



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

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February 25, 2020

Chief Joe Ortiz
South Pasadena Police Department
1422 Mission Street
South Pasadena, California 91030

Captain Kent Wegener
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Vanessa Marquez
J.S.I.D. File #18-0375
S.P.P.D. File #181865
L.A.S.D. File #018-00066-3199-013

Dear Chief Ortiz and Captain Wegener:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 30, 2018, fatal shooting of Vanessa Marquez by South Pasadena Police Department Officers Gilberto Carrillo and Christopher Perez. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

Shannon Presby
Head Deputy District Attorney
Justice System Integrity Division

c: Officer Gilberto Carrillo #206
Officer Christopher Perez #202

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MEMORANDUM

TO: CHIEF JOE ORTIZ
South Pasadena Police Department
1422 Mission Street
South Pasadena, California 91030

CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Vanessa Marquez
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DATE: February 25, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 30, 2018, fatal shooting of Vanessa Marquez by South Pasadena Police Department (SPPD) Officers Gilberto Carrillo and Christopher Perez. We have determined that Carrillo and Perez acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of this shooting on August 30, 2018, at approximately 2:50 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene.

The following analysis is based on reports, recorded interviews, photographs and video evidence submitted to this office by the Los Angeles County Sheriff's Department (LASD) Homicide Bureau. Voluntary statements by Carrillo and Perez were considered in the review.

FACTUAL ANALYSIS

On August 30, 2018, SPPD officers responded to an apartment located on Fremont Avenue, in the City of South Pasadena, to conduct a welfare check on Vanessa Marquez. Marquez lived in an upstairs apartment in the complex. During the contact, Marquez brandished a black BB handgun and a fatal officer involved shooting occurred.

Officer Avick Manukian

In an interview with investigators, Manukian stated he and Carrillo responded to Marquez' residence for a welfare check at 11:49 a.m. They knocked on the door and yelled for Marquez but heard no response. After the manager unlocked the door, Manukian had difficulty opening the door because items had been stacked up against it from inside. He and Carrillo squeezed through the doorway and climbed over boxes and items that were piled up throughout the residence. They called out to Marquez as they made their way to her bedroom, but heard no response. When Manukian arrived at the bedroom door, he looked inside and saw Marquez experiencing a seizure. Carrillo called paramedics and also requested Detective Arthur Burgos respond to the location with clinician Stephanie Gallegos from the Department of Mental Health (DMH). Manukian left the scene when paramedics arrived.



Figure 1. Photograph depicting the condition of Marquez' residence as viewed from the front door. The bedroom door is seen in the distance.

Officer Gilberto Carrillo

Carrillo told investigators he was working a uniformed patrol assignment when he received a call for a welfare check on Marquez at her home.¹ Carrillo and Manukian responded separately to the small residential complex and were granted entry to the building by a resident. Carrillo ascended interior stairs that led to three apartments, including the residence of Marquez. Carrillo

¹ Carrillo was advised that a relative residing in another state had spoken with Marquez over the telephone. The call had caused the relative to become concerned for Marquez' well-being and the relative contacted SPPD.

observed multiple packages in front of Marquez' front door with markings indicating they had been there for two weeks. The resident directly across the hall from Marquez said she had not seen Marquez in a week. The officers knocked on Marquez' door for approximately ten minutes, announcing their presence several times, but heard no response.

The landlord unlocked Marquez' apartment door and Carrillo and Manukian entered the apartment. They had difficulty pushing the door open due to boxes and other items piled near the interior side of the door. The apartment was severely cluttered in "hoarding" conditions. Manukian and Carrillo cleared a path to the bedroom, announcing their presence and calling out to Marquez several times. They arrived at the bedroom door and saw Marquez lying on her bed surrounded by several items, including an open laptop.

As soon as Marquez saw Manukian, she screamed and began experiencing a seizure on her bed. Carrillo requested the assistance of South Pasadena Fire Department (SPFD) paramedics. Paramedics arrived within five minutes and tended to Marquez as Carrillo waited at Marquez' front door. Carrillo also requested the assistance of a mental health clinician, Gallegos, to address Marquez' living conditions and possible malnutrition.² Burgos and Gallegos arrived approximately ten minutes later and evaluated Marquez. Burgos told Carrillo that they had determined Marquez was a danger to herself and gravely disabled, and required an evaluation pursuant to Welfare and Institutions Code section 5150 (WIC 5150).³

Manukian and Gallegos attempted to persuade Marquez to accompany them to the hospital voluntarily, but Marquez adamantly refused. With Sergeant Spencer Louie's approval to proceed with the WIC 5150 hold, Carrillo advised Marquez of their intention to detain her. At that time, Carrillo was standing in the bedroom doorway as he spoke with Marquez. Two paramedics waited immediately outside the bedroom door.

As Carrillo began to read advisements from a form, Marquez, who was sitting on the bed facing the doorway, became upset and stated she did not want to go to the hospital for the evaluation. Marquez added that she had been assaulted by hospital staff on her last visit. Carrillo attempted to reassure her that they were concerned for her well-being. Marquez suddenly began searching around the top of her bed and clutched a pair of scissors with one hand, which caused Carrillo to believe she intended to harm herself. A moment later, Carrillo "saw her grab a black handgun" resembling a Beretta from the top of the bed.⁴ Marquez immediately pointed the handgun at him, causing him to fear for his life as well as for the lives of the paramedics with him.⁵

Carrillo yelled "Gun! Gun! Gun!" and told the paramedics to exit the apartment. Carrillo backed away from the bedroom and ordered Marquez to drop the gun. Carrillo ran to the front door and positioned himself with his gun aimed at the bedroom. A moment later a paramedic

² Carrillo described Marquez as "very frail" and "very thin," and estimated her weight to be approximately 80 pounds.

³ WIC 5150 provides: "When a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer [or other designated person] may, upon probable cause, take, or cause to be taken, the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention."

