

**REPORT ON THE FATAL SHOOTING OF**

**ELIOBERT GONZALEZ**

**MARCH 22, 2023**



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## **I. PREAMBLE**

The summary of this incident was prepared after a review of materials submitted by the San Jose Police Department (SJPD) and the Santa Clara County District Attorney's Bureau of Investigation (BoI). The submissions included: reports of the responding police officers; reports summarizing interviews of the involved officers and witnesses; interview recordings; body-worn camera (BWC) footage; photographs; medical examiner's reports; and 911/police radio communications. This review is mandated by the Officer-Involved Incident Guidelines, which were revised by the Santa Clara County Police Chiefs' Association on September 9, 2021.

## **II. SYNOPSIS**

On March 22, 2023, Eliobert Gonzalez was evicted from his apartment. Later that day, Gonzalez forcibly entered another apartment in the complex armed with a two-foot pipe, two machetes, and what appeared to be a loaded .357 revolver. A mother and her two children were home, and Gonzalez forced them to the back bedroom. There, Gonzalez held the family hostage for over 45 minutes, threatening to cut off their heads if they did give him his keys to his apartment. When SJPD personnel responded, officers issued repeated commands over loudspeaker for Gonzalez to surrender. He ignored those commands. Officer Edward Carboni, a trained tactical rifle operator, made his way to the rear of the apartment where he saw Gonzalez through the bedroom window holding a machete in a raised position in his left hand. The officer also saw what appeared to be a revolver in Gonzalez's right hand. Fearing for the lives of the mother and her two children, Officer Carboni fired multiple rounds from his tactical rifle through the bedroom window, killing Gonzalez and ending the hostage incident.

### III. SUMMARY OF FACTS

On the morning of March 22, 2023, 35-year-old Eliobert Gonzalez was evicted and locked out of his apartment in the complex located at 975 Boynton Avenue, San Jose, CA for overdue rent. That night, just before 8:30 p.m., and within that same apartment complex, he scaled the patio fence of the unit belonging to John and Jane Doe, who lived there with their two children, 18-year-old Steven and 7-year-old Anderson. Erroneously believing John and Jane Doe were the apartment managers and had keys to his place, Gonzalez used a two-foot-long metal pipe and smashed the sliding glass patio door that abuts the apartment's living room. Below is an image of the apartment interior showing the shattered glass from the patio entrance:



After destroying the sliding glass door, Gonzalez entered the living room where Steven was playing video games and Anderson was watching TV. Afraid of the intruder, who was armed with a machete, both boys fled to the rear bedroom where their mother was using her computer.

After her sons ran into the bedroom, Jane Doe stood in the doorway and put herself between them and Gonzalez. Holding a raised machete in one hand, and a metal pipe in the other, Gonzalez demanded the keys to his apartment and threatened to kill Jane Doe. To stall for time and diffuse the situation, Steven urged his mom to “get the keys” for the unknown intruder. When Jane Doe moved away from the door to “get the keys,” Steven slammed it shut and tried to hold it closed.

After Steven closed the bedroom door, Gonzalez began striking it with the metal pipe and machete. Eventually, he was able to use those weapons to break the door handle, allowing him to open the door. The image below shows the damage Gonzalez caused to gain access to the rear bedroom and victims:



Once inside, Gonzalez warned the family that if the police tried to take him away, he would “take them away first.” He then threatened to cut off their heads if they did not get him the keys to his apartment. Jane grabbed Anderson and placed him inside the bedroom closet,

closing the door behind him. She then pleaded with Gonzalez to let them go, telling him that God would forgive him.

At approximately 8:30 p.m., Gonzalez told Jane Doe to call the apartment manager to get the keys to his apartment. Instead, Jane called her husband, John Doe, who was doing laundry nearby in the apartment complex. She told John what was occurring before Gonzalez ordered her to hang up the phone. John sprinted back to the apartment. Upon reaching the rear bedroom, John pleaded with Gonzalez to let his family go. Gonzalez told John, in Spanish, that if he did not get the keys to his apartment, John “would be responsible for what happens to the family.” Fearing his family would be killed, John ran to a friend’s apartment and told them to call 911. John then went to the apartment manager’s apartment to get help. The manager was not there, but John notified her boyfriend about what was going on and then ran back to his residence. There, John continued to plead with Gonzalez to let his family go. Gonzalez told John, in Spanish, that he only wanted to speak to the manager and that if the police showed up before the manager did, “We are all fucked.”

