



C A L I F O R N I A

DEPARTMENT OF JUSTICE

Report on the Investigation into the Death of Daniel Elena Lopez and Valentina Orellana Peralta on December 23, 2021

Los Angeles County AB 1506

APRIL 2024



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INVESTIGATION OF OFFICER INVOLVED SHOOTING

BACKGROUND—AB 1506

Pursuant to California Assembly Bill 1506 (AB 1506), the California Department of Justice is required to investigate all incidents of an officer-involved shooting resulting in the death of an unarmed civilian in the state. Historically, these critical incidents in California had been primarily handled by local law enforcement agencies and the state's 58 district attorneys.

AB 1506, signed into law on September 30, 2020, and effective July 1, 2021, provides the California Department of Justice (DOJ) with an important tool to directly help build and maintain trust between law enforcement and the communities they serve by creating a mandate for an independent, statewide prosecutor to investigate and review officer-involved shootings of unarmed civilians across California. The DOJ investigates and reviews, for potential criminal liability, all incidents covered under AB 1506, as enacted in California Government Code section 12525.3. Where criminal charges are not appropriate, the DOJ is required to prepare and make public a written report, like this one, communicating:

- A statement of facts, as revealed by the investigation;
- An analysis of those facts in light of applicable law;
- An explanation of how it was determined that criminal charges were not appropriate; and
- Where applicable, recommendations to modify the policies and practices of the involved law enforcement agency.

Recommendations to modify policies and practices of the involved law enforcement agency will be based on the facts of the incident, any known policies and practices of the relevant law enforcement agency, and the experience and expertise developed by DOJ personnel.

PRIVACY STATEMENT

This report includes redactions of the names and other identifying information of witnesses and any family members of the decedents. The public interest in such information is limited as it is not necessary to gain an understanding of the incident. Thus, the interest in nondisclosure clearly outweighs any public interest in disclosure.

For reasons related to privacy, as well as readability of this report, the witnesses and key locations will be indexed as follows:

- Witness 1 (W-1), first victim assaulted by Elena-Lopez
- Witness 2 (W-2), person who observed assault on W-1
- Witness 3 (W-3), second victim, followed home by Elena-Lopez
- Witness 4 (W-4), Burlington Coat Factory employee who reported active shooter and shots fired in the store
- Witness 5 (W-5), store security at Burlington Coat Factory
- Witness 6 (W-6), store manager at Burlington Coat Factory
- Witness 7 (W-7), cashier at Burlington Coat Factory
- Witness 8 (W-8), assistant store manager at Burlington Coat Factory
- Witness 9 (W-9), Burlington Coat Factory employee
- Witness 10 (W-10), victim who was assaulted by Elena-Lopez in Burlington Coat Factory
- Witness 11 (W-11), mother of Ms. Orellana Peralta
- Witness 12 (W-12), 911 caller
- Witness 13 (W-13), 911 caller
- Witness 14 (W-14), 911 caller
- Location 1 (L-1), address where W-1 was assaulted
- Location 2 (L-2), address where W-3 was assaulted

INTRODUCTION¹

On December 23, 2021, at 11:41 a.m., Los Angeles Police Department Officer William Jones, Jr. responded to a report of an active shooter inside the Burlington Coat Factory store in North Hollywood, California. Officer Jones joined other officers already in the store. As they prepared to encounter the suspect, an officer saw an injured victim. The officers advanced and Officer Jones took the lead because he was equipped with a patrol rifle. When he came to the victim who was covered in blood, Officer Jones saw Daniel Elena Lopez. Mr. Elena Lopez had an object in his hand and another object which he used as a shield. Officer Jones fired a burst of three rounds from his patrol rifle, fatally shooting Mr. Elena Lopez. One of the expended rounds struck the floor and changed direction, entering the wall of a fitting room, and striking and killing Valentina Orellana Peralta.

The California Department of Justice (DOJ) investigated and reviewed the Officer-Involved Shooting (OIS) pursuant to Government Code section 12525.3 (enacted by Assembly Bill 1506 (2019-2020 Reg. Sess.)). This report is the final step in the DOJ's review of the fatal OIS of Daniel Elena Lopez and Valentina Orellana Peralta and is limited solely to determining whether criminal charges should be brought against the involved officer, and possible policy and practice recommendations. The review does not encompass or comment on any potential administrative or civil actions. It does, however, include policy and practice recommendations, as required by Government Code section 12525.3, subdivision (b)(2)(B)(iii). Upon thorough examination, and as discussed in detail below, we conclude that no criminal charges will be filed because the evidence is insufficient to prove that Officer Jones committed a crime.

CAUTION: The images and information contained in this report may be graphic and disturbing. Therefore, reader discretion is advised, especially for young children and sensitive individuals.

¹ This report generally includes information about facts and circumstances leading up to the OIS, even if some of the information was unknown to the officers, in order to explain and give context to the entire incident.

SUMMARY OF INCIDENT

Events Prior to MR. Elena Lopez Arriving at Burlington Coat Factory

On December 23, 2021, at approximately 10:30 a.m., W-1² was standing on the sidewalk in front of her apartment building at L-1 in North Hollywood. She saw Daniel Elena Lopez appear from another building and begin to approach her. W-1 later told investigators that Mr. Elena Lopez looked “evil” as he approached her: “I’ve seen it all. And I’ve never seen a man that was so evil. And he looked at me like ‘I’m going to take you... and drag you down this driveway and rape you.’” Mr. Elena Lopez blocked the sidewalk, preventing W-1 from approaching her building’s entrance, so she stepped into the street to walk around him. As she did so, Mr. Elena Lopez followed her. Sensing that she was being followed, W-1 reached into her purse and grabbed a can of pepper spray. She told Mr. Elena Lopez, “You need to stop” and “You need to go away.” Mr. Elena Lopez got closer and “got up in my face.” W-1 pepper sprayed Mr. Elena Lopez and she began screaming for help: “I’m screaming ‘help’ like a siren like 10 times, really super loud because I’m terrified now, and I realized a terrifying person is trying to attack me.”

W-1 ran to her residence’s gate. Before she could reach safety, she was assaulted by Mr. Elena Lopez: “So I get to the gate. Right then he’s right behind me. I see him. All of a sudden like my sweater gets pulled off and my – part of my clothes. And then I blacked out. I – I don’t know why how I ended up on the ground. I ended up on the ground lying on the floor with him on top of me. And I wake up. I – I might have blacked out for a second. Well, I didn’t know how I got put down on the ground. I don’t remember that.”

Mr. Elena Lopez straddled W-1 while she was on the ground and swung his fists at her. W-1 felt that Mr. Elena Lopez was punching towards her face, stating “I’ve never seen a punch thrown so hard barely missing my face. If any one of those punches, which was about 20, had hit anywhere on my face, my face would have been destroyed.”

As Mr. Elena Lopez was on top of W-1, punching and kicking at her, W-2³, attempted to intervene. W-2, who lived nearby, heard W-1 screaming. W-2 later told investigators, “I heard a woman scream, looked up, and about five feet away from me I saw a man on top of her and her screaming that he was attacking her. I then got out of my vehicle, and I started screaming at the man to get off of her, get out of here. I went to see if she was all right. She very quickly got up and ran into her building.” W-2 saw Mr. Elena Lopez run approximately 50 feet and attempt to enter a construction site without success.

Mr. Elena Lopez then ran across the street and into an open parking garage at L-2, where he encountered W-3⁴, a resident of the building. W-3 told investigators she had gone shopping and was returning to her apartment when she first observed Mr. Elena Lopez inside of her parking garage. As she got out of her car, W-3 saw Mr. Elena Lopez approaching. W-3 noted that Mr. Elena Lopez appeared not to be well: “The person was coming towards me, and I noticed that he was -- I don’t know. He was not well because I don’t know if he was under the influence of drugs. He was -- and his eyes were like -- I don’t know. There was something in his eyes.”

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- W-1 was interviewed on January 6, 2022, commencing at 4:02 p.m. by LAPD Force Investigation Division (FID) Detective Eduardo Gonzalez and Detective Grabe.
 - W-2 was interviewed on January 7, 2022, commencing at 10:35 a.m., by LAPD FID Detective Eduardo Gonzalez and DOJ Special Agents (SAs) Peter Stone and Michael Wyatt.
 - W-3 was interviewed on January 17, 2022, commencing at 4:47 p.m. by DOJ SAs Peter Stone and Tony Baca. The interview was conducted in Spanish.

As Mr. Elena Lopez approached W-3, he asked her for some milk. W-3 told him she did not have milk and she began to grab belongings from her car. W-3 believed Mr. Elena Lopez wanted to get into her car. She pushed her car door shut. W-3 walked towards the entrance to her building from the parking structure while Mr. Elena Lopez followed. As W-3 entered her building, she noticed that Mr. Elena Lopez was following her, and she became frightened.

W-3 lived on the second floor of her apartment building and was scared to use the elevator. Mr. Elena Lopez continued to ask for milk, and she told him to wait for her and she would bring him some. W-3 used the stairs in her building to walk to her apartment but was again followed by Mr. Elena Lopez. Concerned because her children were in her apartment, she attempted to convince Mr. Elena Lopez to wait outside, but Mr. Elena Lopez pushed his way into W-3's apartment. W-3 told her daughter to call 911. The call was made at 10:58:23 a.m. Mr. Elena Lopez opened the refrigerator and poured a carton of milk on his head, then left the apartment.



Still frames from surveillance video recovered by investigators from L-2, showing Mr. Elena Lopez

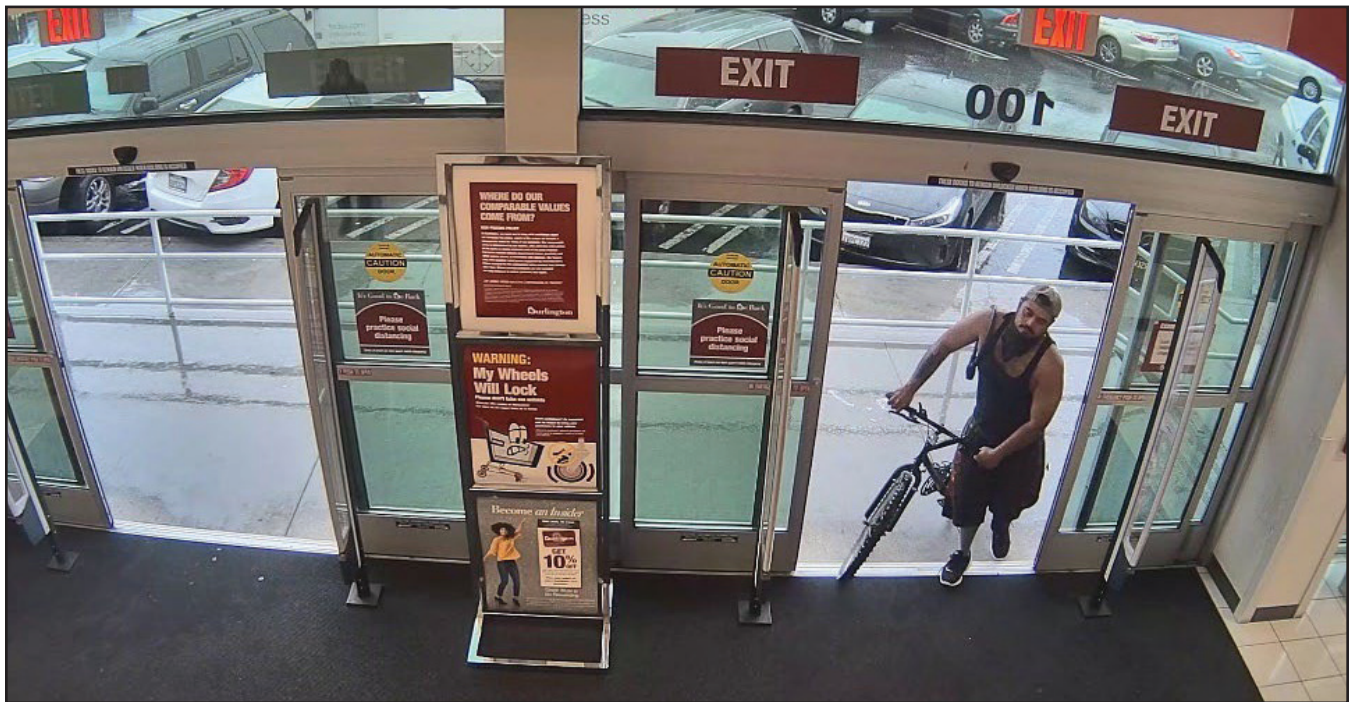


Overview map of crime scene locations

As Mr. Elena Lopez left W-3's building at 11:06 a.m., he was seen again by W-2, who had already called the police. W-2 told investigators that he saw Mr. Elena Lopez run westbound on Hamlin Street; Mr. Elena Lopez had changed his clothes and was now wearing a black tank top and shorts.

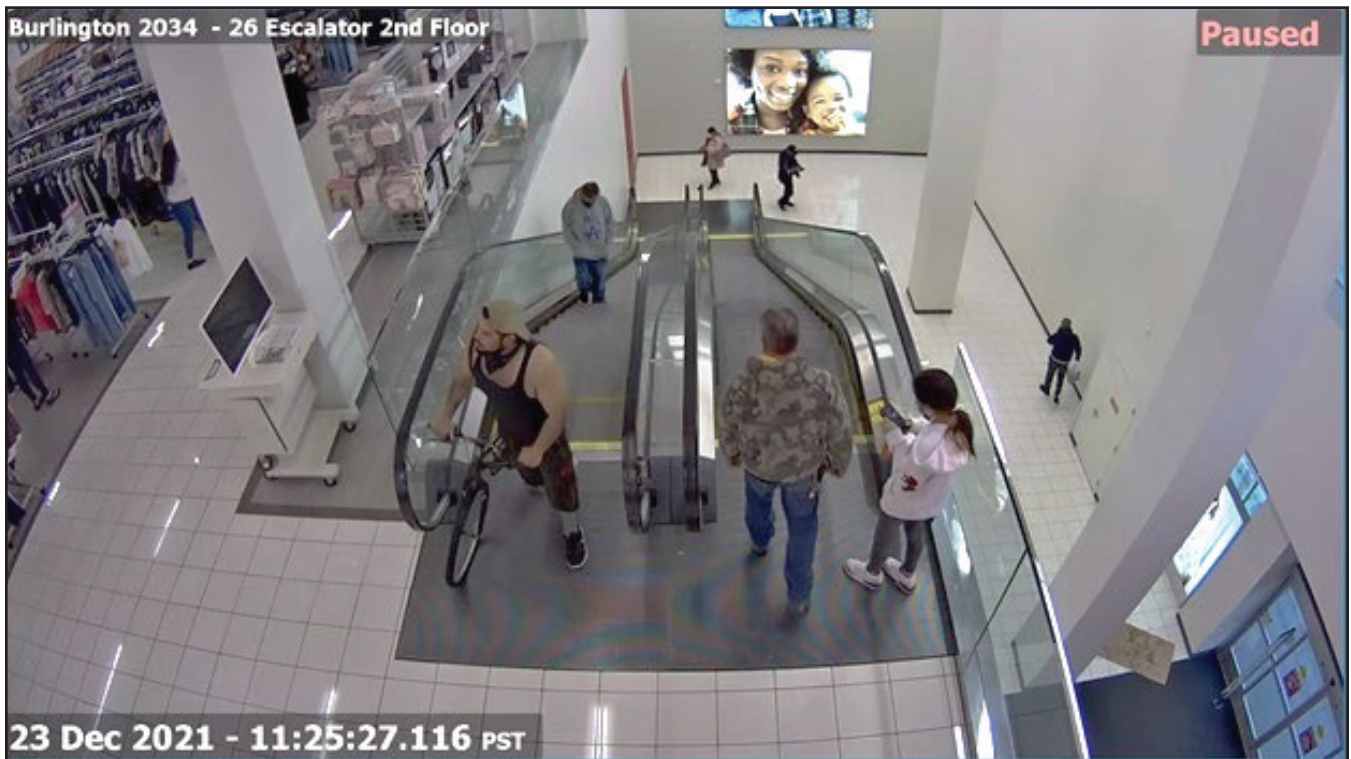
OIS At Burlington Coat Factory

At approximately 11:24 a.m., Daniel Elena Lopez was captured on surveillance video, walking through the parking lot of the Burlington Coat Factory store ("Burlington") located at 12121 Victory Boulevard in North Hollywood. Mr. Elena Lopez entered the front doors of the store pushing a bicycle. He was wearing a black tank top, camouflage print shorts and a light-colored baseball hat. He appeared to have a bicycle lock slung on his right shoulder while he walked through the front doors.