⁴ Up to that point, Carrillo had not seen the handgun in the midst of the other items littered on the bed.

⁵ Carrillo did not recall Marquez making any statements at the time she pointed the handgun at him.

who had been crouched in a corner of the living room exited the apartment under Carrillo's cover.

Carrillo remained at the top of the landing looking into Marquez' apartment, at which time he heard other officers broadcast the presence of a gun at the scene. Carrillo again yelled to Marquez to put the gun down and to come out of her bedroom. Carrillo heard shuffling sounds from within the bedroom and believed Marquez was preparing to come out.

At that time, Louie directed Carrillo to reposition at the bottom of the stairs because the landing outside Marquez' apartment was too small for tactical positioning of officers. When Carrillo saw that Marquez was not exiting the bedroom, he moved to the bottom of the stairs. As he repositioned himself, additional SPPD units arrived. Carrillo watched Marquez' front door from the base of the stairs and could hear Marquez moving; however, she did not respond to his numerous requests to exit the bedroom. Carrillo then heard what he believed to be the sounds of handgun manipulation, including the insertion of a magazine into the magazine well and the "racking" of a slide. The sounds came from Marquez' apartment.

When Perez entered with the other officers, he took position at the base of the stairs behind a banister. Carrillo moved to his left, behind a corner of drywall from which he could see the top of the stairs. Carrillo again heard the sounds of handgun manipulation and believed he could hear Marquez coming out of the apartment. Carrillo told Perez, "She's walking towards us." Carrillo called out non-aggressively, "Vanessa, let me see your hands. Drop the gun and let me see your hands." Carrillo explained that as he peered around the corner of the drywall, "I clearly see a black handgun pointed directly in our direction." In a "split second" after he saw the handgun, he saw Marquez' body as she began descending the stairs. In that moment, Marquez was approximately ten feet from the officers, and had the advantage of "high ground."

When Carrillo saw the handgun pointed in their direction, Carrillo was "scared out of [his] mind" and fired approximately eight or nine rounds from his .40 caliber handgun, through the drywall toward Marquez. Perez also fired his weapon.⁶ Carrillo and Perez lost sight of Marquez and they retreated from the base of the stairs to the front porch. Another officer looked through a window near the stairs and saw that Marquez was incapacitated on the stairs.

⁶ Carrillo did not know who fired first.



Figure 2. Perspective from Carrillo's position during the officer-involved shooting.

Carrillo and Perez approached Marquez, who had fallen backward on the upper section of the stairs, with her head resting on the top step. Carrillo saw a black handgun by her left foot, which Perez kicked down the stairs.⁷ Upon seeing Marquez unconscious, the officers cleared the apartment of additional threats, at which time Carrillo saw on the bed the scissors that Marquez held up before reaching for the gun.

⁷ Carrillo did not see the gun after Perez kicked it away and believed another officer recovered it.

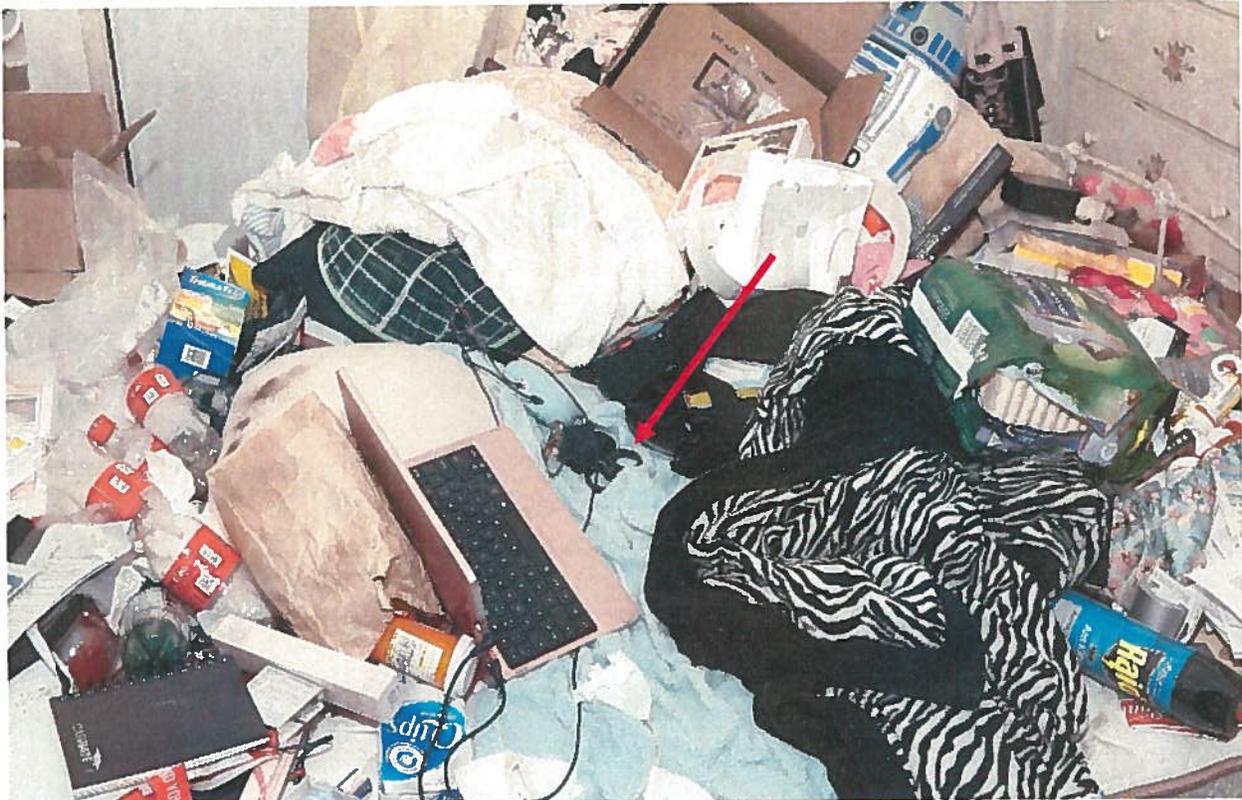


Figure 3. The scissors located by Carrillo when clearing the apartment.