At 8:31 p.m., SJPd received the first of multiple 911 calls about a man with a machete holding Jane Doe and her two boys hostage in the apartment. At 8:32 p.m., SJPd units began arriving at the scene and escorted John away from the residence.

Officer Albert Ortiz was one of the first officers there. Once he was advised that a family was being held hostage inside Jane Doe’s apartment by an unknown male, Officer Ortiz began making repeated loudspeaker announcements for the suspect to come out with his hands up. The announcements were made in both English and Spanish at least 10 times every few minutes beginning at 8:40 p.m.

At 9:01 p.m., SJPD requested a full MERGE Unit call out to the incident. MERGE is a specialized weapons and tactics unit at SJPD that handles crisis entries and hostage rescue. MERGE Officer Edward Carboni received the notification shortly thereafter and was in route within minutes.

At 9:02 p.m., Officer Justin Horn was positioned just outside the rear bedroom window in a small outdoor walkway between apartment buildings. He advised SJPD dispatch that through the window blinds, he could see Jane Doe was on her knees and shaking. He described Gonzalez holding a metal rod in one hand, but he could not see the other hand.

At 9:04 p.m., Officer Horn reported to SJPD dispatch that he could now see Jane Doe and her son. He described both being on their knees and Gonzalez holding a large blade. Around that time, Steven witnessed Gonzalez pull out a second machete and place it on the bed.

At 9:10 p.m., Gonzalez made Jane Doe tie up Steven with the power cord to her clothes iron, and he forced the family to lie on the ground. Jane did as he asked, but she tied the cord loosely to allow Steven to protect himself if needed. Gonzalez told Steven that if he tried to untie himself, he would “chop his head off.”

At 9:15 p.m., Officer Carboni arrived at the front of the apartment building. He was wearing his standard MERGE uniform that displayed an SJPD badge. The word “Police” was emblazoned on the front and back of his tactical vest. He was also wearing a tactical helmet and armed with an M4 tactical rifle.

At 9:16 p.m., Officer Carboni was briefed on the incident. Specifically, he was told Gonzalez was holding Jane Doe and her older son hostage with a machete in the rear bedroom. His supervisor also explained that the older son had been tied up and that the police did not know the status of 7-year-old Anderson. Officer Carboni told the supervising officer that he would go

to the rear bedroom window and that if he had the opportunity to “take a shot” that would save the victims, he would do it.

At 9:17 p.m., SJPD called out a hostage negotiator.

At 9:20 p.m., Officer Carboni arrived at the rear bedroom window, where he met up with Officer Horn and Officer Carl Purnell. Officer Purnell had a long metal rod designed specifically to break windows. Officer Carboni was able to see into the bedroom through the blinds and saw Steven tied up and lying on the ground. He also saw Jane Doe kneeling.

Believing Gonzalez was going to imminently kill Jane Doe and her son, Officer Carboni announced over his radio to the entry team at the front of the apartment, “shot away in 30 seconds.” The purpose of that notification was so the MERGE officers in the front could synchronize their entry to secure Gonzalez, save the family, and not be accidentally shot when Officer Carboni opened fire in 30 seconds. With about 20 seconds to go, Officer Carboni advised dispatch that the suspect was on the bed and holding the machete in a raised position. With about 10 seconds to go, Officer Carboni warned Officer Purnell, “I’m going to shoot this guy,” and then gave him specific instructions on how and when to break the bedroom window so he could get a clear shot.