Burlington surveillance video of Mr. Elena Lopez entering Burlington Store

Burlington's main entrance was a set of double automatic sliding doors, which led to a parking lot at the northwest corner of Victory and Laurel Canyon Boulevards. After entering the store, Mr. Elena Lopez moved towards an escalator which was immediately north of the main entrance. He rode up the escalator, still holding his bicycle, approximately one minute after entering the store.



Store surveillance video of Mr. Elena Lopez taking the escalator to the Burlington sales floor (lighting enhanced)

W-5, a Burlington Security Associate,⁵ told investigators that she saw Mr. Elena Lopez enter the store and bring his bicycle up the escalator. This attracted her attention, as bicycles are not allowed on the second floor of the store. W-5 notified her coworkers over the radio of Mr. Elena Lopez's presence. As W-5 watched Mr. Elena Lopez, he walked to the men's department, dropping his bicycle so that it blocked an aisle.

W-6, a Burlington Store Manager,⁶ told investigators that she heard W-5's radio transmission and met with W-5. At the same time, W-7, a Burlington cashier⁷, saw the bicycle on the ground. W-7 waved down W-6 to advise her of the bicycle blocking the aisle. W-6 asked whom the bicycle belonged to, and W-5 identified Mr. Elena Lopez as the owner. W-6 told W-5 that the bicycle would need to be removed. W-5 continued to watch Mr. Elena Lopez and observed him putting on store merchandise consisting of a checkered jacket and a hoody with a camouflage design. He was not wearing pants when W-5 saw him but was clad only in his black underwear from the waist down.

W-6 approached the area where Mr. Elena Lopez was standing and spoke with Burlington store employee W-8⁸. W-6 asked W-8 whom the bicycle belonged to, and W-8 pointed to Mr. Elena Lopez, who by then had donned jeans which were halfway down his thighs. W-6 saw Mr. Elena Lopez walk towards the bicycle as if to retrieve it, but then stop in his tracks because his pants were falling down. Mr. Elena Lopez tied a shoelace⁹ around the waist of the pants so he could pull them up, as he was exposing himself.

W-7 also saw Mr. Elena Lopez taking clothing and dressing himself, later telling investigators: "I saw the guy, he was putting on some pants over his pants. He was stealing. And my manager saw him too. And my manager asked him 'What are you doing?' He never answered. He started laughing and just walking around. And my manager was following him just telling him to leave. And he had shoes on that he grabbed from the store, he had a jacket that he grabbed from the store as well because I saw the jacket in the morning."

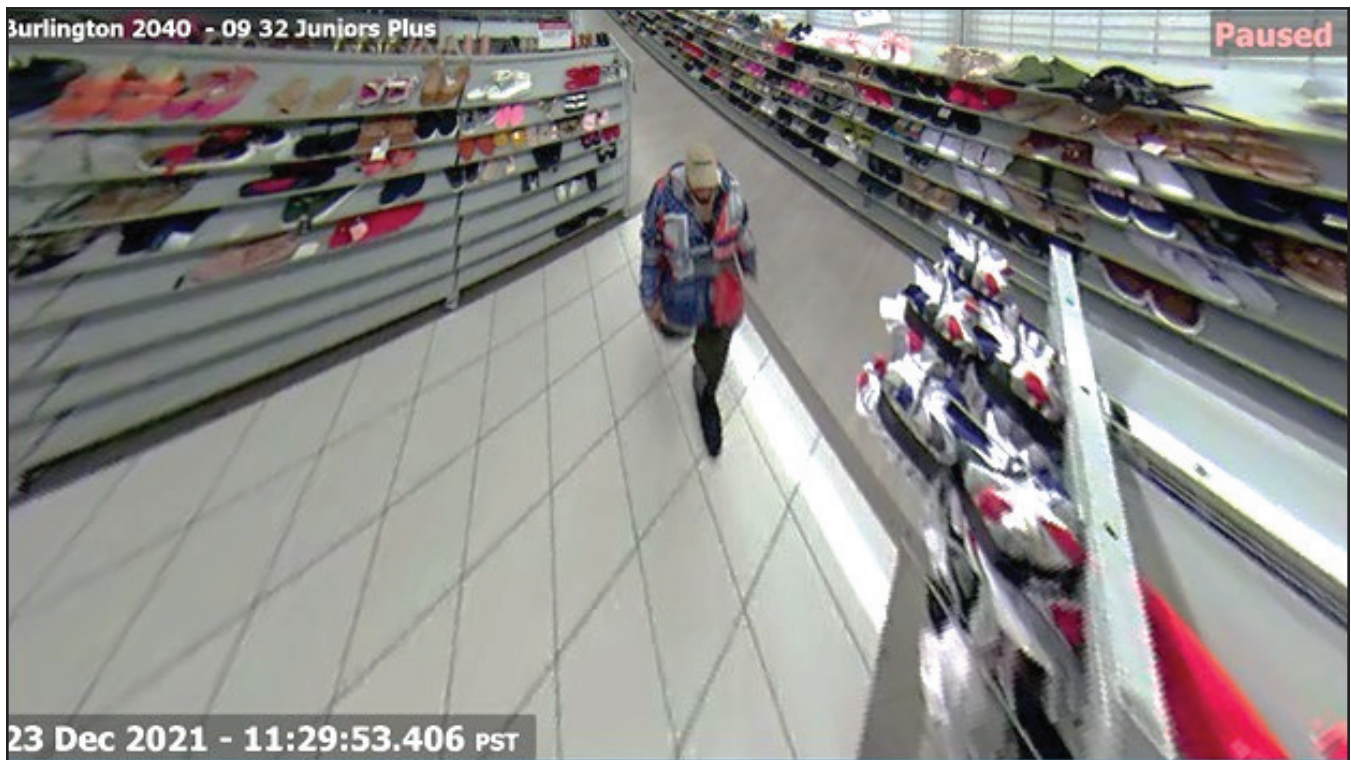
5 W-5 was interviewed on December 23, 2021, commencing at 6:48 p.m., by LAPD FID Detectives Jose Olmedo and Brad Michel and DOJ SA Daniel Foster.

6 W-6 was interviewed on December 23, 2021, commencing at 5:22 p.m., by LAPD FID Detectives Jose Olmedo and Brad Michel and DOJ SA Daniel Foster.

7 W-7 was interviewed on December 23, 2021, commencing at 4:25 p.m., by LAPD FID Detectives Jose Olmedo and Brad Michel and DOJ SA Daniel Foster.

8 W-8 was interviewed on December 23, 2021, commencing at 5:49 p.m., by LAPD FID Detectives Michael Arteaga and John Macchiarella and DOJ SA John Genens.

9 It is not known where Mr. Elena Lopez obtained the shoelace.

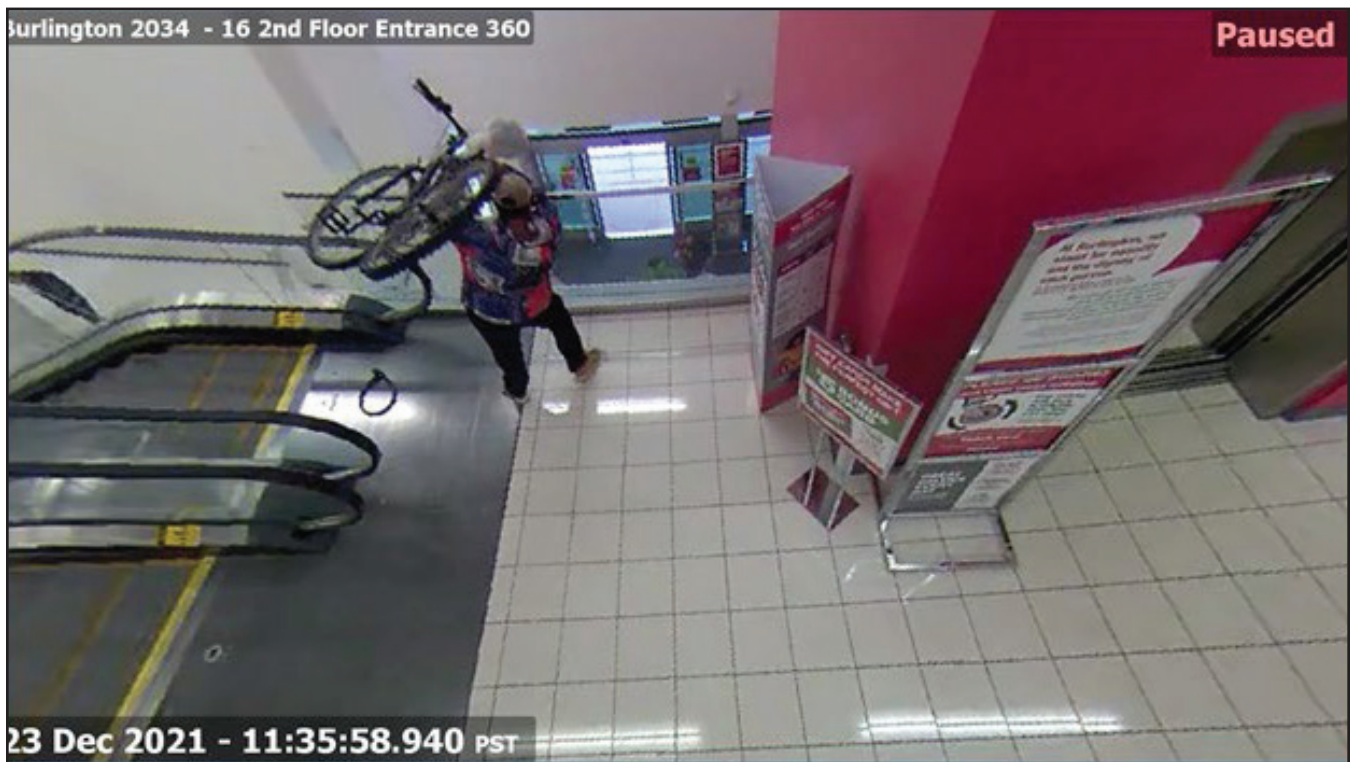


Store surveillance video of Mr. Elena Lopez after donning Burlington clothes (lighting enhanced)

W-6 attempted to speak with Mr. Elena Lopez. As she recalled: “At that point, when I tried to interact with the customer, I asked him if that was his bicycle, if he needed help with anything. I also made observations as I was talking to him that he was wearing our pants that belonged to the store because I saw all the tagging on it, the Burlington tags. And I also noticed he was wearing boots that also had our tagging on it and a sensor that had not been removed. At that time, I already assumed that he was going to attempt to walk out, but he was unresponsive when I tried to speak to him and kind of just looked at me and smirked and smiled. And then he grabbed his bicycle and headed towards the exit.”

Approximately ten minutes after entering Burlington, Mr. Elena Lopez walked towards the front of the store, remaining on the second floor. He picked up his bicycle and walked toward the top of the escalators. He was followed by several store employees, including W-6, who had asked him to leave. W-6 noticed Mr. Elena Lopez was carrying a bicycle lock which shaped like a horseshoe, but larger. Mr. Elena Lopez threw his bicycle to the ground.

Store surveillance video shows Mr. Elena Lopez picking up his bicycle and holding it over his head twice while looking over the second-floor balcony near the escalators at 11:35:58 a.m. W-8 told investigators she urged him to stop, concerned that customers might be injured if Mr. Elena Lopez threw his bicycle from the balcony. When she turned away from him, Mr. Elena Lopez smacked W-8 across her buttocks with his hand. Seeing this, W-6 instructed her employees to seek shelter inside of a nearby office and told Mr. Elena Lopez that she was going to call the police.



Store surveillance video of Mr. Elena Lopez on the Burlington second-floor balconyMr.

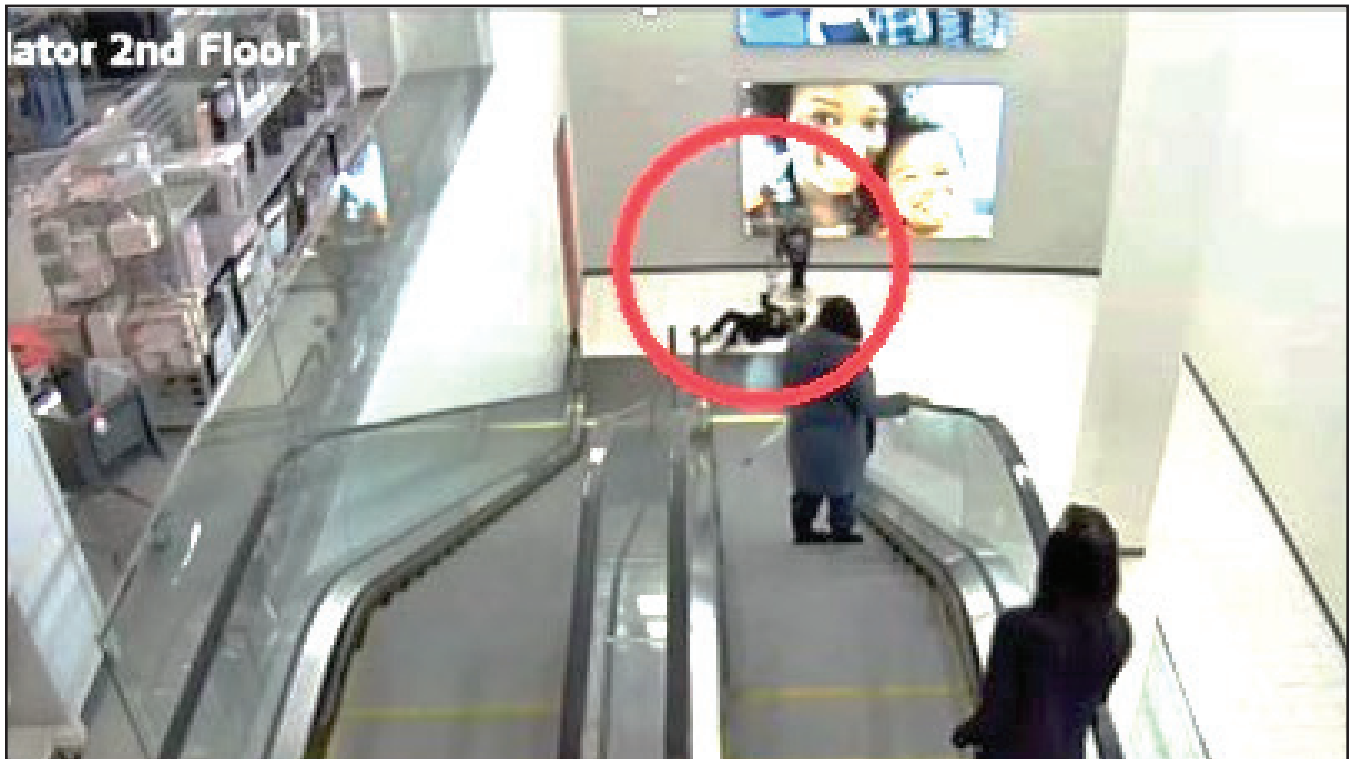
Elena Lopez then dropped his bicycle to the floor. He grabbed his bicycle lock and went to a display podium next to the escalator on which there was a small television monitor. He slammed the bicycle lock into the monitor. W-6 called for her employees and customers to back away. There was a very large security monitor near the second-floor entrance; Mr. Elena Lopez struck the monitor with the lock. W-6 and W-8 began shouting at their customers and associates to back away. This seemed to anger Mr. Elena Lopez, and he appeared to look around for additional items to strike. W-6 later told investigators that, when she saw Mr. Elena Lopez striking the monitor, “the situation to me got even more serious. And at that point, my assistant (W-8) and I started shouting to our customers and to our associates to back away, to back away, and he kind of started acting in a rage, as though (he) start(ed) looking around to what else I could break.”