Sergeant Spencer Louie

Louie arrived at the location and was told by Carrillo that Marquez had not eaten in five days, appeared extremely malnourished, and was living in “hoarding” conditions. During their initial conversation, Marquez told Carrillo she had prior suicidal ideations. After learning that Marquez refused to go to the hospital voluntarily, Louie approved a WIC 5150 hold.

Louie and SPFD firefighters followed Carrillo up a staircase that led to Marquez’ unit. Louie watched from the front doorway as Carrillo stood at the open bedroom door and read a form to Marquez. A short time later, Carrillo yelled, “Gun!” and several personnel exited the apartment and descended the stairs. Carrillo stopped at the front doorway and yelled to Marquez, “Drop the gun!” before retreating to the lower level. Carrillo advised Louie that Marquez had produced a pair of scissors, and then retrieved a gun from the top of her bed and pointed it at him. From the bottom of the stairs, Carrillo gave repeated commands for Marquez to drop the gun and come outside.

A short time later, Perez entered the building and took Louie’s position, and Louie went outside. From the front yard, Louie heard several gunshots inside the apartment building and saw Perez, Carrillo, and Burgos exit. One or more officers were yelling, “Drop the gun!”

Louie took position behind two officers who looked inside a window to assess Marquez' condition. Marquez was lying motionless on the stairs, feet facing downward. Perez, Carrillo and Burgos approached the stairway and secured a black handgun, which Burgos determined was a BB gun. Paramedics entered the building and took Marquez to Huntington Memorial Hospital.

Christopher Perez

Perez was assigned to uniformed patrol on August 30. While at the station he heard a radio call advising that officers at an apartment building on Fremont Avenue were confronted by an individual with a gun during a welfare check. Perez drove to the location and entered the apartment building armed with his department-issued AR-22 rifle. He saw Burgos, Carrillo and Louie on the lower level focusing their attention toward Marquez' upstairs apartment.

Perez moved into Carrillo's position next to the banister and Carrillo moved to the left of Perez. Perez focused his attention on Marquez' open doorway. A few moments later, he heard the sound of a magazine being loaded into a firearm emanating from Marquez' apartment. The officers looked at each other to acknowledge the sound. Carrillo and Perez commanded Marquez, "Come out with your hands up!" Perez then saw Marquez, whom he recognized from prior contacts, dart from her open doorway on the right, across the landing to a position to the left of the stairs and out of Perez' view. As Marquez crossed the landing, Perez saw a black handgun in her left hand.

As officers issued additional commands, Perez saw Marquez come down the stairs toward them in a manner that caused Perez to believe she was "charging at us" in an "aggressive manner" with a demeanor that was "definitely angry." The handgun in her left hand moved "up, down, and a little bit diagonal as well...swinging back and forth." Perez did not see the gun pointed at Carrillo or Perez, but it nonetheless caused Perez to fear for the safety of him and his partner because he believed she would "open fire" on them.

Perez fired three rounds from his rifle and Carrillo fired multiple rounds from his firearm. Marquez fell backward and Carrillo and Perez retreated to the front doorway of the apartment complex. An officer looked through a window at the base of the stairs and stated he could not see Marquez' left hand, but confirmed there was no gun in her right hand. Perez and Carrillo approached Marquez, who appeared to be unconscious, and Perez saw the gun near Marquez' left hand. He kicked it down the stairs and believed another officer picked it up. Perez then stepped over Marquez' body and onto the upper landing to ensure there were no further threats inside the apartment. Paramedics entered the building and transported Marquez to the hospital.