With about five seconds to go, Officer Carboni saw Gonzalez holding what appeared to be a revolver in one hand and a machete in the other. At that same moment, Jane was pleading for Gonzalez to think about his own family. Gonzalez told her to “shut up” and said, “There is nothing else I can do.” Jane lowered her head.<sup>1</sup>

At approximately 9:22 p.m., Officer Carboni counted, “three, two one,” and gave the command to break the window. Officer Purnell smashed it with the metal rod. Gonzalez

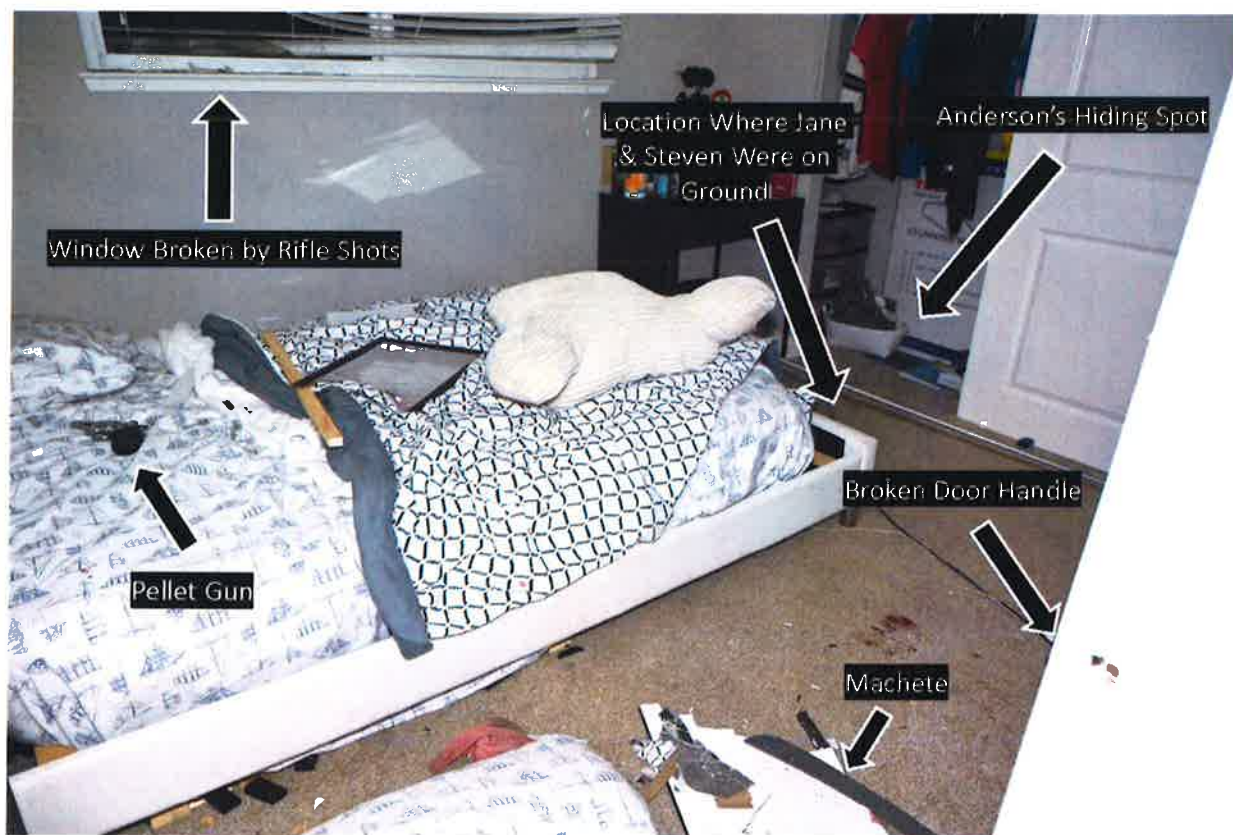
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<sup>1</sup> Officer Carboni did not hear this verbal exchange between Jane and Gonzalez. It is included to give context to Gonzalez’s dangerousness but does not affect the officer’s decision to shoot.



immediately jumped off the bed and turned toward the family. Officer Carboni fired seven rifle rounds at Gonzalez through the broken window, hitting him multiple times. When the shots rang out, Jane immediately jumped on top of Steven to protect him. Gonzalez fell onto his back, dropping the machete and the gun.