At 11:39:20 a.m.¹⁰, W-6 called 911 and spoke with LAPD Communication Division (CD). She told the 911 operator: “I have a hostile customer in my store attacking customers, 12121 Victory Way...he’s breaking things.” In response to the 911 operator’s questions, W-6 provided further details: “He’s male....in Burlington...he’s inside on the second floor...he’s Hispanic...wearing a white top, colorful jacket...jeans... he’s using one of those bicycle locks to hit people.” While W-6 was on the phone with LAPD, Mr. Elena Lopez began to run around the sales floor. W-6 yelled for customers to evacuate the building. W-6 remained on the line with the 911 operator, updating the operator on his activities as he began smashing store equipment with his bicycle lock, and on Mr. Elena Lopez’s location within the store.

At 11:41 a.m., Mr. Elena Lopez descended the escalator to the store entrance without the bicycle. Burlington security video shows that as Mr. Elena Lopez rode the escalator from the second floor to the first, an unidentified female customer wearing a light-colored hat, dark-colored jacket and black pants

¹⁰ There is a discrepancy between the time of the call noted on the recording and the time of the call noted on LAPD’s dispatch logs, which show the call coming in at 11:41:48.

entered the escalator behind him. She attempted to walk past Mr. Elena Lopez while on the escalator, and as she did so, Mr. Elena Lopez reached out with his left hand and grabbed her buttocks. The woman fell to the ground; when she stood back up, she attempted to walk away from Mr. Elena Lopez, who had followed her down the escalator. When they reached the bottom of the escalator, Mr. Elena Lopez tackled the woman, causing her to fall onto the floor of the store lobby. Mr. Elena Lopez dropped down and straddled the woman briefly and then stood up; the woman was able to stand up on her own and ran away from Mr. Elena Lopez towards the front door of the store.



Store surveillance video of Mr. Elena Lopez assaulting customer (lighting enhanced)

After Mr. Elena Lopez grabbed the first customer, a second female customer rode down the escalator. Mr. Elena Lopez stood at the base of the escalator and waited for her to descend. As the woman came closer to Mr. Elena Lopez, he began to strip his clothing off, removing the shoes and pants he had taken from the store. Mr. Elena Lopez then reached out toward the woman and grabbed her upper body with his left arm, drawing her to him. She was able to break free from Mr. Elena Lopez and left the store.

At 11:41:29 a.m., Burlington sales associate W-4,¹¹ called 911. She asked the operator, “Can you send a unit to the Burlington in North Hollywood, please? There’s a guy inside with a gun...everybody is running away and evacuating the building...it’s just shots...everybody is evacuating.” She told the 911 operator that there were still people inside the store, that she was hiding by the emergency exit and had not seen the gunman, and that people were being evacuated from the store.

At 11:43:14 a.m., LAPD CD made the first broadcast, “North Hollywood units, ADW suspect there now, 12121 Victory Boulevard, 12121 Victory Boulevard at the Burlington, second floor. The suspect is male

¹¹ W-4 was interviewed on December 23, 2021, commencing at 6:01 p.m., by LAPD FID Detectives Heather Gahry and Guillermo Medina and DOJ SA Daniel Ibarra.

Hispanic, multicolored jacket, white shirt, and jeans, attempting to assault customers with a bicycle lock. Possibly under the influence of an unknown substance. It's a Code 3 incident 1582 in RD 1524.¹² "ADW" refers to Assault with a Deadly Weapon. Code 3 signifies a high priority incident, and officers normally respond with their patrol cars' lights and sirens activated. A CD broadcast is normally audible in all patrol cars that have their radios on in the area.

At 11:43:34, LAPD CD made a second broadcast, "North Hollywood units, shooting just occurred, Victory Boulevard and Laurel Canyon, Victory Boulevard and Laurel Canyon at the Burlington Coat Factory, stand by for additional. It's Code 3. Incident 1586."

At 11:43:35 a 911 call was made by W-12¹³, reporting that a man was inside the Burlington Store, "crashing the windows" with a belt. W-12 described the suspect as a male Hispanic, in his 30s, wearing shorts, a brown top and a multicolored jacket. The 911 operator advised W-12 that the police "already have the call."

After attacking the customers on the escalator and on the ground floor, store security video shows that Mr. Elena Lopez moved toward the front door of the store. At 11:45 a.m., while standing near the front entrance of the store, Mr. Elena Lopez swung his bicycle lock at the glass sliding door, causing it to shatter. He briefly exited the store. A young child approached him from the parking lot; the child was pulled away from Mr. Elena Lopez by Burlington employee W-9, who was standing near the front door; W-9¹⁴ later told investigators he had seen Mr. Elena Lopez assault the female customers and smash the glass.



The broken glass panel in Burlington's front door

12 "RD" refers to a reporting district. Each of LAPD's geographic areas is numbered. This reporting district is in LAPD's North Hollywood Division and within the geographic boundaries of Lankershim Boulevard on the East, Coldwater Canyon on the West, Kittridge Street on the North, and Burbank Boulevard on the South. The Burlington Coat Factory in North Hollywood is located within this RD.

13 W-12, who did not witness any of the events inside the Burlington store, was not interviewed.

14 W-13 was interviewed on December 23, 2021, commencing at 5:13 p.m., by LAPD FID Detectives John Macchiarella and Michael Arteaga and DOJ SA John Genens.

At 11:44:34 CD made a third broadcast: “North Hollywood units additional. ADW Suspect there now 12121 Victory Boulevard, the suspect is now at the entrance of the business no longer wearing pants and attempting to break the glass door with a bicycle lock. Additional to 1582.”

At 11:45:02 a 911 call was made by W-13¹⁵, who said he was the manager at the Ross store, which was next door to Burlington. He told the operator that people had run into his store from the Burlington, and that they had said there was a man threatening people and breaking things in Burlington. He was advised that LAPD already had the call and that officers had been dispatched.

At 11:45:09, LAPD CD, after receiving further information from W-4, made a fourth broadcast updating the “shooting just occurred” broadcast: “North Hollywood units, additional on your ADW shooting at Victory and Laurel Canyon. Suspect is still inside the location. PR advised there are customers and employees hiding inside the location. Unknown suspect description at this time. Still code 3, incident 1586, RD 1524.” LAPD CD assigned the radio call to unit 15x66, Police Officer III Michael Mazur and Police Officer II Victor Escobar. Unit 15x66 acknowledged the radio call.

At 11:45:14, W-14 called 911 to report that her mother and sister were inside the Burlington store at Victory and Laurel Canyon. She reported that her mother¹⁶ was hiding outside the store. She told the operator, “There’s a man in the store, I don’t know if he has a gun, he’s making threats.” She was advised by the 911 operator that police were on the way, and the W-14 responded, “I see one right now.”

At 11:45:34, CD made a fifth broadcast directing unit 15x66 to respond: “North Hollywood unit 15x66, 15x66, shooting just occurred, Victory and Laurel Canyon, Code 3 incident 1586, RD 1524.” Unit 15x66 acknowledged, with Officer Mazur stating, “15x66 show us en route.”

Moments later, LAPD North Hollywood Division (NHWD) Unit 15A3 broadcast, “Show us as backing” (responding as an additional unit to assist). CD responded, “15A3 you’re up.” Unit 15A3 was a two-man unit comprised of Police Officer II Jonathan Suarez and Police Officer II William Jones, Jr., who at the time of the incident had 12 years, 2 months with the LAPD. Both officers were in full uniform and driving a marked black and white patrol car. Officer Jones had completed LAPD’s patrol rifle certification and was authorized to use a rifle. As reflected on the officers’ body worn video, Officer Suarez asked Officer Jones, “What’s this guy’s last description?” Jones responded, “There’s no description.”

CD broadcast, “North Hollywood units, 15x66 handling ADW suspect at 12121 Victory Boulevard, Code 3 incident 1524.”

At 11:46:30 hours, the first LAPD NHWD Patrol Unit arrived at the location.¹⁷ This was unit 15X66, Officers Mazur and Escobar. Upon their arrival, Officer Escobar broadcast to LAPD CD that his unit was “Code 6” in the area of the Burlington Coat Factory (Code 6 is a LAPD radio code indicating the officers have arrived at the location). Approximately 15 seconds later, Officer Mazur drove their marked black and white patrol

15 W-13, who was not inside the Burlington store during relevant events, was not interviewed.

16 W-14’s mother was interviewed in Spanish on March 18, 2022, commencing at 12:15 p.m. by LAPD FID Detective Eduardo Gonzalez and DOJ SAs Daniel Ibarra and Tony Baca. She told investigators that she and her 9-year-old daughter were dropped off at the Burlington store on the morning of December 23, 2021, by her elder daughter W-14. As she was waiting in the cashier’s line to pay for a gift, she heard a noise and the cashier said, “Oh, that’s a gunshot.” She heard another noise and the cashier said, “This is a gunshot.” She looked for a place to hide and called W-14, asking her to call 911 because there was a man shooting a gun. She and her younger daughter hid in an office until the police came and let them out.

17 The officers’ arrival times have been determined by video analysis from the LAPD BWV of responding officers and is true and correct to the time of the events.

car into the south driveway of the parking lot to the Burlington Coat Factory. He stopped the patrol car and got out. Officer Mazur told Officer Escobar “Get the tube, I got the 40.” (“Tube” refers to a Shotgun and “40” refers to 40-millimeter launcher that fires less-than-lethal projectiles.) As Officers Mazur and Escobar responded, they activated their Body Worn Video devices (BWV).

At 11:46:52, Officer Mazur asked several unidentified bystanders who were standing in the parking lot, “Where is he?” and several unidentified bystanders pointed towards the front entrance of the Burlington Coat Factory. Officer Mazur removed the 40-millimeter launcher from his police vehicle and yelled to the crowd, “Get everybody away, get everybody away!”



Officer Mazur telling crowd to stand away from store

LAPD NHWD Patrol Unit 15A33 arrived at Burlington as Officer Mazur addressed the bystanders. LAPD NHWD Unit 15A33 was a two-man unit comprised of Police Officer II Jordan Head and Police Officer II Matthew Krauss. Both officers were in full uniform and driving a marked black and white patrol car. As Officer Head got out of the patrol car, Officer Mazur handed him the 40-millimeter launcher.

At 11:46:54, CD broadcast: “Unit responding to 12121 Victory Boulevard, the suspect entered into the business and is now going on the second floor of the escalator. Additional 152. Correction 1582.”

Unit 15L50, Sergeant I Jerald Case, responded: “Responding to the shooting call.” CD acknowledged: “15L50 on.”

Unit 15A43, Police Officer III Mark Stratton and his partner Police Officer I Roxanne Helms, responded: “Show us backing on the shooting call.” CD acknowledged: “15A43 on.”

While the officers were at scene, preparing to make entry into the store, W-9 approached Officer Mazur and stated, “We do have associates inside.” Officer Mazur pulled W-9 to a walkway near the patrol cars and asked him what was going on. W-9 replied that there was a man, pant-less, smashing things with

a bicycle lock inside the store. Officer Mazur asked if any other people were still inside the store and W-9 told him that there were associates inside. This conversation was held in the presence of Officers Krauss, Head and Escobar. Mazur told W-9 to stand back, and he began to lead the team of four officers toward the front door of Burlington. As they were approaching, Officer Escobar was standing to the front of the team in a “point” position armed with a shotgun, followed by Krauss who was armed with his pistol. Mazur was third in the line acting as a team leader and communicating over the radio, followed by Head who was armed with the 40-millimeter launcher.

At 11:47:46, Officer Jones broadcast that they were “Code Robert equipped,” signifying that they were responding with a patrol rifle. CD acknowledged, “15A3 is Code Robert equipped.” This broadcast was made as Officers Mazur, Escobar, Krauss, and Head moved toward the Burlington entrance. Officer Mazur replied, “Roger, we’re moving up, standby.”

As the four officers reached the front door of the Burlington store, Officer Mazur broadcast to LAPD CD to “hold the frequency,” advising all officers and dispatchers to stay off the radio so that only emergency broadcasts were communicated. Officer Head stepped in front of Officer Mazur, placing himself third in line with the 40-millimeter launcher. Officer Escobar announced loudly as the team of officers stood next to the front door of Burlington, “LAPD, everyone inside come out with your hands up.” Officer Mazur again advised LAPD CD, “Hold the frequency, please. And we’re going to be moving up right now.... No need to answer it. Hold the frequency. We have one suspect, no pants, with a bicycle lock. We are making contact.” The officers briefly paused until Officer Mazur told the team to keep moving because there were people inside the store.

At 11:47:52 Officers Jones and Suarez arrived at the Burlington parking lot just as Officer Mazur’s description of the suspect was broadcast.

At 11:47:55, Burlington store employee W-15¹⁸ called 911 and was transferred to LAPD CD by a Burbank 911 operator. W-15 advised that “there is an active shooter at Burlington in North Hollywood,” and gave the location as Victory and Laurel Canyon. She said she heard shots while she was in the break room and heard her coworkers say, “evacuate.” She said she then heard shots, “five or three.” She said, “we locked all the doors and we’re hiding in the break room.” CD advised her that officers were on the way. W-15 later told interviewers that she was taking her break in the first-floor break room when she heard a Burlington employee say over the walkie-talkie, “evacuate.” She then heard what she thought were gunshots. Believing there was a shooter in the store she remained in the break room, barricaded the door, and called 911. This call was not broadcast to officers. The 911 operator called her back within a few minutes to report that officers had arrived at the store.

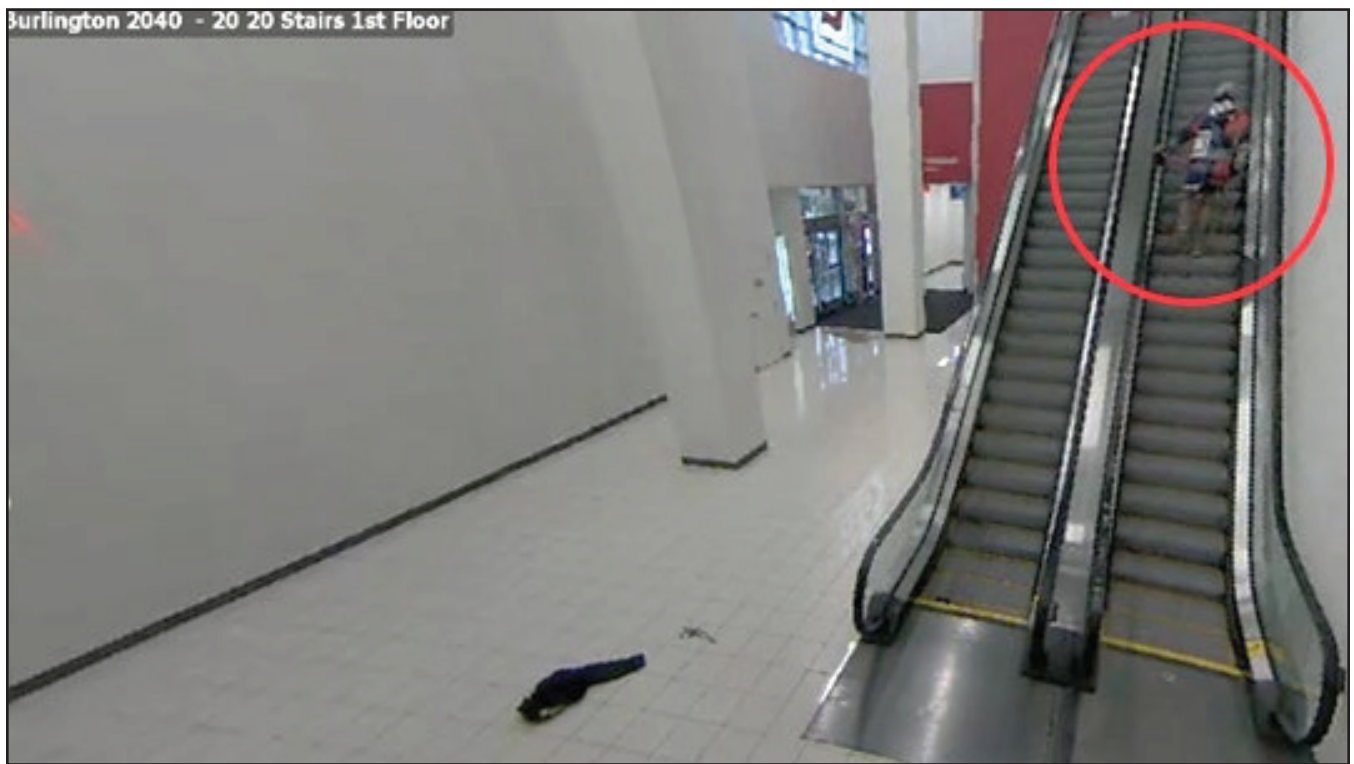
18 W-15 was interviewed on December 29, 2021, commencing at 11:33 a.m., by LAPD FID Detectives Jose Olmedo and Eduardo Gonzalez, and DOJ SA Michael Wyatt.