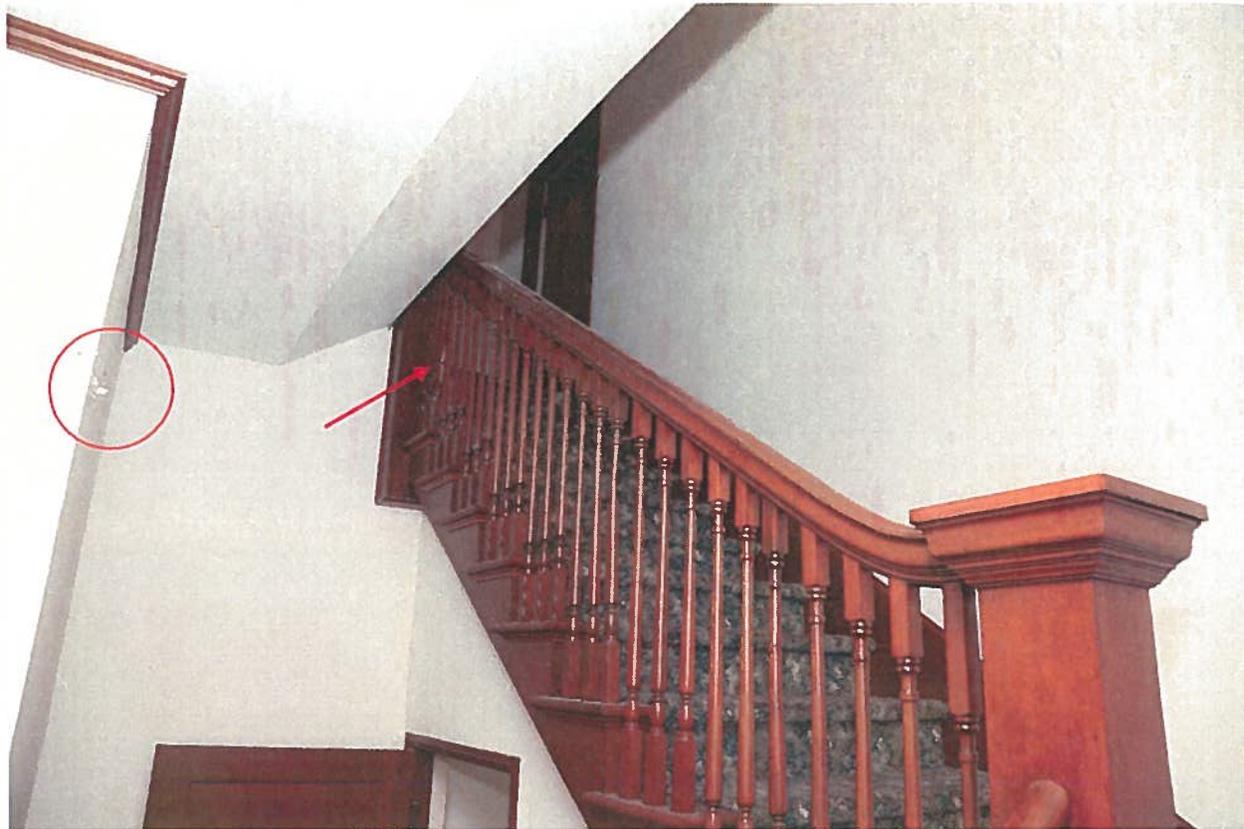


Figure 4. Perspective from Perez' position behind the lower banister (not depicted) during the officer-involved shooting.

Arthur Burgos

On August 30, Burgos was working a uniformed assignment, accompanied that day by Gallegos.⁸ During the late morning, Burgos received a call to assist Carrillo with a welfare check on Fremont Avenue. When Burgos and Gallegos arrived at the residence, Burgos saw Carrillo at the door of Marquez' apartment, accompanied by several firefighters and paramedics. Burgos and Gallegos approached Carrillo and Carrillo briefed them on the situation. Burgos entered Marquez' bedroom and observed Manukian talking with her. Burgos introduced himself and Gallegos to Marquez and talked with her briefly. Marquez told him that she weighed 80 pounds and had not eaten in the last five days. Burgos left the room to allow Gallegos to talk with Marquez in the presence of Manukian. After a determination that Marquez needed to be hospitalized, Burgos and Carrillo encouraged her to go with them but she refused, claiming she had been sexually assaulted at the hospital on a prior occasion.

Sometime later, Burgos stood at Marquez' front door and watched Carrillo read advisements to Marquez as she lay on her bed. Several firefighters were behind Carrillo in the living room. While Carrillo was reading, he suddenly yelled out, "Gun!" and several personnel ran downstairs and exited the building. Burgos joined Louie and Carrillo at the base of the stairs, where Carrillo stated that Marquez pointed a gun at Carrillo and then at her head.

⁸ Burgos explained that SPPD partnered with a DMH clinician three days each month to respond to calls involving persons with mental health issues. In situations calling for WIC 5150 procedures, Gallegos performed initial evaluations and, where a hold became necessary, SPPD transported the individual.

Burgos and Carrillo began to yell to Marquez that their intention was to help her, and that she should put the gun down and exit with her hands raised. Soon after, Perez entered and kneeled at the banister of the stairs and aimed his rifle toward Marquez' apartment. Carrillo took position to the left of Perez and in front of Burgos.

Burgos had his weapon drawn but because Carrillo was in front of him, he did not have a clear view of the top of the stairs. As Carrillo continued yelling to Marquez that they wanted to help her, the officers heard the sound of "someone rack[ing] a round" coming from upstairs. Burgos then saw Marquez move quickly across the landing from right to left and then out of view. Moments later, Burgos heard gunshots from Carrillo and Perez and then all three officers backed out of the building onto the front porch.⁹

After another officer indicated Marquez was "down" at the top of the stairs, Carrillo, Perez and Burgos entered the building. Burgos followed Carrillo and Perez and saw that Marquez was lying face up on the stairs. As they ascended the staircase, Burgos saw a black handgun tumbling down toward him. Burgos retrieved the item and determined it was a BB gun with a functioning slide mechanism, resembling the Beretta Model 92FS firearm. He removed the magazine and placed the handgun and magazine on the banister.

Stephanie Gallegos

Gallegos confirmed she spoke with Marquez and determined she was gravely disabled and was unable to care for herself. Marquez resided in poor living conditions and indicated she had not eaten in five days. After her assessment, Gallegos went outside to retrieve items from the police vehicle. At that time, the landlord ran to her and advised her that Marquez had produced a gun. A short time later Gallegos heard approximately eight gunshots. She did not return to the apartment or see Marquez after hearing the gunshots.

John Papadakis

Firefighter/Paramedic Papadakis received a call in the late morning from a woman in Alabama who stated she was a friend of Marquez. The caller stated that Marquez was not "acting right" during a phone call and, because of Marquez' history of medical problems, the caller was concerned. Papadakis referred the call to SPPD for a welfare check, indicating SFPD would assist if necessary. Papadakis later responded with his partner to a call indicating Marquez was experiencing seizures. Marquez refused to be transported to the hospital. However, the officers and firefighters were concerned about her living conditions and her ability to care for herself.

Papadakis later returned to the apartment where he saw Carrillo reading advisements to Marquez from her bedroom doorway. Papadakis was looking at Marquez from behind Carrillo as other firefighters stood behind him. Papadakis saw Marquez begin moving her blankets and he believed she was preparing to walk toward them to be taken to the hospital. However, at that moment Papadakis saw Marquez grab a dark object with her left hand; she then brought both hands together in front of her. Carrillo yelled, "Gun! Gun! Gun!" and pushed the firefighters toward the front door. Carrillo provided cover for the others as they exited the apartment. As

⁹ From his position, Burgos did not see Marquez descending the stairs.

Papadakis exited Marquez' front door he heard Marquez say, "Shoot me! Shoot me!" Carrillo responded, "I'm not going to shoot you! Put it down! Put it down!" Officers then directed Papadakis to exit the building.

The firefighters waited by their vehicles as additional officers entered the building. A short time later, Papadakis heard approximately 15 gunshots. Afterward, several firefighters entered the building at the request of officers and Papadakis saw an officer performing CPR on Marquez. She was immediately transported to the hospital.