Immediately after hearing Officer Carboni fire his rifle, the MERGE entry team deployed a flash-bang distraction device at the front of the home. The team then rushed into the rear bedroom where officers secured Gonzalez and took Jane, Steven, and Anderson to safety. None of them was injured in the shooting. Below is a photograph of the bedroom where the family was held hostage<sup>2</sup>:



<sup>2</sup> The BWC video shows that the pellet gun, which appeared to be a loaded .357, was moved by a MERGE officer from the floor where Gonzalez was shot to the bed for officer safety.

Gonzalez was transported to Valley Medical Center and later pronounced deceased. Officers Carboni, Horn, and Purnell were sequestered pending their interviews with homicide detectives and DA BoI investigators. Officer Carboni was also treated for a cut he sustained on his hand from the breaking glass.

#### **IV. WITNESS STATEMENTS**

Multiple police officers and civilian witnesses were interviewed in this case. Summaries of the two most pertinent interviews are included below.

##### **A. OFFICER EDWARD CARBONI**

SJPD homicide detective Sergeant Ivan Barragan and DA BoI investigator Larry Ryan interviewed Officer Edward Carboni in the early morning of March 23, 2023. The interview audio was recorded. It was not video recorded at the request of Officer Carboni's attorney.

Officer Carboni has been a police officer with SJPD for the last five years. Before that, he was employed as a police officer with San Jose State University for three years. With SJPD, Officer Carboni was assigned to patrol for his first three years and MERGE for the last year-and-half leading up to this incident. He completed 40 hours of MERGE training and is qualified to use the M4 tactical rifle and a sniper rifle. Officer Carboni is also a tactical medic.

Officer Carboni has been the subject of three prior Officer Involved Incident investigations. On October 31, 2019, he shot and killed Francis Calogne who refused multiple warnings to surrender as he approached Independence High School, openly carrying what appeared to be a real handgun when students were being excused from classes. On May 4, 2019, Officer Carboni shot and killed Efren Esquivel who drove over, and seriously injured, a fellow officer to escape arrest in a stolen car. On June 22, 2022, Officer Carboni shot and killed Raymond Calderon when Mr. Calderon aimed a handgun at another SJPD officer. That incident

occurred at the end of a lengthy pursuit and hours-long standoff as police attempted to arrest Calderon for two murders that he committed earlier that day. All three investigations, which have already been made public, determined that Officer Carboni's use of force was in lawful self-defense and defense of others.

As to this incident, Officer Carboni stated that on March 22, 2023, he finished work at around 5:00 p.m. At approximately 9:00 p.m., he was instructed to respond to a MERGE call out at 975 Boynton Avenue, San Jose, CA. Officer Carboni arrived at approximately 9:15 p.m.

Officer Carboni's recollection of the shooting was consistent with the BWC video and the statements of Jane and Steven Doe, which have been incorporated into the Summary of Facts above. His answers to questions related to his state of mind are detailed below.

Officer Carboni was asked if he heard warnings from SJPD from outside the apartment. He stated that he did not, but that he knew the entry team was staged in front of the apartment to make entry into the home.<sup>3</sup>

Officer Carboni was asked if he gave lethal force warnings to Gonzalez or attempted to de-escalate the situation. He explained that, under the circumstances, he did not believe it was safe to do so for multiple reasons. First, Officer Carboni believed the suspect was going to kill the victims with the machete or shoot them. Second, due to the danger Gonzalez posed to the victims, Officer Carboni did not have time to issue a command while simultaneously staying on his rifle optic sight and having a controlled trigger press. Third, he wanted a clear shot of Gonzalez and did not want to unintentionally shoot the hostages.

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<sup>3</sup> BWC video shows that loudspeaker warnings to Gonzalez were made repeatedly beginning at 8:40 p.m. and ceased at approximately 9:10 p.m., before Officer Carboni arrived at the scene.

Officer Carboni was asked why he advised Officer Purnell and the entry team that he was going to shoot Gonzalez “in 30 seconds.” He explained that it was to coordinate with the entry team that there would be no delay between the time he fired his weapon and when SJPD officers inside the apartment could secure the suspect.

Officer Carboni turned over his rifle to the SJPD Crime Scene Unit and was immediately sequestered. He received first aid from fire department personnel for a cut to his hand from the broken glass.