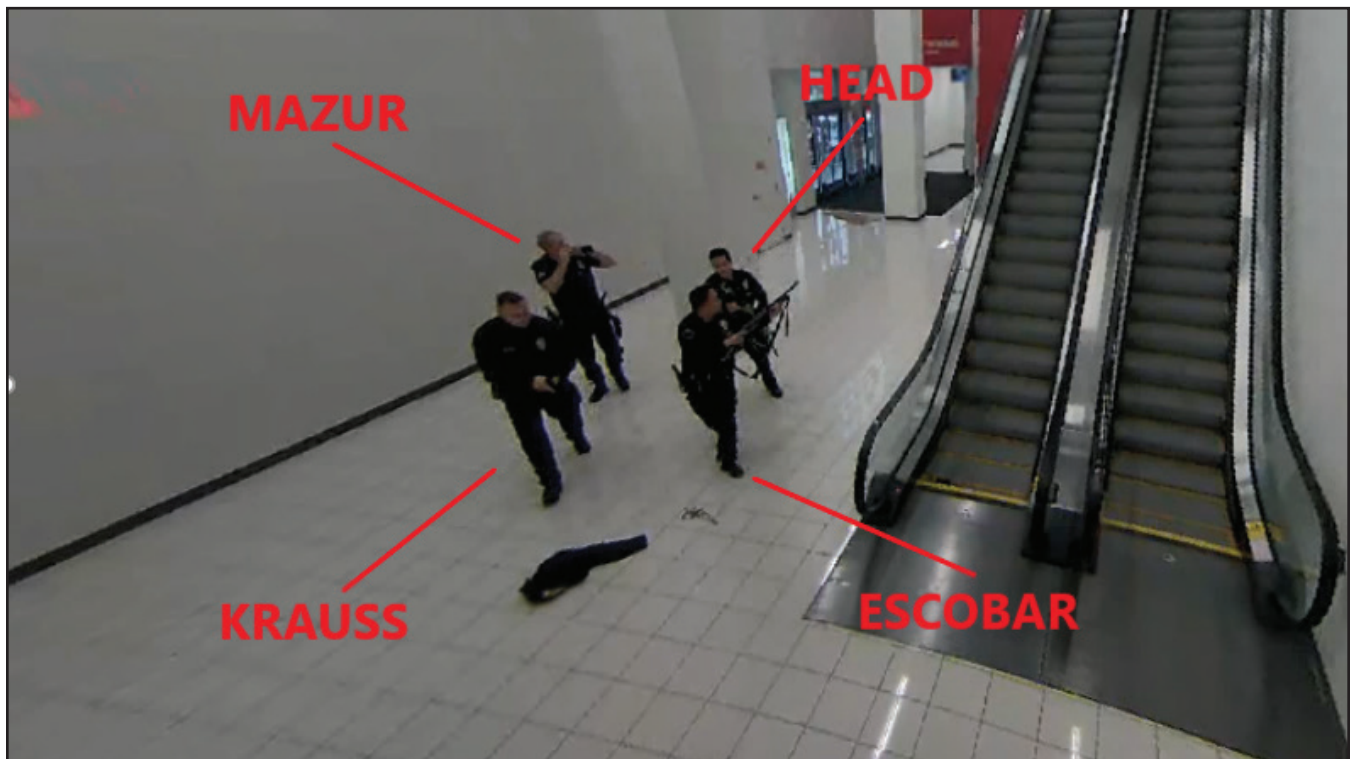
Still Image from Mazur BWV

At 11:47:55 a.m., the contact team of LAPD Officers (Mazur, Escobar, Head, Krauss) made entry into the Burlington Coat Factory, approximately one minute and twenty-five seconds after first arriving at the location.

As the officers entered the front door, Mr. Elena Lopez ran back up the escalators towards the second floor of Burlington, away from the team of officers.



Mr. Elena Lopez fleeing from the assembled police officers. His pants are on the ground to the left of the photograph.



Mr. Elena Lopez fleeing from the assembled police officers. His pants are on the ground to the left of the photograph.
Burlington Security Video (labeled)

At 11:48:00 a.m., immediately after stepping into Burlington, Officer Escobar told the officers to form a “diamond formation,” a tactical formation LAPD officers are trained to use when encountering an active shooter. The four officers ran up the escalator to the second floor of the store (the sales floor).

At 11:48:14 a.m. CD broadcast, “Any unit in the vicinity, 15x66 requesting backup unit and a supervisor. Victory and Laurel Canyon. Burlington Coat Factory second floor.”

As the LAPD officers neared the second floor of the Burlington store, Mr. Elena Lopez ran toward the back of the store, near the fitting room area.

At 11:48 a.m., W-10¹⁹ had emerged from the fitting room area. She walked toward an aisle where clothes were hanging while pushing a shopping cart. At 11:48:19 a.m., Mr. Elena Lopez grabbed W-10 from behind and began to strike her with the bicycle lock, which he swung like a hammer at her head. Mr. Elena Lopez used the bicycle lock to strike W-10 on the head repeatedly. W-10 fell into the nearby clothing racks. After she fell, Mr. Elena Lopez continued to strike W-10 over her head with the bicycle lock as she attempted to place her shopping cart between herself and him. W-10 later told interviewers that Mr. Elena Lopez struck her head with the bicycle lock at least ten times.

At 11:48:28 a.m., as Officer Jones was obtaining his patrol rifle from the trunk of his patrol car, unidentified bystanders related information about Mr. Elena Lopez to him: He’s not wearing pants,” one bystander said, while another stated, “He’s wearing shorts.”²⁰ At this same time his partner, Officer Suarez, was approaching the front doors of the Burlington store.²¹ Officers Jones and Suarez entered the store as the first four officers to arrive were ascending the escalator to the second floor.

Unit 15A43, Police Officer III Mark Stratton and his partner Police Officer I Roxanne Helms, entered the store immediately after Officers Jones and Suarez.

At 11:48:31 a.m., as shown on his body worn video, Officer Mazur told Officer Victor Escobar, “Vic, let Jordan (referring to Officer Jordan Head) hit him with that 40.”

At 11:48:55 a.m., the four officers reached the top of the escalators. Officer Mazur announced several times for everyone in the store to come to the officers; one customer hurried toward the officers from the sales floor.

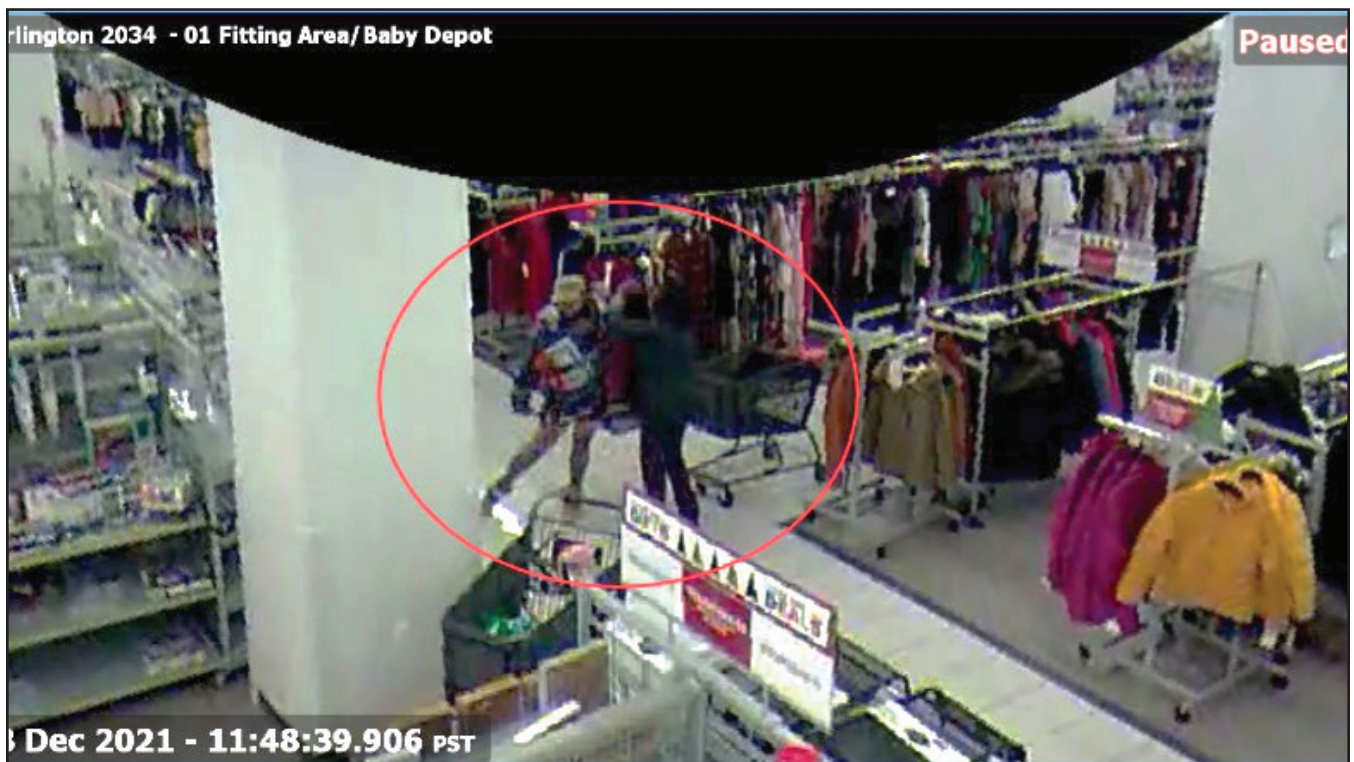
LAPD North Hollywood Division Patrol Supervisor Sergeant I Jerald Case (Unit 15L50) arrived on scene and also entered the store. Sergeant Case was in full uniform and driving a marked black and white patrol car. He entered the store and ran up the escalator, arriving behind Officer Jones.²²

19 W-10 was interviewed on December 27, 2021, commencing at 12:45 p.m. The interview was conducted in Spanish by LAPD FID Detective Eduardo Gonzalez and DOJ SAs Tony Baca and Daniel Ibarra. W-10’s daughter was present during the interview.

20 These comments were recorded on Officer Jones’s body worn video.

21 This information was obtained by reviewing Officer Suarez’s body worn video.

22 This information was obtained by reviewing Officer Mazur’s body worn video. The exact time of Sergeant Case’s arrival cannot be determined from his body worn video as it appears that his arm or some other object obscured the view from his camera until he reached the second floor of the store.



Burlington security video of Mr. Elena Lopez assaulting W-10

After striking W-10 many times with the bicycle lock, Mr. Elena Lopez dragged her backwards towards the fitting room area causing her to fall. W-10 later recalled, “At that moment, I felt he obligated me to fall, and he dragged me like towards the corner outside of the dressing rooms.” “I really felt that he was going to kill me at that moment. I was bleeding a lot. I had received a lot of punches to the head, and I felt that -- that he had decided to kill me.”

At 11:48:54 a.m., Officer Mazur broadcast, “We are trying to sterilize the area.” CD broadcast the suspect description: “North Hollywood units suspect is a male Hispanic wearing a red shirt, shorts, with tattoos on his legs.”

At 11:49:02 a.m., the printout of the dispatch log reflects Officer Mazur’s comments, “One suspect, no pants.” Mazur then stated, “Making contact. One unit, come in from East side, suspect on second floor.”



Store Surveillance video of Mr. Elena Lopez beating W-10 (lighting enhanced)

At 11:49:25 a.m., Officer Jones took the position of “point” in the contact team, leading the officers towards Mr. Elena Lopez and W-10. Officer Escobar asked Officer Jones, “You got it? You got it? On your six. Straight ahead on the right-hand side.” Jones walked rapidly, advancing ahead of the other officers. Officer Escobar said, “Slow down, slow down partner, slow down partner.” Officer Mazur yelled from the rear of the contact team, “Slow it down!” as the team was starting to lag behind Officer Jones. As the contact team moved closer, Officer Jones shouted, “Hey, she’s bleeding, she’s bleeding!”

Officer Head had stepped behind Officer Jones and as they moved down the aisle towards Mr. Elena Lopez and W-10. Officer Head said, “Hold up, hold up Jones, hold up - I got it.” Officer Head began to raise the 40-millimeter launcher. Officer Jones, still at the front of the diamond formation, stepped to the opening of the aisle and stood next to W-10 who was down on the ground; Mr. Elena Lopez had moved to the other end of the aisle and was standing was standing 16 feet away from Officer Jones (and 12 feet from W-10) holding a dark object in his hand.

Officer Jones fired his patrol rifle (Colt, AR-15, 5.56 millimeter) three consecutive times in an easterly direction towards Mr. Elena Lopez. The rounds were fired at 11:49:39 a.m. Mr. Elena Lopez fell to the ground. The three rounds were fired in less than one second. After firing, Officer Jones announced, “Shots fired, shots fired, shots fired.”

Less than two minutes passed from the time the first officer entered the Burlington store at 11:47:55 a.m. until Officer Jones shot Mr. Elena Lopez.

As Officer Jones moved forward down the aisle towards Mr. Elena Lopez, Officer Mazur grabbed W-10 to pull her away. Officer Mazur said, referring to Mr. Elena Lopez, “Get him handcuffed and search him.” Officer Mazur stepped towards W-10, reached out to grab her and walked her towards the front of the store.



Officer Jones's body worn video showing Mr. Elena Lopez with dark object in his right hand and W-10 in foreground



Burlington security video showing location of Officer Jones and Mr. Elena Lopez just prior to OIS



Officer Jones's body worn video of his encounter with Mr. Elena Lopez



Officer Jones's body worn video of his encounter with Mr. Elena Lopez.



W-10 as captured on Officer Mazur's body worn video (lighting enhanced and identity concealed)

Officer Escobar moved down the aisle towards Mr. Elena Lopez and began to give commands, ordering him to turn around and get on his stomach. Mr. Elena Lopez did not respond. His hands were concealed under his body. Officer Head moved down the aisle after the shooting and reached Mr. Elena Lopez. Officer Head grabbed Mr. Elena Lopez's left arm and rolled him onto his stomach. After rolling Mr. Elena Lopez over, Officer Head stated, "hold up, his hand's underneath. I can't get the...hand out."

At 11:49:54 a.m., Sergeant Case broadcast to LAPD Communication Division "15L50, shots fired." Officer Krauss requested two ambulances, one for Mr. Elena Lopez and one for W-10.

At 11:50:00 a.m., Officer Mazur broadcast to LAPD Communications Division "We're gonna need two RA's, one for a female, head trauma, conscious and breathing, and one for a male, gunshot wounds." "RA" is a LAPD term for Rescue Ambulance, referring to notifying LAPD CD to request the Los Angeles Fire Department's response.

Police Officer III Mark Stratton responded to the call for backup and assisted Officer Head after Mr. Elena Lopez was rolled onto his stomach, grabbing Mr. Elena Lopez's left hand, and bringing it behind Mr. Elena Lopez's back for handcuffing. As he did this, Officer Stratton asked, "where's his gun?" Officer Escobar passed his shotgun to Sergeant Case and assisted in handcuffing Mr. Elena Lopez. After Mr. Elena Lopez was handcuffed, Officer Stratton again asked, "Where's the gun? Where's the gun?" Officer Escobar yelled "Somebody get a med kit!" and officers began life-saving efforts on Mr. Elena Lopez. While they were putting on gloves, Officer Stratton again asked, "Where is the gun?" and Officer Head replied, "It was a bicycle lock, they said." A black bicycle lock was located next to Mr. Elena Lopez's body.



Body worn video of bicycle lock under Mr. Elena Lopez's body

At 11:50:10 a.m., screaming could be heard from a fitting room that was located behind Mr. Elena Lopez. Officer Krauss moved forward, passing Mr. Elena Lopez, and approaching the closed door at one of the fitting rooms. He attempted to open the door, but it was locked. Officer Krauss announced, "Police." The fitting room door opened, and Officer Krauss told the other officers, "We might have another victim down." Officer Krauss and several other officers located W-11²³, lying on the floor inside the fitting room. Next to her was her daughter, Valentina Orellana Peralta, who was also on the fitting room floor.