Crime Scene and Ballistics Evidence

Nine bullet holes were located in the north-facing wall of the foyer. The bullets were determined to have exited the west-facing wall, upward and in the direction of the upper staircase where Marquez lay after the shooting. Two bullet impacts were located in the rail of the banister near the top of the staircase. Three additional bullet holes were found in the front door and adjacent exterior wall of Marquez' unit.



Figure 3. Entry damage on the north-facing (left) wall, and exit damage on the west-facing (right) wall caused by bullets fired from Carrillo's firearm. Damage from a bullet can also be seen on a vertical wood rail near the top of the stairs.

A Glock Model 22, .40 caliber handgun was recovered from Carrillo. A Colt M4 Carbine, 5.56x45 mm was recovered from Perez. Nine .40 caliber shell casings were found in the foyer near the front door. Three 5.56 mm caliber shell casings were found in the foyer near the staircase.

A black “Powerline by Daisy” BB gun and an empty black magazine were recovered from the lower banister of the staircase. The handgun was examined and processed for possible latent fingerprints.

DNA samples recovered from the trigger, trigger guard, grip, hammer and slide of the BB gun were analyzed and compared with a reference sample obtained from Marquez. The analysis concluded that the DNA profile obtained from the trigger was approximately 1×10^{33} times more likely if it originated from Marquez than if it originated from an unknown individual.

The sample from the grip, hammer and slide was assumed to derive from two contributors, and was determined to be 4×10^{31} times more likely if it originated from Marquez and one unknown individual than if it originated from two unknown individuals.

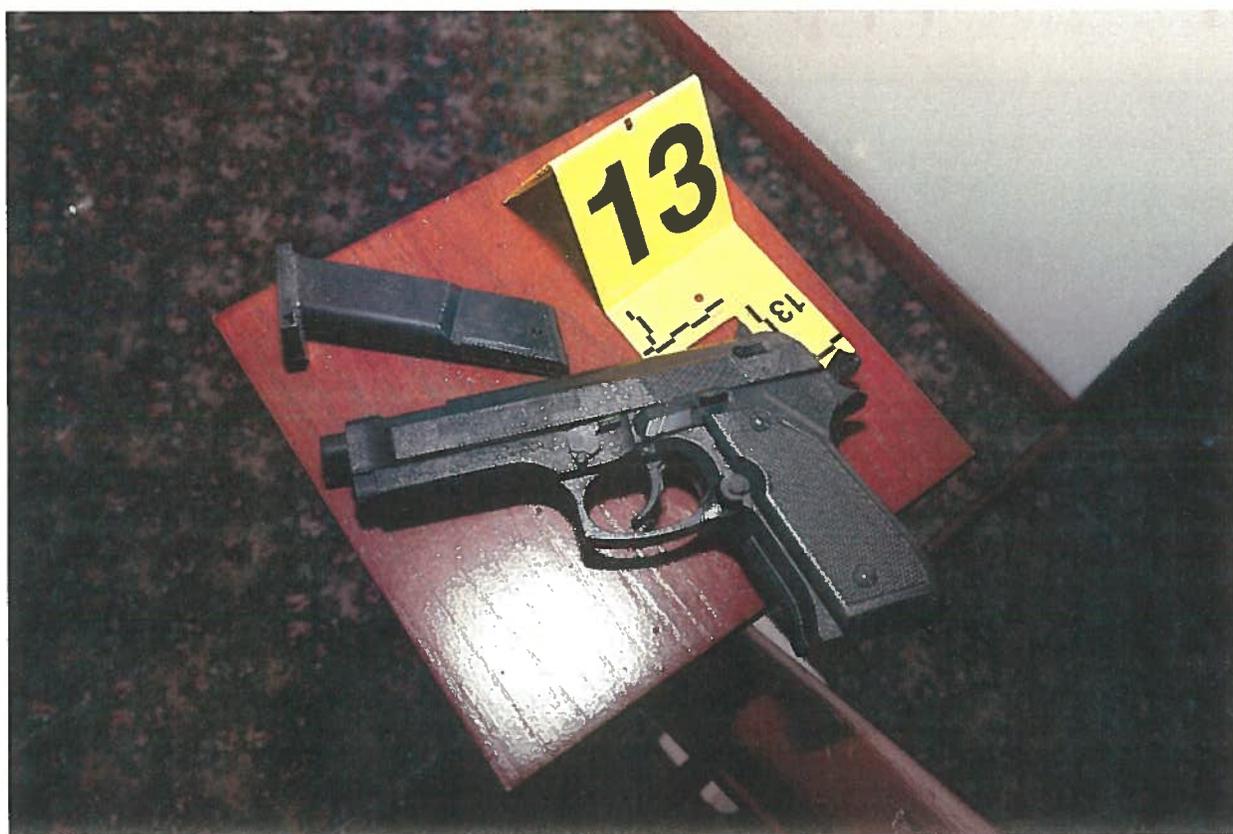


Figure 4. BB handgun recovered by Burgos.

Medical Examinations

Marquez was pronounced dead at Huntington Memorial Hospital at 2:36 p.m. An autopsy performed by the Los Angeles County Department of Medical Examiner-Coroner determined that Marquez sustained two gunshot wound-related abrasions to her right lateral chest area, under her right arm.¹⁰ Marquez also sustained two gunshot wounds. The first was a gunshot wound to the lower back, slightly right of the midline. The track of the projectile was forward, slightly

¹⁰ The abrasions were caused by bullet fragments that presumably resulted from the disintegration of bullets striking the wall and/or wood railing of the staircase.

leftward, and slightly downward. Five bullet fragments associated with the wound were dispersed in the soft tissues of the bowel. The second gunshot wound was to the posterior right hip. The track of the projectile was slightly leftward and slightly upward. The projectile was recovered in the soft tissues near the left hipbone. The cause of Marquez' death was determined to be complications from the gunshot wounds.