### **B. JANE DOE & CHILDREN**

SJPD Detectives and DA BoI investigators interviewed Jane Doe and her children. Their statements were consistent with each other on points relevant to this investigation and incorporated into the Summary of Facts above. Select portions of their statements are included below.

Jane told investigators that just before she heard the gunshots, she begged Gonzalez to think about his own family. He told her to “shut up.” When she lowered her head, the shots rang out and she jumped on top of Steven to protect him.

Steven told investigators that throughout the ordeal, Gonzalez threatened to “end” the family, “kill” the family, and chop off their heads. He felt there was nothing he could do because Gonzalez had a gun that he kept transferring between his two hands. When the police began shooting, he believed Gonzalez had fired his gun at them. Steven pointed out the irony that he and his family migrated to the United States to escape violence but were about to die a violent death here.

Anderson told investigators that he could hear everything from inside the closet, saying that he even heard the police tell Gonzalez four times to surrender and exit the apartment. The

young boy told investigators that he began crying when Gonzalez said he was going to cut off his mother's head.

## V. EVIDENCE

### A. CRIME SCENE

SJPD Crime Scene Unit (CSU) processed the scene for evidence. Seven spent shell casings from Officer Carboni's rifle were recovered. Five were located outside the bedroom window, one was located on the windowsill, and one was found under the bed. A total of two machetes belonging to Gonzalez, pictured below, were found on the rear bedroom floor:



Below is a photograph of the metal pipe, used to shatter the sliding glass door and break through the rear bedroom door, which was located on the bedroom floor:



Police also collected Gonzalez's pellet gun, designed to look like a .357 revolver with removable ammunition, from the rear bedroom:



### **B. AUTOPSY**

Assistant Medical Examiner Mehdi Koolaee, M.D., conducted an autopsy of Gonzalez on March 23, 2023. Dr. Koolaee determined that Gonzalez died from multiple rifle wounds. The doctor identified 12 bullet and fragment injuries to Gonzalez's head, back, and torso. She could not, however, determine the number of actual shots because they may have hit an intermediary target. Gonzalez's blood tested negative for drugs and alcohol.

### **C. BODY-WORN CAMERA VIDEO**

The BWC footage was reviewed and incorporated into the Summary of Facts above.

## **VI. LEGAL ANALYSIS**

### **A. RELEVANT LEGAL PRINCIPLES**

This review was conducted pursuant to the joint protocol between this office and all Santa Clara County law enforcement agencies, which calls upon the District Attorney to conduct an independent assessment of the circumstances surrounding the use of deadly force.

Possible criminal charges against the involved officers in this case include Murder (Penal Code § 187), Manslaughter (Penal Code § 192), and Assault with a Deadly Weapon (Penal Code § 245). To convict an officer of any of these charges, however, it would be necessary to prove

beyond a reasonable doubt that no legal justification existed for the officer's actions. (*People v. Banks* (1976) 67 Cal.App.3d 379, 383–384.) Several justifications may apply in any given case. The justifications pertinent to this case are self-defense and defense of others. (See Penal Code § 835a.)

California Penal Code section 835a(a)(1) states that “the authority to use physical force, conferred on peace officers by this section, is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life . . . [E]very person has a right to be free from excessive use of force by officers acting under color of law.” Section 835a(a)(3) recognizes that “the decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies.”

California Penal Code section 835a(c)(1)(A) permits officers to use deadly force when necessary to protect themselves and others from the “imminent threat of death or serious bodily injury.” Under section 835a(e)(2), the threat of death or serious bodily injury is imminent if, “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.”

The relevant criminal jury instruction is set forth in the Judicial Council of California Criminal Jury Instruction No. 507 (2020, “Justifiable Homicide: By Peace Officer”). The

instruction states that a peace officer kills, or attempts to kill, in lawful self-defense or defense of another if he or she “[r]easonably believed, based on the totality of the circumstances, that the force was necessary to defend against an imminent threat of death or serious bodily injury to the defendant [officer] or another person.” (CALCRIM No. 507.)<sup>4</sup>

When determining whether the use of force was lawful, section 835a(a)(2) requires the consideration of “other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Section 835a(a)(4), however, states that “the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.”