Officer Krauss observed Ms. Orellana Peralta and stated to other officers, "We have one down, one down." After finding that there was an additional victim, at 11:52:11 a.m., Officer Mazur broadcast to LAPD CD, requesting an additional rescue ambulance for Ms. Orellana Peralta.

During a subsequent interview, W-11 told investigators that she had been Christmas shopping with her daughter to buy gifts at Burlington. They went to the fitting room to try on clothes. While inside the fitting room they heard fighting outside and latched the door. They were seated in the dressing room when a gunshot came through the wall, striking her daughter.

At 11:58:53 a.m., LAPD officers started life-saving efforts on Ms. Orellana Peralta until relieved by Los Angeles Fire Department (LAFD) personnel at 12:02 p.m. LAFD Rescue Ambulance 89 responded and treated Ms. Orellana Peralta for a gunshot wound to her torso and pronounced her dead at the scene. LAFD Rescue Ambulance 889 also responded and treated Mr. Elena Lopez for a gunshot wound to his torso and pronounced him dead at the scene.

²³ W-11 was interviewed in Spanish on December 23, 2021, commencing at 2:42 p.m., by LAPD FID Detectives Guillermo Medina and Heather Gahry.

INVESTIGATION

DOJ Response

On December 23, 2021, at approximately 2:00 p.m., the DOJ Division of Law Enforcement (DLE) California Police Shooting Investigation Team (CaPSIT) received notification of an OIS in the North Hollywood area of Los Angeles. The incident involved the LAPD – North Hollywood Patrol Division and was determined to be a qualifying event within Government Code section 12525.3. (For more information on the DOJ’s practices and procedures, see <https://oag.ca.gov/ois-incidents>). CaPSIT promptly responded to the incident scene to initiate a criminal investigation on behalf of the DOJ. A Deputy Attorney General (DAG) from the Attorney General’s Special Prosecutions Section also responded. When CaPSIT agents arrived, the incident location was being guarded by LAPD personnel, with the entire surrounding area blocked off with crime scene tape to preserve evidence.

The DOJ team observed the location of key items of evidence, paying particular attention to the area where the shooting had taken place. LAPD Forensics Division (“LAPD Crime Lab”) then arrived to collect evidence and document findings. The DOJ Bureau of Forensic Services (BFS) also responded to the scene to monitor the processing of the incident scene and collection of evidence by LAPD Crime Lab personnel.

After walking the incident scene and reviewing evidence, CaPSIT and the LAPD Force Investigation Division (FID) conducted a joint briefing with both agencies to provide an overview of the incident so that investigators had the same information before further steps were taken. After the briefing, CaPSIT special agents were assigned investigative tasks.

The LAPD officers involved in the incident were sequestered and declined to provide voluntary statements. Police officers, like all individuals, have the right to remain silent and decline to answer questions in the face of official questioning. (*Spielbauer v. County of Santa Clara* (2009) 45 Cal.4th 704, 714; see generally *Miranda v. Arizona* (1966) 384 U.S. 436.)

Public employees, including police officers, may be compelled by an employer to answer questions for administrative purposes, but the use of such statements in criminal proceedings is prohibited. (*Lybarger v. City of Los Angeles* (1985) 40 Cal.3d 822, 827-828, citing *Lefkowitz v. Turley* (1973) 414 U.S. 70, 77-79, *Garrity v. State of New Jersey* (1967) 385 U.S. 493, 500.) Accordingly, no compelled statements were considered as part of this investigation.

Statements were taken from firefighters and civilian percipient witnesses. The DOJ team and LAPD detectives reviewed body worn camera footage that captured the OIS using the LAPD mobile command post, and surveillance video from the Burlington store.

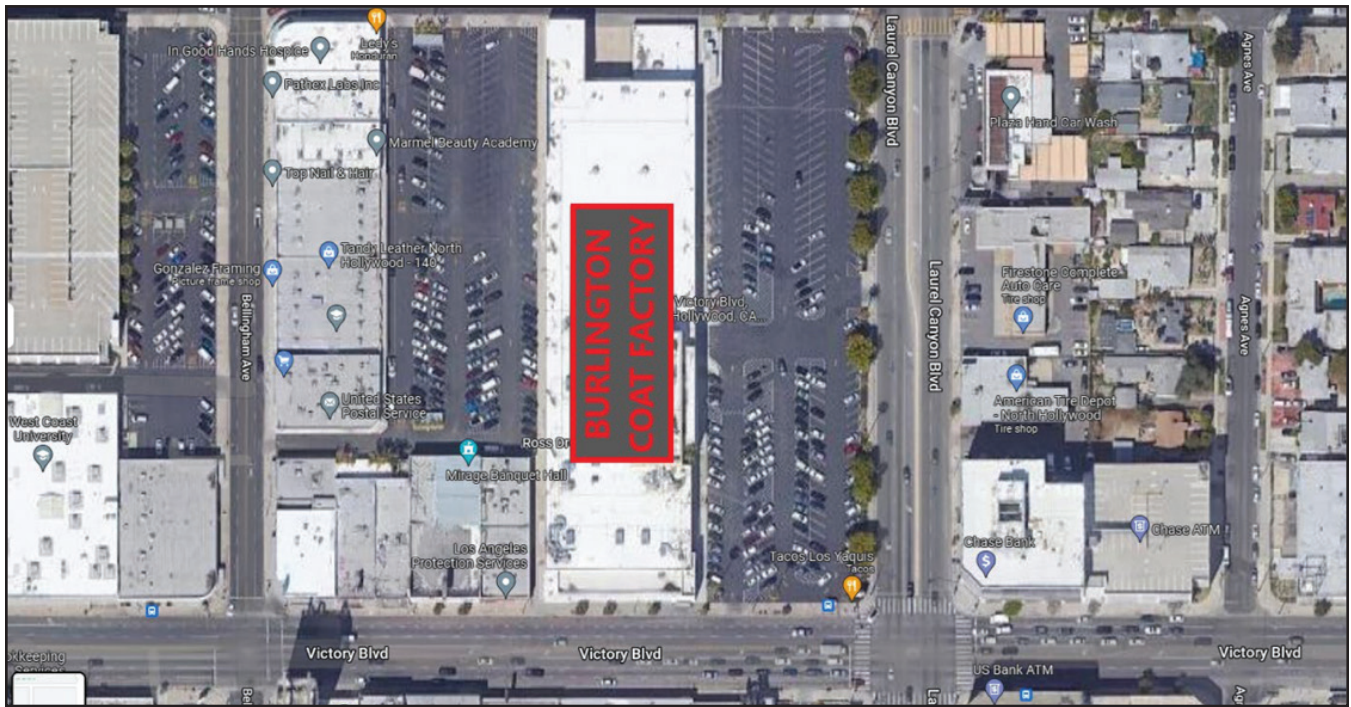
The DOJ investigation into the death of Daniel Elena Lopez and Valentina Orellana Peralta was comprehensive, thorough, objective, and independent. As a whole, hundreds of hours of investigation were conducted by the DOJ, LAPD, the DOJ BFS, and the LAPD Crime Lab.

EVIDENCE REVIEWED

- The incident scene
- Dispatch records and logs of the incident
- 911 audio recordings
- California Department of Justice criminal history information involving Mr. Elena Lopez
- Activity involving Mr. Elena Lopez immediately prior to the OIS
- Body worn camera footage from the officers who were involved in the incident
- Burlington Coat Factory security video
- Interviews of all of the civilian witnesses associated with this incident
- Review of the dispatch logs from responding support personnel from LAFD firefighters/emergency medical personnel
- Report of autopsy of Mr. Elena Lopez by Medical Examiner-Coroner, County of Los Angeles
- Report of autopsy of Ms. Orellana Peralta by Medical Examiner-Coroner, County of Los Angeles
- Laboratory Analysis Summary (Toxicology) Report of Mr. Elena Lopez by the Medical Examiner-Coroner
- LAPD Property Report
- LAPD Forensic Services Division Reports
- Department of Justice Forensic Sciences Division Reports
- LAPD Major Assault Tactical Response (MACTAC) Incident Training and Policies
- LAPD Rifle Deployment Policies and Training Materials
- LAPD Ballistic Studies of Penetration of Rifle and Handgun Rounds
- FBI Ballistic Studies of Penetration of Rifle and Handgun Rounds
- Use of Force Expert Report
- Photographs of incident scene and officers
- Compelled statements of non-shooting officers

Scene Description

The Burlington Coat Factory store is located at 12121 Victory Boulevard, Unit 100 in North Hollywood. The Officer-Involved Shooting occurred on the second floor of the store. The building is on the northwest corner of Laurel Canyon Boulevard, which runs north/south and Victory Boulevard, which runs east/west.



Google map view of Burlington North Hollywood location

This diagram was provided by the Burlington Coat Factory. The placement of people and events on the diagram was done via video analysis from surveillance cameras inside the store and BWV from the involved officers.

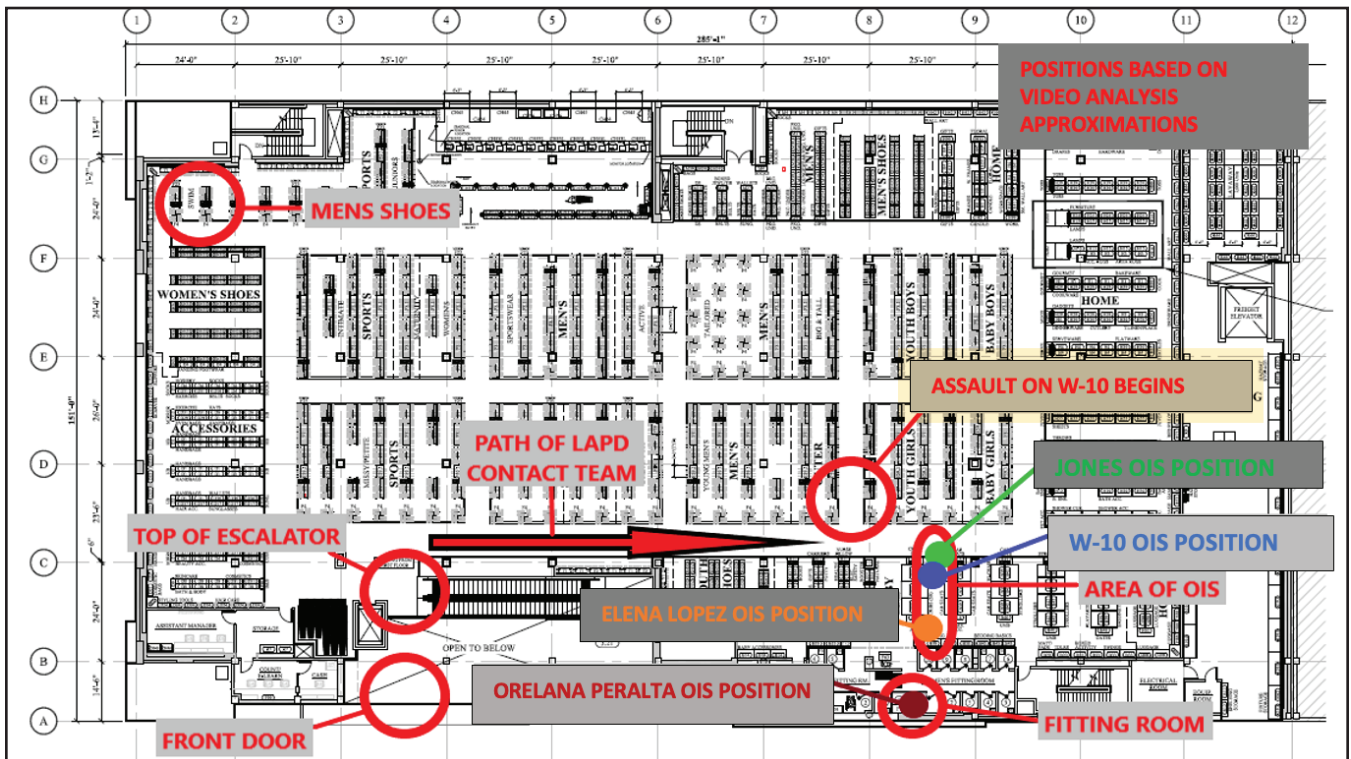


Diagram of Burlington store showing relevant locations

The OIS occurred on a rainy morning. The incident took place inside Burlington, on the second floor of the store. The store is in a busy open mall area with numerous people shopping in the days immediately before the Christmas holiday. The elapsed time between the first 911 call and the OIS was approximately nine minutes. The elapsed time from the first responding officers' arrival on scene and the OIS was approximately 3 minutes.

Evidence Recovery

The California Department of Justice, Bureau of Forensic Services was notified of the OIS, and Senior Criminalists C. Hughes, J. Dernoncourt and G. Humphreys responded to assist with processing the scene. They arrived at the location on December 23, 2021, at approximately 5:40 p.m.

At approximately 6:44 p.m. LAPD Criminalist J. Dorrell, Serial No. N5003 and Criminalist C. Hunter, Serial No. N6279 conducted an examination of the OIS scene for ballistic impacts, trajectories, and projectiles. As a result of their examination numerous items of evidence were recovered and documented on a LAPD Property Report. There were sixty total items recovered at scene and booked as evidence.



Bicycle Lock recovered from beneath Mr. Elena Lopez's body

Incident Scene Evidence – Bullet Impacts

The LAPD Forensic Science Division (FSD) completed a Laboratory Report (SID-21-018839) at the request of investigators to diagram the impacts discovered at the scene. The Impacts and pathways were photographed by Photographer M. C. Sallaberry, Serial No. N3637 under LAPD D# 0802513, as well as Photographer G. Baker, Serial No. N5831 under D# 0801022. The bullet path analysis was performed by visually examining evidence for possible projectile related defects. It should be noted that impact labels do not indicate a sequence.

Impact A - Perforating impact, located on the west surface of the ottoman bench against the east wall

Impact A1 - Perforating impact, located on the east surface of the ottoman bench against the east wall

Impact A2 - Penetrating impact, located on the west surface of the east wall

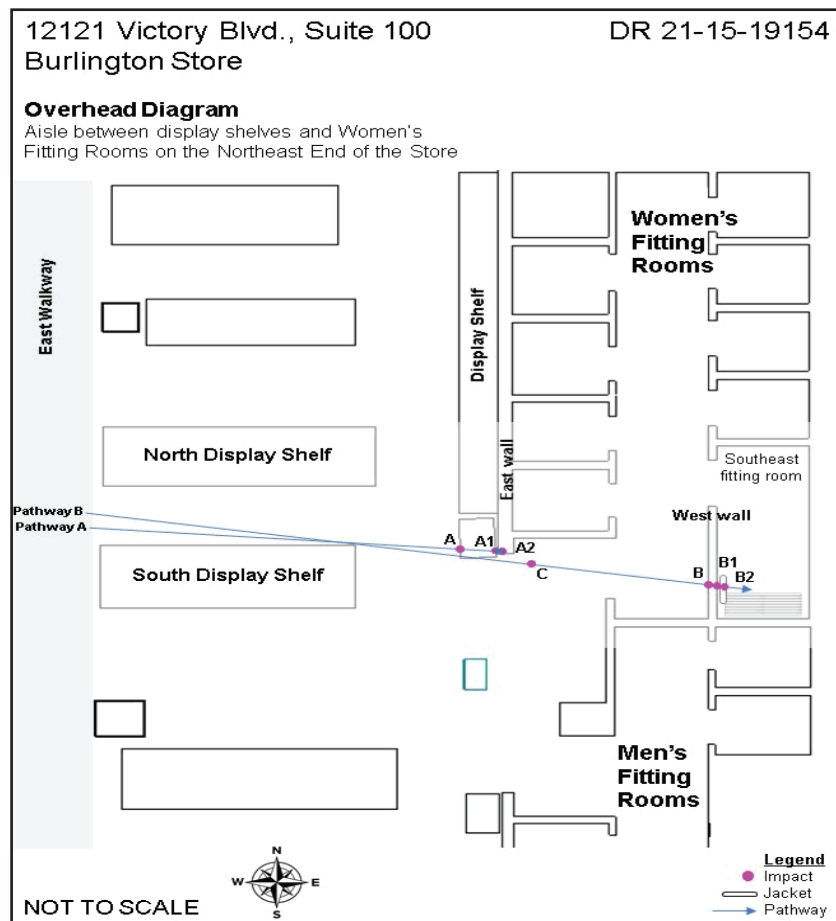
Impact B - Perforating impact, located on the west surface of the west wall (drywall) of the southeast women's fitting room

Impact B1 - Perforating impact, located on the east surface of the west wall (drywall) of the southeast women's fitting room

Note: The interior space between the drywall of impact B and the drywall of impact B1 was hollow.