Body Worn Video (BWV) Evidence

Carrillo activated his BWV when he initially contacted Marquez during the welfare check. Perez activated his BWV when he arrived at the location and took his position at the base of the stairs.

Carrillo's BWV footage shows his interaction with Marquez in her bedroom. He is seen and heard reading her admonitions, to which she replies, "I'm not going." As Carrillo continues to calmly converse with her, Marquez puts down a cellular phone she had been holding. She looks to her left and then retrieves an object, which she passes from her left hand to her right hand. The object appears to be a pair of scissors.

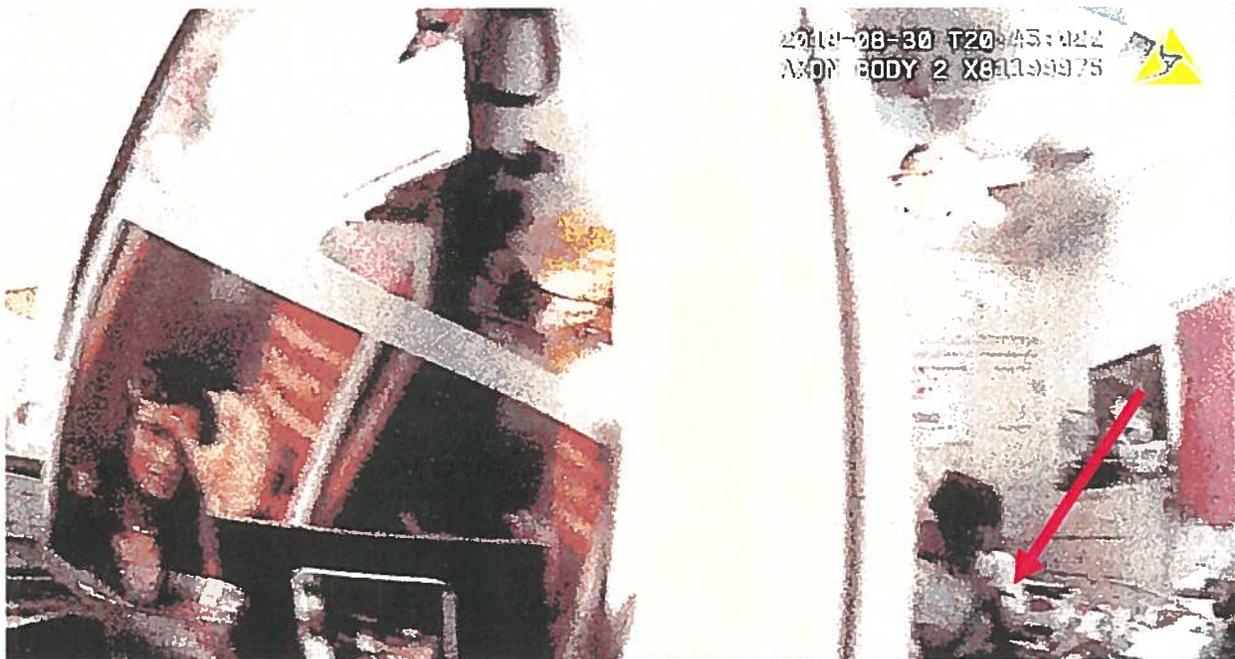


Figure 5. Enhanced still frame of Carrillo's BWV showing Marquez holding an object in front of her with both hands. As she passes the object between her hands, scissor handles are visible. In the image, the blades of the scissors are depicted pointing forward away from Marquez.

As Carrillo sees the object he begins to repeat rapidly, “Wait, wait, wait, wait...” Marquez turns to her right and places the scissors on the bed with her right hand, and retrieves another object from the top of the bed with her right hand.



Figure 6. Marquez reaching for an object with her right hand after placing the scissors on top of the bed.

As Marquez begins to raise the dark object, Carrillo quickly moves to his left and the doorframe obscures Marquez from view. Carrillo simultaneously states, “Oh shit – she’s got a gun! Gun! Gun! Gun! Gun! Gun!”¹¹ Unknown personnel beside him run out of the apartment and Carrillo retreats to Marquez’ front door, facing the bedroom and yelling, “Drop the gun! Drop the gun!” The following exchange then takes place:

Marquez: [brief unintelligible utterance]

Carrillo: Drop the gun!

Marquez: Shoot me!

Carrillo: I’m not going to kill you. Drop the gun!

Burgos: [unintelligible]

Carrillo: [to Burgos] I don’t know. It’s a gun though.

[to Marquez] Drop the gun!

¹¹ The BWV does not actually show Marquez pointing the gun at Carrillo because of the obstruction of the doorframe. However, the last recorded image of Marquez in the bedroom is Marquez beginning to raise a dark object in her right hand toward Carrillo. Because his BWV was worn at chest level, it is reasonable to conclude that Carrillo maintained visual contact of Marquez as he moved his body behind the doorframe.

Louie's voice calls from downstairs, directing Carrillo to retreat to the lower level. Carrillo and an unknown person retreat down the stairs. Carrillo then calls loudly, but in a conciliatory tone, toward Marquez' open doorway:

Carrillo: Vanessa, talk to me.

[To Burgos] She pulled it out from underneath. She pulled out scissors first and then she grabbed the gun.

Burgos: Pointed it at you?

Carrillo: Yeah. Pointed at me and then pointed it ... to her head.

[To Marquez] Vanessa, I need you to understand that we're here for your safety only. We're concerned about you. Vanessa, talk to me. Vanessa, talk to me. Vanessa.

Burgos: Ms. Marquez, we're here to help you out.

Carrillo: [To Burgos] She moved her blanket and then she grabbed it.

[To Marquez] Vanessa, talk to me. Vanessa, it's Gilbert. Talk to me.

Burgos: Ms. Marquez, are you okay? Ms. Marquez, put the gun down. Put the gun down.

Carrillo: Vanessa, put the gun down.