Section 835a(a)(3) requires the District Attorney’s Office to evaluate use of force cases “carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers in order to ensure that officers use force consistent with law and agency policies.”

A person may resort to the use of deadly force in self-defense or defense of another when there is a reasonable need to protect oneself or someone else from an apparent, imminent threat of death or great bodily injury. Self-defense requires subjective honesty and objective reasonableness. (*People v. Aris* (1989) 215 Cal.App.3d 1178, 1186.) Additionally, “[i]mminence is a critical component of both prongs of self-defense.” (*People v. Humphrey*

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<sup>4</sup> CALCRIM 507 differs from the homicide self-defense instruction for non-officers in CALCRIM 505. CALCRIM 507 is missing the third element from 505 requiring that the killer “use no more force than reasonably necessary.” Until there is further clarification as to whether this change was an oversight by the Judicial Council in crafting 507 or intentional by the legislature, the DA’s Office will assume for purposes of this report that officers’ use of more force than reasonably necessary in self-defense, or defense of others, is unlawful.



(1996) 13 Cal.4th 1073, 1094.) Notably, the trial court’s clarifying instruction made in *Aris* that “[a]n imminent peril is one that, from appearances, must be instantly dealt with” was later approved by the California Supreme Court. (*Aris*, 215 Cal.App.3d at 1187; see *In re Christian S.* (1994) 7 Cal.4th 768, 783.)

In the related context of cases alleging excessive force by police, the test of reasonableness as to an officer’s use of deadly force is an objective one, viewed from the vantage point of a reasonable officer on the scene, rather than with 20/20 hindsight vision. (*Graham v. Conner* (1989) 490 U.S. 386, 396.) It is also highly deferential to the police officer’s need to protect himself and others. The calculus of reasonableness must make room 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.)

An officer’s right to self-defense is the same whether the danger is real or merely apparent. (*People v. Jackson* (1965) 233 Cal.App.2d 639, 642.) If the officer’s beliefs were reasonable, the danger does not need to have actually existed. (CALCRIM No. 505.) What constitutes “reasonable” self-defense or defense of others is controlled by the circumstances. (*Ibid.*) The question is whether action was instantly required to avoid death or great bodily injury. In this regard, there is no duty to wait until an injury has been inflicted to be sure that deadly force is indeed appropriate. In *People v. Reed* (1969) 270 Cal.App.2d 37, a robber pointed a gun at his victim, and a deputy sheriff was called to the scene of the robbery. (*Reed, supra*, 270 Cal.App.2d at 41.) Before the robber could get a shot off, the deputy fired his weapon, wounding the robber. (*Id.* at 42.) The appellate court remarked that “[s]uch aggressive actions required immediate reaction unless an officer is to be held to the unreasonable

requirement that an armed robber be given the courtesy of the first shot.” (*Id.* at 45.) Further, under Penal Code section 835(a)(d), there is no requirement that a police officer retreat even if safety could have been achieved by retreating. (See also CALCRIM No. 505.)

**B. OFFICER CARBONI ACTED LAWFULLY**

Article V, section 5.02(b)(iii)(1) of the District Attorney’s Office Policy and Procedure Manual states that a criminal complaint cannot be issued against a suspect unless there is sufficient evidence to prove the offense beyond a reasonable doubt. To do so, the prosecution bears the burden of overcoming the presumption of innocence and disproving, beyond a reasonable doubt, at least one of the three elements of self-defense or defense of others. Based on the law and evidence in this case, Officer Carboni acted in the lawful defense of others.

As to the first element, Officer Carboni reasonably believed Gonzalez posed an immediate threat of death or serious bodily injury. As discussed above in Sec. VI.B., Officer Carboni was not required under California law to wait until Gonzalez cut off Jane Doe’s head. He did not have a duty to wait until Gonzalez fired his gun at Steven. He did not even have a duty to wait until Gonzalez began to swing the machete or aim his gun. All that the law requires is that the circumstances led the officer to reasonably believe Gonzalez posed a real risk of death or great bodily injury to the victims. In this case, there is overwhelming evidence to support that conclusion.

