quickly outside of the home and charged at three deputies in the front. In this case, Corporal Lopez, and Deputies Arellano and Tarankow had seconds to react to Allen running at them armed with a knife. Each of them had an honest and objectively reasonable belief that Allen posed an imminent threat of serious bodily injury or death to them, and potentially others on scene, including family members that were also outside.

Corporal Lopez and Deputy Arellano used deadly force to attempt to stop Allen who was armed with a knife. Deputy Tarankow used force by firing a less-lethal shotgun at Allen. The force exhibited by law enforcement was in response to Allen arming himself and charging them and came after extended efforts by the deputies to have Allen exit the home peacefully.

It was reasonable for Corporal Lopez, Deputy Arellano, and Deputy Tarankow to believe that Allen would continue to use force against them while armed. Under all those circumstances, and based upon a review of the evidence herein, it was objectively reasonable to believe that Allen posed an immediate and serious threat to Corporal Lopez, Deputy Arellano, and Deputy Tarankow’s physical safety and thus their decision to use deadly force was justified.

CONCLUSION

Based on the facts presented in the report and applicable law, Corporal Lopez' use of lethal force was a proper exercise of Corporal Lopez' right of self-defense and defense of others, and therefore his actions were legally justified.

Based on the facts presented in the report and applicable law, Deputy Arellano's use of lethal force was a proper exercise of Deputy Arellano's right of self-defense and defense of others, and therefore his actions were legally justified.

Based on the facts presented in the report and applicable law, Deputy Tarankow's use of force was a proper exercise of Deputy Tarankow's right of self-defense and defense of others, and therefore her actions were legally justified.

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