Burgos: We mean no harm. Put the gun down.

At that point, Burgos moves behind Carrillo and Perez. Carrillo indicates he hears movement, and Perez is seen in a squatted position behind a banister, armed with a rifle. Carrillo moves to his left.

Carrillo: She's probably coming down. You hear her?

Perez: Yup.

Carrillo: Come out with your hands up first!

Marquez: [Unintelligible]

Perez: Put your hands up!

Carrillo: Vanessa, no gun okay?

Perez: [Sternly] Vanessa! Drop whatever's in your hand, right now!

Carrillo: Does she have the gun?

Perez: Drop it!

Gunshots immediately commence. Perez and Carrillo take a few steps back toward the building entrance as they fire eleven rounds in approximately six seconds. When the gunshots cease, Perez informs Carrillo, “She’s down.”

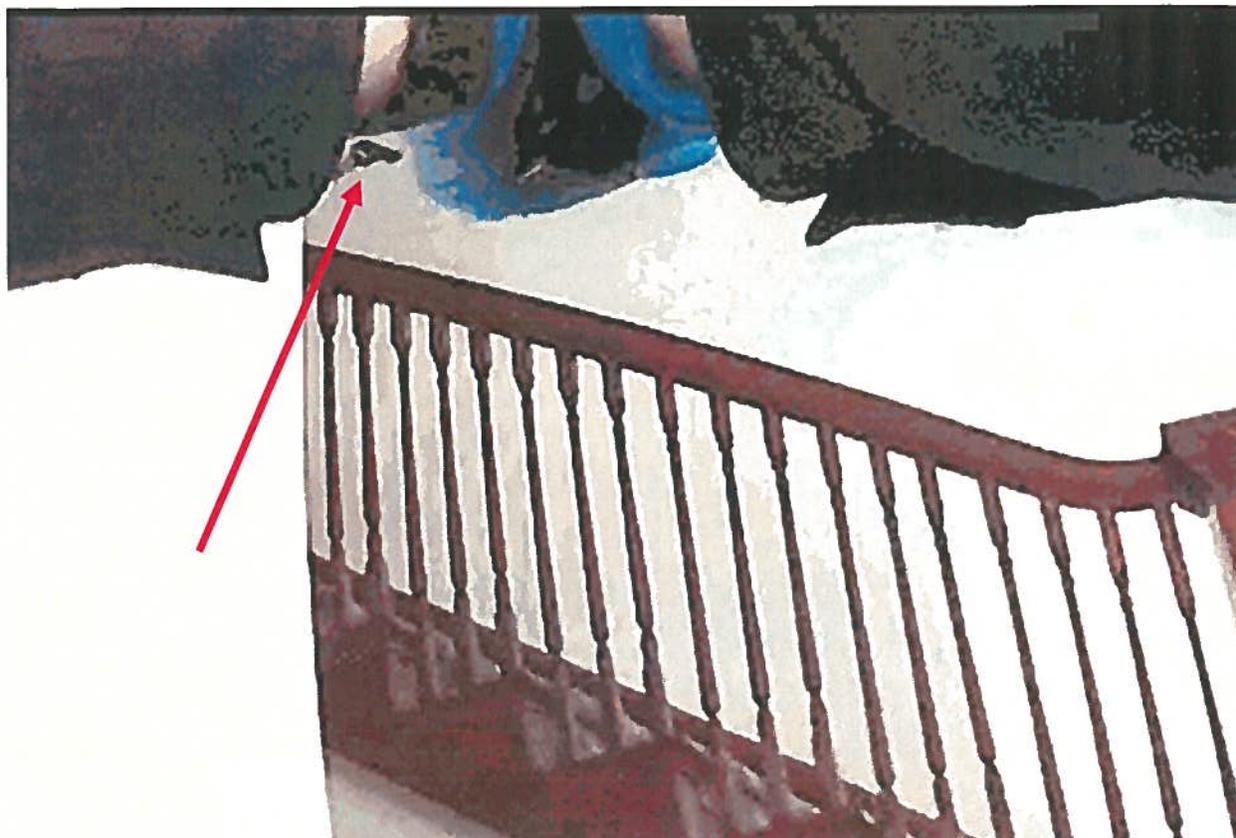


Figure 7. Magnified and enhanced screenshot from Carrillo's BWV showing Carrillo aiming his firearm upward. Immediately below his left wrist, a black handgun is seen in the distance, extended forward and aimed downward toward the bottom of the stairs.

After independent verification from an unknown officer that Marquez is disabled, Perez' BWV shows Perez walking up the stairs. Marquez' legs come into view and a black handgun is seen on the stairs next to her left foot. Perez calls out, “We got the gun,” and a moment later the sound of an object tumbling down the stairs is heard. Marquez is unresponsive and is subsequently taken away by paramedics.

Social Media

Investigators reviewed Marquez' Facebook records and located posts in which Marquez described herself as terminally ill and suffering from multiple health conditions. In the period between April 2018 and June 2018, Marquez posted, “This disease is supposed to be terminal. When will it finally terminate me cuz I'm so done!” She again posted, “This disease is supposed to be terminal... WHEN???? I've reached my limit. I'm physically and mentally exhausted,” and then described death as liberty.

In the same period, Marquez also used the Facebook platform to describe ongoing problems with her landlord. In April, she posted that she was upset with him and believed him to be a violent person. She wrote that she intended to sleep with scissors and pepper spray to protect herself. In June 2018 she posted, “YOU, I’m going to shoot first and ask who is it later...I found an “air” gun for 28 bucks from Smith and Wesson. Is that a real gun? I don’t want it to be but if it can scare someone enough to crap their pants. GOOD.”

In the same post she described the emotional toll of her illness and troubles during her acting career,¹² writing, “This is fighting terminal illness alone. If the measure of a life is by the family and friends IN your life and home, then my life has been of no value. So why should I have justice for being assaulted, harassed and BLACKLISTED...I want to die NOW. I don’t want to wait on God anymore...”