Impact B2 - Perforating impact, located on the jacket hanging on the west wall of the southeast women's fitting room

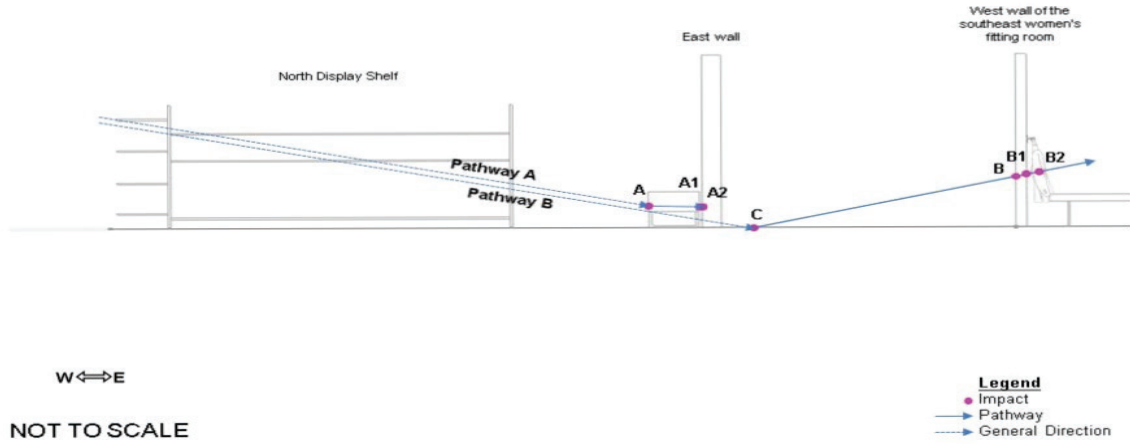
Impact C - Non-penetrating impact, located on the floor of the entrance to the women's fitting room area



LAPD diagram of bullet paths

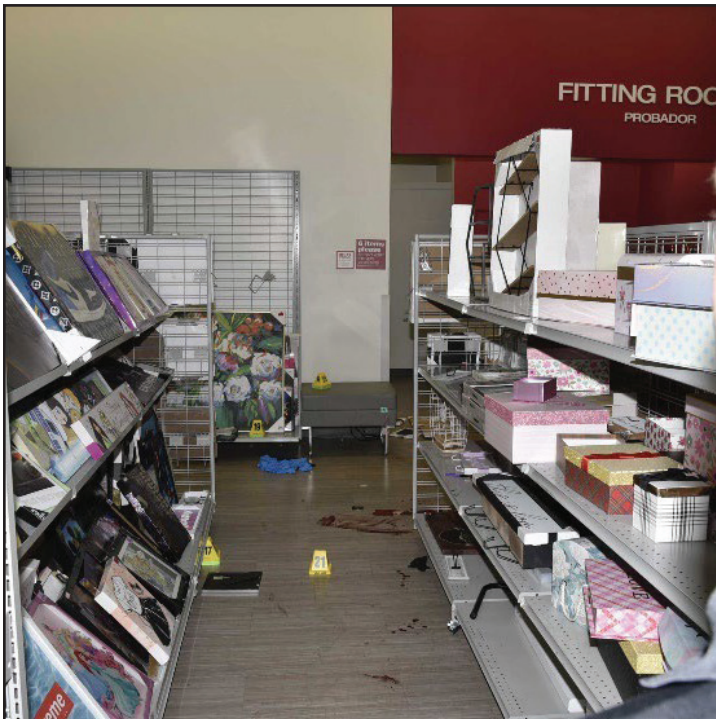
LAPD Criminalist J. Dorrell, Serial No. N5003 came to the following conclusions after reviewing the relevant evidence (see diagram below): Pathway A (including impacts A, A1, A2) is consistent with a bullet initially traveling from north to south, west to east, and in a downward direction, deflecting at impact A and continuing to impact A1. Pathway B (including impacts C, B, B1, B2) is consistent with a bullet initially traveling from north to south, west to east, and in a downward direction, deflecting at impact C in an upward direction and continuing to impact B. Pathway labels do not indicate the sequence of shots fired. The impact labels listed within each pathway are arranged in the order of occurrence.

**North Facing
Sideview/Elevation Diagram**
Aisle and Women's Fitting Rooms
on the Northeast End of the Store



LAPD diagram

Officer Jones fired three rounds from his rifle. One round struck Mr. Elena Lopez. One round struck a piece of furniture behind Mr. Elena Lopez and subsequently was recovered from a wall behind the furniture. One round struck the ground behind Mr. Elena Lopez, skipped off of a floor tile, entered the wall of the fitting room behind Mr. Elena Lopez, penetrated the wall, and then struck Ms. Orellana Peralta.



Photographs of bullet impacts and penetration into fitting room wall

Vehicular, Body-Worn, and Civilian Camera Footage

Digital In-Car Video (DICV)

It was determined through the investigation that all of the marked LAPD police vehicles that were parked outside of the Burlington during the incident were equipped with a Digital In-Car Video (DICV). There were no police vehicles directly involved in this incident and their DICVs did not capture anything of evidentiary value.

Body Worn Video (BWV)

There were eleven officers equipped with Body Worn Video (BWV) that was identified as having significant evidentiary relevance and value. All of the BWV that was determined to be of significant evidentiary value was reviewed and analyzed by investigators. The significant BWV has been summarized in the narrative portion of this report.

Surveillance Video

During the canvassing portion of this investigation, three sources of surveillance video were identified, and the video was recovered. The video was reviewed and analyzed by investigators and has been summarized in the narrative portion of this report. Surveillance video was recovered from the apartment complex at L-2 showing Mr. Elena Lopez. Surveillance video recovered from the Chase Bank located at 6400 Laurel Canyon Boulevard, provided footage of Mr. Elena Lopez's actions in the street prior to entering Burlington; it did not capture any police contact with him. Surveillance video recovered from Burlington provided footage of Mr. Elena Lopez's actions in the store prior to the OIS, his actions during the incident, the OIS itself, and the response of emergency personnel after the OIS.

Additional Video

W-9, a Burlington store employee, took a brief cellphone video (approximately 31 seconds) of his encounter with Mr. Elena Lopez at the bottom of the escalators. It captures W-9 asking the first customer who had been assaulted by Mr. Elena Lopez whether she was alright and attempting to verbally intervene when a second customer was assaulted.

Communications

A copy of the LAPD Communications Division printout for the LAPD incidents generated during this series of events was recovered and retained as evidence. A digital recording of the LAPD North Hollywood Base Frequency at the time of this incident was also recovered and retained as evidence.

Interviews of Victims and Civilian Witnesses

As a part of the Officer-Involved Shooting investigation, Special Agents with the California Department of Justice, Division of Law Enforcement, Bureau of Investigations, in conjunction with LAPD FID Detectives, conducted multiple canvasses for witness to the incident. The canvasses resulted in the discovery of several witnesses who were identified and interviewed. Reports were authored by the following DOJ investigators: Special Agent ("SA") D. Ibarra, SA T. Baca, SA J. Genens, and SA M. Wyatt. All interviews conducted by investigators were digitally recorded and transcribed. Copies of the audio recordings and digital transcripts were retained as evidence.

Any statements of evidentiary value to the OIS, and to events which occurred on the morning of the OIS before Mr. Elena Lopez reached the Burlington store, are included in the Summary section of this report.

Compelled Statements of Non-Shooting Officers

Police officers, like all individuals, have the right to remain silent and decline to answer questions in the face of official questioning. (*Spielbauer v. County of Santa Clara* (2009) 45 Cal.4th 704, 714; see generally *Miranda v. Arizona* (1966) 384 U.S. 436.) Public employees, including police officers, may be compelled by an employer to answer questions for administrative purposes, but the use of such statements in criminal proceedings against the employee is prohibited. (*Lybarger v. City of Los Angeles* (1985) 40 Cal.3d 822, 827-828, citing *Lefkowitz v. Turley* (1973) 414 U.S. 70, 77-79, *Garrity v. State of New Jersey* (1967) 385 U.S. 493, 500.) None of the officers gave voluntary statements. Accordingly, no compelled statements from Officer Jones was considered as part of this investigation.

However, this report does include compelled statements made by other witness officers during the course of administrative interviews. The interviews contain facts relayed by the witnesses that may be inaccurate or inconsistent with the facts of this incident as they are currently understood.

Statement of Officer Michael Mazur

LAPD Officer Michael Mazur was interviewed on December 23, 2021, at 8:52 p.m. by FID Detectives Arteaga and Macchiarella. He was permitted to view his body worn video before the interview. At the time of the interview, Officer Mazur had been on duty since 10:00 a.m. Officer Mazur had been an LAPD Officer for 22 and a half years.

Officer Mazur had been an instructor for Law Enforcement Tactical Application Course (“LETAC”) and had taught field safety, field tactics, and “train the trainer” courses from 2013-2014, and again from 2017-2018. From 2019-2021, he taught courses on “command and control” issues including incident management, communications, de-escalation, allocation of resources and designation of roles.

In 2013, Officer Mazur was an “instructor cadre member” for Multi-Assault Counter Terrorism Action Capabilities (MACTAC). MACTAC deals with critical situations usually involving terrorists or mass shooters where officers are designated as “assault teams” and “cover teams” to respond to critical locations including schools, shopping centers, and other “high value” target areas. These are similar to active shooter scenarios. Officer Mazur attended “train the trainer” school for MACTAC but was never assigned to be an instructor. He also served as an adjunct instructor with the Gang Narcotics Division, teaching courses involving techniques for safely making entries into small locations.

At the time of the OIS, Officer Mazur had been assigned to North Hollywood patrol for eight months and had been a patrol officer for nine years. His partner that day was Officer Victor Escobar. He was assigned to unit 15x66, was in full uniform and was driving a black and white patrol car. Officer Mazur had worked with Officer Escobar two or three times prior to December 23.

On December 23, Officer Mazur and Officer Escobar had discussed tactics including contact and cover (which of the officers would contact a suspect and which would provide cover) and the circumstances under which Officer Escobar would utilize the Remington 870 shotgun he was assigned. They discussed the range of the ammunition used in the Remington and discussed different weapon systems and sighting systems available to them. The officers also discussed use of force law and policy and other subjects that Officer Mazur had taught as part of LETAC and had learned about as a MACTAC instructor cadre member.

On the morning of the OIS, Officer Mazur was driving the patrol car. He and Officer Escobar were northbound, west of the Burlington Coat Factory, when they heard multiple radio calls of an ongoing ADW at the store. Further calls stated that a gun was used or that shots had been fired. He responded immediately to the calls because it sounded as though something serious was happening at the Burlington store. He notified CD that they were responding to the call, and he and Officer Escobar were designated as the primary unit. The officers responded Code 3 with their patrol car's lights and sirens activated. While en route, he and his partner discussed getting the 40-millimeter launcher out. As they parked, they discussed which tools to allocate to which person and designated their roles. Officer Mazur had discerned from the radio calls there might be a suspect with a gun inside the store.

It took the officers 15 to 20 seconds to get to the Burlington parking lot. Officer Escobar retrieved his shotgun from the patrol car and Officer Mazur took their 40-millimeter launcher. They saw people running from the store, which reinforced Mazur's belief that a crime was in progress inside the store: In his experience, people fleeing a location meant they were in fear for their lives.

When Officer Mazur first arrived at the scene he felt there was an active shooting going on inside or an active assault going on. He felt a sense of exigency to get inside and act due to:

"[T]he numerous radio calls. They were upping in intensity and severity of what people were reporting from an ADW suspect to a shots fired call. That starts ramping up my perception of what we were responding to. Secondarily, as we go code six and park our vehicle, seeing numerous citizens exiting a location, some running or at a fast pace is indicative of people leaving a dangerous location. It's based on my training and experience, people tend to flee situations like that, which is indicative of people fleeing for their safety... [This] lends led me to believe there is a serious assault and crime in progress... The addition of the weapon in the radio call of either a bike lock or a gun – unfortunately we have to rely on the facts known to the officer at the time of the incident. And the only facts I can go on are what people are reporting to the RTO, what we're able to discern from the citizens there. Rapidly gesticulating, pointing into the location, telling us there's a person up inside, led me to believe that, again, it's a large store where it's Christmas. We have severe – or we have numerous environmental factors involved. It's a busy area. There's lots of people buying stuff.... It is a mall. Malls are places where there's a lot of people. So I took it upon myself to recognize all those factors... [And then] I heard some type of screaming or yelling coming from the upper balcony. To me, screaming and yelling is something of an ongoing nature where somebody is being hurt or assaulted or being possibly even murdered."

Because of these observations, Mazur decided to form a team and enter the store quickly. Mazur wanted to stop the threat that he believed was ongoing based on all the information he had at the time.

Officers Jordan Head and Matthew Krauss pulled into the parking lot within 15 to 20 seconds of Officers Escobar and Mazur. Officer Mazur then assumed the role of incident commander and handed the 40-millimeter launcher to Officer Head. Officer Mazur assigned roles and formed a team to make entry into the store in a "diamond formation." Officer Escobar was at the front, working "point" with the shotgun because "when you're expecting trouble, you want an offensive weapons system to deal with any threats," and the shotgun was "an optimal weapon system for 17 to 25 yards." He put Officer Head with the 40-millimeter launcher to the right of the diamond formation and Officer Krauss with his handgun to the left, with Officer Mazur taking up the rear and handling communications and command.

As they approached the Burlington entrance, Officer Mazur was flagged down by a man, possibly a store worker, who was gesturing and saying that the suspect was upstairs and that he may have been armed with a bicycle lock. Officer Mazur knew that a bicycle lock, due to its size and weight, could cause serious bodily injury or death when wielded as a weapon. He directed the RTO (Radio Traffic Operator) to “hold the frequency.” Mazur directed CD to keep the radio frequency used by the team clear so that they could advise other officers of what was occurring.

As Officers Escobar, Krauss, Head, and he were preparing to enter the store, Mazur told Escobar, “give the warning,” to let the suspect know that they were coming. Officer Mazur made sure the officers’ BWVs were recording, and the team entered the store. As the officers made entry he noted that the lobby was “fairly sterile” (there were no suspects or victims in the lobby). There were some loose articles of clothing on the ground, and people were still running out. He had the team move upstairs towards the sales floor knowing that the lower level appeared to be safe. Before reaching the sales floor, Officer Mazur broadcast a request for additional officers, and to have the officers enter through the same doors the team had used to avoid potential crossfire; he also asked CD to “clear the air” because he wanted to make sure that he could provide updates to the additional responding officers.

As he was going up the escalators he put out a call for backup. He then directed his team to “let Jordan hit him with the 40.” He thought that if the officers encountered a suspect armed with a bicycle lock, and they could get sufficient “distance, time and cover,” hitting the suspect with the 40-millimeter launcher would preserve the suspect’s life. If the officers heard gunshots, they could use the rifle or long gun.

At the top of the escalator, Officer Mazur told the team to “hold” as he assessed the size of the sales floor and the potential threats the officers might face. He saw people cracking open an office door to the left of the escalator. They had barricaded themselves inside the office. Once they heard the announcement by the officers they opened the door. They looked very frightened and were pointing to the north side of the store. Mazur concluded they were afraid and were hiding from someone who they feared would harm them.

Officer Mazur made sure that his team of officers had their weapons drawn as they searched. He did not unholster his firearm because his role as team leader was to communicate and direct the team’s actions.

As the team held at the top of the escalator, Officer Mazur saw Officers Suarez and Jones move quickly up the escalator. Officer Jones had his patrol rifle. Mazur did not update either Officer Suarez or Jones on the information he had obtained from the pedestrian outside the store. He did not give Officer Jones any direction.