Gonzalez forcibly entered the victims’ home and took Jane Doe and her family hostage with a machete and what appeared to be a real .357 revolver. Locked out of the rear bedroom, he smashed through it with a metal pole and the machete, and he repeatedly threatened to kill the family and cut off their heads. He forced Jane to tie up her son Steven and made them lie on the floor. For over 30 minutes, he ignored repeated commands by SJPD to surrender, made over a

loudspeaker in both English and Spanish. Gonzalez ignored Jane Doe's pleading to let her children go and that God would forgive him. Before shooting, Officer Carboni saw Gonzalez mere feet away from the victims, holding a machete in one hand and what appeared to be a real .357 revolver in the other.

As to the second element, the use of deadly force was necessary. Gonzalez was armed with a machete and what appeared to be a real .357 revolver. Attempts to get Gonzalez to surrender peacefully were unsuccessful. Further, non-lethal force would have been no match for the machete and a .357 handgun. Firing at Gonzalez while he was standing near the side of the bed while Jane Doe and Steven were on the floor next to the window was the best opportunity for Officer Carboni to end the hostage situation without risking the lives of the victims.

As to the third element, the amount of force used was reasonable. Officer Carboni fired seven shots in quick succession and ceased once Gonzalez dropped the weapons and was no longer a threat.

The SJPD's policies were considered among the totality of circumstances in evaluating the three elements of self-defense. In 2019, the California Legislature declared in SB 230 that police training and policies "may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably." "[T]he decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by peace officers, in order to ensure that officers use force consistent with law and agency policies." (Penal Code § 835a(a)(3).) "The policies and training may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably." (Sen. Bill No. 230 (2019-2020 Reg. Sess.) §

1(g.) That said, agency policies “shall not be considered as imposing a legal duty on the officer to act in accordance with such policies and training.” (*Ibid.*)

The SJPD Policy L 2602.1 (Deadly Force) and Penal Code section 835a(c)(1)(B)) state: “Where feasible, officers shall, prior to the use of deadly force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.”

Although Officer Carboni did not warn Gonzalez that he intended to use lethal force, there were reasonable grounds to believe Gonzalez was already aware of that possibility. SJPD used a loudspeaker to order Gonzalez to surrender at least 10 times over 30 minutes in both English and Spanish. These warnings were heard by the family members in the bedroom, so Gonzalez would have also been aware of them. As demonstrated by his own words to the family, Gonzalez was aware of the law enforcement response and threatened to kill the family if the police attempted to arrest him.

Moreover, warning Gonzalez after breaking the glass and before shooting would have put the family at a greater risk of harm from Gonzalez. Not only would a split-second delay have allowed Gonzalez to reposition himself to use Jane Doe or her children as human shields, but it would have also allowed him to fire what Officer Carboni reasonably believed to be a real .357 revolver.

### **C. GONZALEZ’S MENTAL HEALTH**

There is certainly some evidence that Gonzalez was suffering from an undiagnosed mental illness at the time of this incident. A family relative told SJPD investigators afterward that Gonzalez had recently been acting paranoid, complaining to the relative that people were following him. The impetus for this incident appears to have been Gonzalez’s irrational belief

that Jane Doe was responsible for his eviction and had the keys to his apartment. Lastly, Gonzalez's negative toxicology report shows that he was not acting under the influence of alcohol or controlled substances.

However, the evidence that Gonzalez may have been suffering from mental illness when the shooting occurred does not change the conclusion of this report. Any mental illness affecting Gonzalez was not known to Officer Carboni when he decided to fire his weapon. Further, Gonzalez's mental health condition does not diminish the very real threat he posed to the victims' lives or Officer Carboni's belief he needed to use lethal force to protect them.


## VII. CONCLUSION

On March 22, 2023, Officer Edward Carboni made a reasonable tactical decision, based on his extensive training and experience as a MERGE officer, that saved the lives of a mother and her two boys from an erratic and violent machete-wielding man who held them hostage and repeatedly threatened to kill and behead them. The fact that Gonzalez was armed with what appeared to be a .357 revolver made the circumstances even more dire, demanding quick action. Based on the facts and law in this case, Officer Carboni acted in reasonable defense of others. Consequently, no criminal liability attaches to him.

Dated: February 20, 2024

Respectfully submitted,

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