On July 12, 2018, Marquez posted, “After I nearly got arrested in my own home trying to report my landlord, I bought a gun; a fake bb gun but it looks like a glock.”

On August 29, 2018, Marquez posted that her seizures had returned. On August 30, at approximately 7:47 a.m., she wrote “[seizures] bad.”

Marquez’ last Facebook post occurred during the encounter with the officers. At approximately 1:46 p.m. she posted, “there shooting cremate me pour ashes over Hollywood sign.” The shooting occurred at approximately 1:49 p.m.

LEGAL ANALYSIS

In civil actions alleging Fourth Amendment violations by police officers, the courts have employed an objective standard of reasonableness in evaluating a police officer’s use of deadly force. “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than 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.” Graham v. Connor (1989) 490 U.S. 386, 396-397.

In California, the evaluation of the reasonableness of a police officer’s use of deadly force employs the standard of a reasonable person acting as a police officer. People v. Mehserle (2012) 206 Cal.App.4th 1125, 1146 (holding that California law “follows the objective ‘reasonable person’ standard—the trier of fact is required to evaluate the conduct of a reasonable person in the defendant’s position [citations omitted] . . . the jury should consider all relevant circumstances surrounding the defendant’s conduct. This enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation—but this is not the same as following a special ‘reasonable police officer’ standard.”)

¹² Marquez had a successful acting career, most notably a recurring role in the television show “ER.” She claimed that as a result of alleging sexual harassment on the set of the show, she was blacklisted from Hollywood.

Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 189 Cal.App.2d 575. Rather, the right to employ deadly force in self-defense or in the defense of another exists if the person claiming the right actually and reasonably believed that he or another was in imminent danger of great bodily injury or death. People v. Randle (2005) 35 Cal.4th 987, 994; People v. Mercer (1962) 210 Cal.App.2d 153, 161.

In protecting himself or another, a person may use that amount of force which he believes reasonably necessary, and which would appear to a reasonable person in the same or similar circumstances to be necessary, to prevent imminent injury. Where a person is confronted by circumstances which would cause a reasonable person in a like situation to believe the force was necessary, actual danger need not have existed. CALCRIM No. 505.

In this incident, the evidence demonstrates that Carrillo and Perez actually and reasonably believed Marquez posed an imminent threat of great bodily injury or death.

Carrillo first saw the handgun in the bedroom when Marquez drew it from a concealed location and pointed it at him. Carrillo's immediate and unequivocal response was to exclaim, "She has a gun! Gun! Gun! Gun! Gun!" and he urgently moved other personnel out of the apartment for their safety. Carrillo yelled to Marquez several times to, "Drop the gun!" in response to which Marquez neither denied having a gun nor informed Carrillo it was not an actual firearm.

Moments after running out of the apartment, Carrillo replied to an unknown question from Burgos by stating, "I don't know. It's a gun though...She pulled it out from underneath. She pulled out scissors first and then she grabbed the gun...Pointed it at me...She moved her blanket and then she grabbed it." As he explained his observations to Burgos, Carrillo repeatedly told Marquez to relinquish the weapon. When Marquez emerged from the apartment, Carrillo heard the sounds of a gun magazine being inserted, and a slide being "racked." Marquez approached the stairs, and Perez yelled, "Vanessa! Drop whatever's in your hand, right now!" and Carrillo asked, "Does she have the gun?" Before Perez could respond to Carrillo's question, Perez yelled, "Drop it!" and the officer involved shooting occurred.

Perez first saw the gun in Marquez' left hand as she exited her apartment and crossed the landing. Like Carrillo, Perez also heard the sound of a firearm magazine being loaded, and looked to other officers who acknowledged the sound. Perez observed Marquez descending the staircase in what he perceived to be an aggressive manner, "definitely angry" and "charging" at them with the handgun drawn. Perez stated he did not see Marquez point the gun directly at the officers, but it was positioned and moving in a manner that caused him to fear for their safety, as she would be able to "open fire" on them at that time.

After Carrillo and Perez fired multiple rounds, the officers cautiously approached Marquez on the staircase. They each saw the black handgun next to Marquez as she lay on the upper stairs; Perez' BWV footage clearly shows the handgun by Marquez' left foot during their approach. Perez kicked the handgun down the stairs, away from Marquez. The handgun was later examined and determined to be an all-black BB gun resembling a Beretta 92FS firearm. It was

equipped with a removable magazine and a functioning slide. The examination of the handgun corroborated the officers' statements regarding their belief that Marquez was armed with an actual firearm. Marquez also acknowledged in a Facebook post that the BB gun "looked like a [G]lock."

The actions of Marquez also contributed to the officers' belief that she posed an imminent threat to their lives. Marquez pointed the handgun at Carrillo in the bedroom, and it had the desired effect of causing him to fear for his life. Marquez perpetuated Carrillo's belief that the gun was real by not disclosing the handgun was a BB gun. As officers took tactical positions at the bottom of the stairs and repeatedly told her to drop the gun, Marquez continued to remain silent. Her intention, as evidenced by her final Facebook post, sadly appears to have been to end her life. While still in her room, before confronting the officers with the gun, Marquez posted: "[They're] shooting[.] [C]remate me [and] pour ashes over Hollywood sign."

From the perspective of Carrillo and Perez, Marquez was armed with a firearm and acting erratically. Despite efforts to communicate in conjunction with firm commands, Marquez remained silent. She held the handgun in a manner that conveyed a readiness to use it and descended the stairs with apparent purpose. Carrillo saw the gun pointed in the direction of the officers and Perez described a situation in which Marquez could have "opened fire" on them in an instant. Both officers, in that moment, actually and reasonably feared for their lives. The circumstances reasonably created in their minds a certain and imminent danger, and their response was justified.

CONCLUSION

Based on all the available evidence and the foregoing analysis, we find that Officers Carrillo and Perez acted in lawful self-defense and defense of others. We are closing our file and will take no further action in this matter.