Officer Mazur told Officer Suarez, “Hey, you and I arrest.” He designated Officer Suarez and himself as the arrest team because other officers in the diamond formation were armed, two with long guns, and the arresting officers cannot have their guns out when they are “going hands on” with suspects.

Officer Jones took over as “point” and Officer Escobar moved over to Jones’s left. Their diamond formation expanded a little to have more 360-degree coverage. Officer Mazur believed the rifle was the appropriate weapon to have in the “point” position because it used 5.56 millimeter rounds, which were accurate for a longer distance and did not “over-penetrate.”

Officer Mazur followed the team as they walked northbound along the main aisle. A woman with severe injuries to her face stumbled into the aisle. She was semi-conscious, bewildered, and bleeding profusely all over herself. When Officer Mazur saw the injured female he stopped and tended to her

injuries while the team continued to move northbound. There was no one behind him who could have helped her at that time. Her head injuries were grievous and appeared to be life-threatening, and Mazur determined that she needed immediate medical attention: “She was completely bloody from head to toe, staggering, lack of consciousness and situational awareness, covered in blood, which to me is indicative of someone who...was hit in the head.”

When Officer Mazur first said, “slow down” to Officer Krauss and said, “Matt, hold...,” the team kept walking. He was trying to slow the team down so that they could assess the threats they might encounter. Seconds later he shouted, “Jones, slow down.” Jones did not slow down. Mazur noted that Officer Jones “is a tall man and he’s got a long gait, so I don’t know his body mechanics, but, again, you know different people stride differently.” The team of officers stayed together as a cohesive group and did not slow down. Mazur felt that he could not grab the officers to slow them down because events were “rapidly unfolding,” and people were walking out “completely injured.” After that, Officer Mazur again told the team to slow down so that he could assess the woman’s injuries and render aid to her to preserve her life. Another reason he told the team to slow down was so that the team could “work and divvy up because there’s too many coat racks, too many uncleared areas if they start rushing.”

He did not give the team the command to stop while he was dealing with the victim because they still had an ongoing threat. He told them to “slow” to be able to assess the threat and continue to search. There was an ongoing threat which was still happening where people were being assaulted. The team still needed to move forward, but at a slower pace. He could tell them to slow down so they would have better situational awareness but did not stop the team because of the possibility of ongoing assaults.

Officer Jones is taller and may have been able to see over the clothing racks; Mazur did not know what Officer Jones saw. He estimated that Officer Jones was 6’4” or 6’5”; all the other officers were shorter than that. The coat racks obscured Officer Mazur’s view. His team must have seen something that caused them to react. They formed a semicircle and were not covering each other. They fanned out to the left and right of Officer Jones.

He saw the team speed up while he was assessing the woman. Mazur was 20 to 25 feet south of Officer Jones on the main aisle when he saw Jones shoulder the rifle and look, and then Mazur heard the two rounds go off. He saw the “brass” (casings) ejecting from Jones’s gun.

Mazur did not broadcast “shots fired” after he heard the two gunshots because he did not know if the situation was still unfolding. The officers needed to make sure all officers were accounted for, the suspect had been stopped, and assess the situation, then put out the broadcast.

When he approached his team, Officer Mazur reassumed command. He made sure his officers were alright and their guns were holstered. He called for additional officers to preserve the crime scene and evidence. He saw the suspect, a male Latino, lying on the ground bleeding. He directed an officer to handcuff the suspect. Mazur verified that the suspect was handcuffed and secure, then rolled the suspect over to assess where his wounds were. When Mazur rolled the suspect over he found a bicycle lock, consistent with the radio call, underneath the suspect’s right leg or buttocks. He had one of the officers recover the lock and Officer Krauss placed the lock in an evidence bag. He then saw a copper jacket from a 5.56 round adjacent to the suspect.

One officer began chest compressions on the suspect. Officer Mazur raised the suspect’s legs to get more blood to his core area. Mazur designated officers to continue with CPR and ordered two rescue ambulances – one for the suspect and one for the severely injured woman. Although the suspect did

not appear to be conscious or breathing, the officers continued CPR until they were later relieved by the LAFD paramedics.

He then got up and saw that there was a female lying in a hallway eight to ten feet east of the suspect in a dressing room area. She was very distraught and crying but was not wounded. He also saw a young woman lying on her side inside the dressing room who appeared to be not at all responsive. It appeared that she might have been wounded or shot, so Officer Mazur directed officers to start lifesaving procedures on her. He then went back to the suspect. He requested a third rescue ambulance for the young woman.

Officer Mazur continued to request that the fire department “get up there” to render aid to all parties. He had one unit take the severely injured woman downstairs to get her out of the “hot zone.” He managed the scene along with the arriving supervisors and made sure that all substantially involved personnel met with investigators and that the crime scene remained undisturbed.

Officer Mazur left the store because he wanted to make sure the victims were treated by paramedics and wanted to learn where the ambulances were going. He made sure that officers were going with the victims and the suspect to maintain the integrity of the investigation. Officer Head was preparing to go to the hospital with one of the persons in the ambulance. Head returned the 40-millimeter launcher to Mazur who locked it in his police car. It was covered in blood. He took possession of Officer Jones’s rifle from a detective who was trying to clear it.

When Officer Mazur came back into the Burlington store, the supervisors said they needed all substantially involved people back inside, so he brought Officers Head and Krauss in and substituted other officers to accompany the people in the ambulances to the hospital.

At some point Officer Mazur told Officer Head: “It’s fucked up. We tried to slow it down.” Mazur said this because he felt he suspect had put them in:

“[A] fucked up situation, the crime that occurred was fucked up. You had innocent people severely beaten and battered, blood everywhere. That was my description of, to me, releasing – an emotional release of saying a very violent crime scene. It was not indicative of anyone’s operational status or their ability to operate their systems or their tactics. It was a general overview of my assessment of a very bloody and violent scene committed by one person that injured numerous people.... I was aware when I saw a bullet hole in the sheetrock when I was exiting (the fitting room) after telling them to start working on her. I looked down and I saw what appeared to me indicative of a strike into the drywall of the dressing room.”

Mazur concluded that when he said, “It’s fucked up,” he was referring to the totality of the circumstances. “It’s a tragedy.”

Interview of Officer Victor Escobar

Officer Victor Escobar was interviewed by FID Detectives Michael Arteaga and John Macchiarella on December 23, 2021, at 11:35 p.m. Officer Escobar was working the 10 a.m. to 8 p.m. shift that day. He was assigned to North Hollywood Patrol, unit 15x66 with Officer Mazur. At the time of the interview, Officer Escobar had four years on the job. Escobar was the passenger officer and Mazur was the driver. They had worked together two or three times. That day, they had discussed tactics; they had decided that if they encountered any suspects, Officer Mazur would be the contact officer and Officer Escobar would be the cover officer and would get the “tube” (shotgun) out because it was assigned to him.

The officers were on their way to an unrelated Code 2 call when he heard, “ambulance shooting call “at the Burlington Coat Factory at Victory and Laurel Canyon, 12121 Victory.²⁴ They were redirected to the Burlington call and responded Code 3, with their patrol car’s lights and siren activated. Officer Escobar advised Communications Division that he and Officer Mazur were responding Code 3 from Sylvan Street and Whitsett Avenue. Then an ADW call came out at Victory and Laurel Canyon. He and his partner were nearby, near the 170 freeway, so the second call was assigned to them as well. Both calls were at the same location. He and Officer Mazur discussed whether to get out the tube or the 40-millimeter launcher. Initially it was going to be the 40-millimeter launcher but they reverted to their original plan, which was that Escobar would use the tube. It was not until they got to the Burlington store that he unlocked the 40-millimeter launcher from the patrol car. He had tried to get the 40-millimeter launcher out while they were still en route to the store, but for some reason this deactivated the patrol car’s sirens. Because it was raining the officers wanted the sirens activated.

When they arrived at the Burlington store’s parking lot, a number of people were pointing to the store. One man in particular began talking to Officer Mazur to Officer Escobar’s left:

“I could hear him saying something along the lines of ‘somebody was in there and they had a bike lock...’ [A]nd I also saw maybe 10, 15 people on the other side of the Burlington Coat Factory. They were just standing around.... At that point in time...there was people that were pointing inside. The comments of the call will be -two calls that were generated - were ADW and ambulance shooting. My thought process is there’s an active shooter in that location.”

Officer Escobar kept his eyes on the front of the store to make sure no one was coming out with a firearm. He deployed the shotgun based on the tactical situation on hand, the comments on the call on the radio, and because there were people pointing directly inside the Burlington Coat Factory. He chambered a round. He put his finger on the safety and held the shotgun at the low ready. He tried to listen to what the witness was telling Officer Mazur as he went alongside the wall and tried to cover the front of the store. He did not take time to don his ballistic helmet because the situation was very fluid. His main goal was “to figure out if we had a threat, what kind of threat we had and to stop the threat.”

The officers began their approach. Other officers had arrived, and he directed the officers behind him to line up in a diamond formation. As they entered the store, Escobar was the point officer. The other officers on the entry team were Officer Krauss, Officer Head, and Officer Mazur. Escobar did not know who was behind him because he was not looking back. Officer Krauss was on his right and had his pistol out. Officer Head was on his left and had his 40-millimeter launcher out. Officer Mazur was going to be command.

They entered the store and headed up to the top of the escalator. Officer Escobar heard Officer Mazur request backup. As he was going up the escalator, Escobar thought there was an active shooter somewhere in the store and there were people who needed the officers’ help. One side of the escalator was moving and the other was not. Escobar rode up on the side which was moving. He went on a “high ready” position, covering the top of the escalator. He directed Officer Krauss to his right because they were getting to the top of the escalators. The officers didn’t know if there were any shooters or how many there were, waiting for them at the top.

As the officers arrived at the top of the escalator. Officer Mazur said, “Hold, hold here.” Escobar wasn’t sure how many officers were behind him because he wanted to keep his eyes downrange. When they got

24 Either his recollection was mistaken, or he misspoke; the radio calls did not mention an ambulance.

to the top of the escalator the officers paused for approximately 5 seconds, then started to make their approach in a northbound direction down the main aisle. They went north because they heard screaming coming from that direction and he could see someone's feet moving around on the ground. He could not see who was screaming, but it was a female voice. Escobar was also trying to clear the officers' left side, and he was trying to direct Officer Head to watch his left because he (Escobar) was going to push forward. He saw two legs sticking out of an aisle and thought there was somebody on the ground who either was injured or was being attacked by somebody else; Escobar could not see what was happening to the victim because there was a rack of home goods items blocking his view. All he could see were two moving legs coming out of the rack where the home goods items were.

Officer Escobar was initially the point man with his shotgun. As he was moving northbound, Officer Jones approached from the right and Jones became point. Escobar told Officer Jones to "slow down" as Jones was passing him. Escobar could hear Jones say something like "she's bleeding." He wasn't sure exactly what Jones was seeing. Escobar's main thought was keeping the diamond formation intact - there were many clothing racks, and he did not know what was on the other side of the racks. There might have been someone hiding behind the racks who could ambush the officers, so he wanted to keep the officers in diamond formation and push forward together.

Officer Jones left the diamond formation and got in front of the other officers. Officer Escobar went to low ready position. He was going to cover Jones, who saw something Escobar did not at the time: "He's (Jones) is a taller guy, so he took the initiative." No one was giving directions besides the officers telling Jones to "slow down." As they approached the victim who was on the ground, Escobar saw that she was bleeding so profusely that her face was "unrecognizable." The woman was bleeding, screaming, and crying. When Officer Escobar heard the woman and saw her legs coming out of the aisle, and then saw the woman emerging from the aisle with her face bleeding, Escobar knew there was something going on that he could not see.

Escobar did not know what Officer Jones saw - Jones is "a taller guy so he must have had a better vantage point." Officer Jones went ahead, and Officer Escobar heard four to five rounds fired by Officer Jones and smelled gunpowder. The rounds were consecutive. Escobar could not see what Jones was shooting at. Jones's rifle was pointed eastbound. Jones gave no commands. Escobar moved to Officer Jones's side to figure out what was going on. He then moved towards the suspect.

From the time he heard the gunshots until Officer Escobar saw the suspect it was less than two seconds. The suspect had nothing in his hands and was lying on his back. His feet were westbound, arms lying out to the side "like an airplane."

When Officer Escobar first approached the suspect, he said, "Get on your fucking stomach." Emotions were high and the situation was fluid. He was concerned that the suspect might be armed, and he did not want to have to shoot the man. He wanted to get him into handcuffs and asked, multiple times, "Where's the gun?" Based on the comments of the call and the suspect description he wasn't sure if the suspect was armed. He wanted to figure out where the firearm was if there was one involved. He "absolutely" thought there was a possibility the suspect was armed with a firearm. Although Officer Jones never articulated that he saw a gun, Escobar thought a gun was involved because Officer Jones had fired at the suspect.

Within five seconds after the shooting, Escobar gave his shotgun to Sergeant Case because there were two officers on the ground trying to get the suspect into custody and Escobar needed to assist them. Officer Head was struggling with the suspect's right arm because it was underneath the suspect. Officer Escobar told Officer Head to get a stick. Head managed to get the suspect's hand out.

Escobar handcuffed the suspect. He needed two cuffs because the suspect had big shoulders, so he used both of his handcuffs on the suspect. The suspect made no statements. He was bleeding from the mouth.

Officer Escobar began the pat down search of the suspect. He cleared the suspect's waistband. The suspect was wearing only boxer shorts. He was not wearing pants. Up until this time Officer Escobar had not seen the bicycle lock. After the suspect was handcuffed, Escobar searched him. When Officer Escobar searched the suspect he located the bicycle lock. The bicycle lock was near the suspect's thigh. It was a heavy-duty bicycle lock, and it was locked. Escobar took possession of the bicycle lock. Escobar wanted to preserve the lock as evidence because he knew there was another person who was injured and there were a lot of people walking around. Officer Krauss gave him a booking bag and he placed the bicycle lock in the bag and placed it in a corner. He later let Officer Potter know what he had done. Officer Escobar also found a spent round near the suspect's legs; he placed an FI card with his name and serial number next to the spent round so that people would not step on it.

Officer Escobar heard a woman's screams coming from a fitting room; other officers went to the fitting room to investigate. Escobar could not tell where the suspect was hit so Officer Stratton used a knife to cut the suspect's shirt from his body. Officer Escobar looked at the man's stomach and could not see an entry wound. The man was bleeding from his mouth and Officer Escobar felt he needed to begin life saving measures. He could not feel a pulse. Along with Officers Mazur and Krauss they took turns doing CPR. Eventually the rescue ambulance responded, and he was pulled away by Detective Contreras and told to go downstairs. He was able to get his shotgun back from Officer Dominguez and verified there was no round in the chamber; he then returned the shotgun to his patrol car.

Officer Escobar was separated from other officers by Detective Contreras and transported to North Hollywood police station by Detective Allen.

Statement of Officer Jordan Head

LAPD Officer Jordan Head was interviewed on December 23, 2021, at 10:02 p.m. by FID Detectives Brad Michel and Jose Olmedo. Officer Head reviewed his BWV prior to the interview. He did not review his patrol car's in-car video prior to the interview.

Officer Head started work that morning at 6:00 a.m. He was assigned to LAPD's North Hollywood station. He was partnered with Officer Krauss. They had worked together for over a year. During their shift they had discussed who was going to contact any suspect they encountered and who would provide cover; who would deploy lethal or less lethal weapons; who would be the arrest team, and who would handle communications. As they headed to the call at the Burlington Coat Factory they were going to meet with the primary unit and then figure out their designated roles. Officer Head was the passenger in the patrol car. The passenger covered the radio for the patrol car. They were assigned to unit 15A33.

Officer Head originally heard a radio call of an ADW suspect at the Burlington Coat Factory. The call came out as a "male Hispanic being disruptive with a bicycle lock at the location." Officer Head and his partner were handling another radio call at the time the Burlington call came out. He and Officer Krauss finished the call they were working on and were walking to their car when they heard an additional call come out for the same location, but this call was "possible shots fired" at the store. As they entered their patrol car, he began to review the call comments on his patrol car's computer terminal, and he heard 15x66, Officers Escobar and Mazur, respond Code 3 to the call. Officer Head reported his unit as "backing." He tried to broadcast that they were going to respond from the location

of their prior call. As they were en route, he pulled up the comments of both the initial ADW call with the suspect's description, as well as the mention that the suspect had a bicycle lock in his hand and read the comments out loud to his partner. As they neared the location they saw another police car pull into the parking area. They pulled into the Burlington parking lot and went Code 6 as the primary unit had done.

Officer Head approached Officer Mazur and told Mazur that he was going to grab a "tube" (shotgun) so that they could have a long gun. Officer Mazur told him to grab a 40-millimeter launcher instead as a less lethal option and handed Officer Head his 40-millimeter launcher. Officer Head loaded three rounds into the side saddle (a storage device used for extra ammunition for the 40-millimeter launcher) and used one of those rounds to load the chamber. As they approached the store a pedestrian spoke to Officer Mazur, letting him know that the suspect was inside acting erratically with a bicycle lock in hand. As they approached the front door the officers began to get into a "stick" formation, meaning the officers line up behind the team leader in a single-file line. They had the shotgun in front. Second was Officer Krauss with his duty weapon. Then came Officer Head with the 40-millimeter launcher, designated less lethal, and Officer Mazur was in the rear as communications and team leader. Based on the information they had, Head believed the suspect was armed with a potential deadly weapon – a bicycle lock could be used to cause serious bodily injury or death.

As they approached the store, Officer Head saw a broken glass window in the automatic doors at the entrance to the store. Glass was shattered everywhere, and it appeared that the window had been struck forcefully with an object. Head interpreted this as a sign of aggression and a warning of what the officers were walking into.

The officers made entry into the store because the suspect was inside, and they had information that there were associates as well as customers inside the store. The suspect had immediate access to potential victims and the officers wanted to make sure everyone was alright and render aid to any victims. As they entered, they formed a diamond formation to have all of the officers covered. Officer Escobar was point with the shotgun directed downrange. Officer Krauss was the right side of the diamond covering right, Officer Head was on the left covering the left, and Officer Mazur was in the back. When they got to the escalators they saw some clothing and glasses thrown on the ground. To Officer Head, this was another sign that there was something out of the ordinary going on.

The officers made their way up the escalator. As they walked up the escalator, Officer Escobar called out to see if there were victims or suspects. As they went upstairs Officer Head saw a bicycle, which he found to be an unusual sight in a clothing store: "Normally when somebody brings a bike to the store they will lock it up somewhere located to the side, they'll put it stacked up against the wall. This one was just appeared to be thrown on the ground, so not in a normal place and not in a usual spot."

When the first four officers arrived at the top of the escalator and were checking the store layout, an associate came from a break room to Officer Head's left, on the south side of the store. She told the officers that she and some other associates had locked themselves inside the breakroom, but the suspect was still inside the store and there were still other people in the store. The officers gave commands to customers and associates to leave the store so they could get potential victims out.

Officer Head heard Officer Mazur say, "Hey, you're the arrest team," but Officer Head was not sure who he was talking to because they were behind him. He did not know whether officers who arrived after the initial four were provided with the updated information he had received from the pedestrian outside of the store and from the associate he spoke with. He had not broadcasted this information.

After the officers gave commands to the store associates and customers to leave the store, Officer Head heard Officer Krauss say, “There’s a victim down,” indicating that he saw a victim towards the north side of the store. The officers proceeded northbound. Officer Escobar was still point. At some point Officer Jones appeared and took point. Officer Escobar moved and then Officer Head was on Officer Jones’s left flank. They were making their way towards the fitting room area. As they approached, Officer Head saw blood on the floor of the aisle they were walking down. He began to hear some sort of loud noise, which he thought might be shouting. As they continued to advance he was still behind Officer Jones. When they got to the aisle where they saw the blood, Officer Jones did the initial “pieing” of the aisle and Officer Head “pied” after him. By “pieing the aisle,” Officer Head meant that, “an officer turns a corner and gets a better position to see down range.” Officer Head was on Officer Jones’s right flank and one to two feet behind Jones, a little over shoulder-width apart. When Officer Head looked down the aisle he immediately saw the victim lying on the ground covered in blood, four feet away from him, crawling slowly towards the officers. She looked afraid, began crawling immediately towards the officers after seeing them, and had blood running down her face. She looked “distraught”: “[S]he appeared to be in fear of her life. She was covered in blood on the floor, trying to crawl towards us as if she was coming to us for help.” The victim appeared to be in her 50s or 60s. Officer Head’s immediate concern was to make sure the victim could get out of the store safely. He focused on what was in front of him, to make sure the suspect “doesn’t have access to anybody else and then just try to get her out of there.”

After that, Officer Head saw the suspect on the other end of the aisle. The suspect was half an aisle away from the victim. He could not see the suspect’s full body. He began to point the 40-millimeter launcher at the suspect. Officer Head’s mindset was that there might be a firearm, but he also knew that “the original call came out with a bike lock, and somebody could mistake the sound of a bicycle lock hitting something as potential shots fired. So it was still possibly in play that there could be a firearm, but the deadly weapon that we knew at the time was a bike lock.”

Before the shots were fired the suspect was facing the officers. The suspect had not acknowledged the officers’ command for all suspects to come out. The suspect was moving, as if he was “fidgety.” When he saw the suspect standing at the end of the aisle and he could only see the right side of his body, Officer Head had concerns because he could not see the suspect’s hands. He felt that a suspect’s “[h]ands are one of the most dangerous things to not see. You don’t know what kind of weapon he has in there. You don’t know if he has somebody in this hand. You don’t know if there’s access to another victim on the other side. It’s just – there’s a lot of unknowns when you can’t see something.”

Officer Head was not able to get the suspect in his sights and did not put his finger on the trigger. He did not warn that force was about to be used because he did not have enough time. He considered using the less-lethal launcher on the suspect, even though the suspect was possibly armed with a firearm, to get pain compliance. He did not discharge the 40-millimeter launcher because, before he could aim, rounds were fired, and the suspect fell to the ground and was no longer an immediate threat. When the suspect went down, Officer Head could only see the top of his torso and his left hand.

Officer Head did not see Officer Jones discharge his weapon, but a casing from the rifle bounced off him. Officer Jones was slightly northeast of Officer Head when Jones fired his rifle, approximately one to two feet away. No one else fired their weapons. Officer Head did not look at Officer Jones when Jones fired his weapon as he was looking at the suspect. He does not remember what the suspect was doing just prior to the shots. The suspect was partially obstructed behind the end of the aisle.

He did not hear the suspect say anything. Another officer said either, “don’t move” or “turn around.” He doesn’t know if it was Officer Jones or whether it was one or several officers.

After the suspect was shot, the officers approached the suspect. Officer Jones acted as cover. Officer Head slung the 40-millimeter launcher over his shoulder and began attempting to handcuff the suspect. As he was pushing the suspect to lay on his stomach (the suspect was initially face up, flat on his back), Officer Head got the suspect’s arm up and Officer Stratton came to assist him. They had trouble getting the suspect’s right arm out from under his body to handcuff the suspect. The officers felt they needed to get the suspect into handcuffs immediately so they could begin to render aid. The officers rolled the suspect over to handcuff him. Officer Head did not see any injuries on the suspect, but after the officers had handcuffed the suspect Head had blood on both of his hands. He then put on gloves because he assumed the officers were going to render first aid to the suspect.

Once the suspect was handcuffed, Officer Mazur asked for an officer to help him with the victim who had been assaulted. Officer Mazur told Officer Head to take the victim outside and get her seen by an ambulance. He and Officer Helms escorted the victim out. The victim was complaining of pain in both of her arms and her head. Her head was so covered in blood that Officer Head was unable to see what was underneath. As the officers got the victim outside of the store and were waiting for the ambulance, the victim stated that her arms were in pain, that they were hurt, and that she believed they were broken. Officer Head tried to calm the victim down as they waited for the ambulance. The ambulance arrived and they got the victim inside and Head continued to talk to her until she was put into a second ambulance for transport. Officer Head was then called over his rover to go back inside the lobby for the debriefing and to turn over his BWV for the investigation. After that broadcast, Officer Head left the ambulance and he broadcast that the victim was being taken to Holy Cross Hospital. Officers Dominguez and Fornaca went to the hospital with the victim. Officer Head got his partner, and they went back inside the store and turned in their BWV.

Officer Head was reinterviewed on July 23, 2022, at 2:15 p.m. by FID Detectives Jennifer Kim and Frank Marino. By the time of the second interview, Officer Head had reviewed his BWV and in-car video, and had read the transcript from his first interview and the incident recall sheet from a radio call at L-1.

During this interview, Officer Head referred to his prior statement that: “As we entered into the store, we got into a diamond formation...” He decided to cover the left side of the diamond formation with the less lethal launcher. He was designated less lethal by a senior officer. No one else was covering the left side. Officer Head stated that “all diamond operators [officers in the diamond formation] should have lethal coverage.... So I should have had my primary duty weapon out.” He had never used the diamond formation in the field prior to that.

Regarding his prior statement that, after he heard his partner state, “victim down the officers proceeded towards the fitting room area,” Officer Head said that he did not know there were fitting rooms in that part of the store. The store associate had told Officer Head the suspect was near the fitting rooms, but Head did not relay that information because he immediately heard “victim down” after that. Officer Head did not tell Officer Jones that the suspect was in the fitting room area. Prior to the OIS, Officer Head was not aware that the suspect was in the fitting room area or that there was anyone inside the fitting room.

As they moved into the store, Officer Head did not see the victim or the suspect. When Officer Krauss stated, “victim down,” Officer Head did not see where the victim was.

As to his previous statement about some officers having more information than those who arrived later, Officer Head stated that it was not his job to relay information to arriving units, that would have been communications; that would have been Officer Mazur's job.

Officer Head recounted that he was one to two feet behind Officer Jones as they moved up the aisle. Officer Jones was to his left. As they went to the end of the aisle, Officer Jones slowed down, and Officer Head was able to catch up. The first time Officer Head saw the suspect and the victim was when he cleared the corner of the aisle. When he saw the suspect, the background behind him was a wall. When he saw the suspect with the victim, "I believe he intended to kill her. And she had a ridiculous amount of blood all over her. She was crying and essentially trying to fight for her life to get away from him."

Officer Head noted that he is 5'6". Officer Jones is a foot taller than him.

Prior to the OIS, Officer Head thought the suspect might have a firearm in addition to the bicycle lock because of the comments of the calls coming out about a possible active shooter at the store.

After the OIS and after he had taken the victim to the ambulance, Officer Head strongly believed that the officers had saved her from possible death. On his BWV, Head said, "it's fucked up." He was referring to the situation the woman went through: "She was just walking trying to go shopping prior to a holiday and instead of having a normal day, she was viciously attacked, and she was going through something that nobody should ever have to go through."

Officer Head's BWV shows him going to speak with Officer Krauss after the OIS and saying something about trying to slow it down:

"It was about the approach to the aisle initially because I was trying to keep pace as well as clear the left side. I felt as though it was going a little quick. But since that incident, the Department released the video of the whole occurrence and have been able to watch it several times and I felt like we doing what was necessary at the time."

The call he and his partner were on just before they drove to Burlington was of a battery suspect at L-1.²⁵ He and his partner were let into a gated apartment complex and found the person who had called. She mentioned that a battery had occurred and that she had pepper sprayed the suspect. They told her they could take a report, but she declined because she was afraid. The officers were going to canvass the area to see if they could find the person she had sprayed but then the active shooter call came out. Officer Head notified communications that they were responding to the Burlington call. He left the Hamlin Street call and never considered going back or asking for another unit to take over the call.

Statement of Officer Matthew Krauss

Officer Matthew Krauss was interviewed on December 24, 2021, at 1:18 a.m. by FID Detectives Jose Olmedo and Brad Michel. Officer Krauss reviewed his BWV prior to the interview.

On the day of the OIS, Officer Krauss had worked the 6:00 a.m. to 4:30 p.m. shift. He had been an LAPD officer for two years and was assigned to the North Hollywood Station. He had been partnered with Officer Jordan Head for one year. When the call of the ADW at Burlington went out, Officers Krauss and Head were handling another call. They completed that call, then heard a radio call of an "ADW suspect there now armed with a weapon at Laurel Canyon and Victory at the Burlington Coat Factory." They got into their patrol car and showed themselves en route as a backing unit. On the way to that call, an

25 This is the incident involving V-1, discussed at page 6 of this report.

additional call came out stating that there was a possible active shooter at the same location. While driving to the store, his partner read the comments of the radio call stating that the suspect was a male Hispanic armed with a metal bicycle lock and that the suspect did not have any pants on; that stuck in Officer Krauss's mind.

They received an additional call update stating that there was a possible active shooter. As they arrived, Officer Head was going to use the 40-millimeter launcher as a less lethal option; as he attempted to get their 40-millimeter launcher, they noted that the primary unit had already arrived and had their 40-millimeter launcher out, so Officer Head took the 40-millimeter launcher from Officer Mazur, and Officer Krauss locked their patrol car.

Knowing there was a possible active shooter, and that the original call comments were that there was an ADW suspect armed with a weapon in the store, Officer Krauss unholstered his weapon. Officer Mazur, part of the primary unit with Officer Escobar, started to formulate a team to go inside due to the possible active shooter. They started to form "a stick, basically a diamond formation." He explained that a diamond formation is:

"[W]here we have one officer who is going to lead officers into a situation such as an active shooter, and then we were going to have two officers that are going to be behind him behind him that are going to hold a right flank or hold the right side of anything that they are going to face, and also on the left side. And then there is going to be an officer behind that point officer creating what would look like a diamond as we were going into any active shooter situation."

As they were walking to the location, Officer Krauss saw broken glass, possibly caused by the suspect; he was unsure whether it was caused by a weapon. As they entered the store, Officer Escobar announced, "LAPD." Because there were possible victims down, based on the radio call, they decided to go in. Krauss took the right flank in the diamond formation. Officer Escobar had the shotgun as point. Officer Head took the left flank and was designated less lethal. Officer Mazur, based on his time and experience, took over as incident commander and communications as they entered the store. In front of the escalator in the store there were pants on the ground, in accord with the radio call.

After the officers made entry, and as they went up the escalator, there was constant communication between the officers in the original diamond formation. Officer Mazur advised them to slow down, to re-form the diamond. Officer Krauss got head of Officer Escobar, so he slowed down, "so that he could come back as our point because he does have the shotgun, which is usually a designated option as a point for an active shooter. And that is when we started to actually move forward as a team."

As they made their way up the escalators the officers were still in a diamond formation. Officer Krauss saw a bicycle lying down on the left side as they came up to the top of the escalator. He was scanning the top floor. He saw people running southwest into a corner, which let him know the suspect was probably on the north end of the second floor. His view was obstructed so he told Officer Escobar to push forward so that he could see what was to their north that people were running from.

Once his view was no longer obstructed, Officer Krauss saw the suspect, a male Hispanic with no pants" "armed with a large black metal object in his left hand, standing in the middle of the walkway." The suspect was facing towards Officer Krauss, and Krauss was facing northbound. The suspect saw Officer Krauss. Officer Krauss looked into his eyes and the suspect looked back. Krauss felt he was aware that the police were there. Officer Krauss saw the suspect walk eastbound towards the fitting room. He heard a female screaming and saw female legs on the ground. That's all he saw because his view was obstructed by an aisle. Officer Krauss knew that

the pair of legs he saw was a victim because “in a normal day, people don’t lay down in the middle of an aisle, especially in a store, with her screaming.” Because she was lying down he felt that she was “vulnerable in a situation where there’s great bodily injury or death.” He heard screaming but could not understand any words.

The suspect entered the aisle and struck the victim with the metal object:

“As the victim was on the ground, he [the suspect] was standing above the victim and he had the large metal possible bike lock in his hand in a striking motion, which was meaning like he was raising it above his head as he was going to intentionally hit the victim to cause either great serious bodily injury or possible death by hitting her.... He [the suspect] raised his left hand. The suspect was one foot away from the victim when he made the striking motion.”

Krauss was 25 to 50 yards away from the suspect when he saw the suspect strike the victim. The suspect was one foot away from the victim. Krauss saw the suspect going into the aisle when his arm was coming down towards the victim with the object in his hands. That’s when the victim started screaming.

Officer Krauss advised his team that there was a victim down:

“I told my team to push forward, advising them that this is going to be our suspect based off the comments of the radio call and what he was wearing, his descriptors. As I pushed forward, Officer Mazur advised to slow down so that we can formulate our diamond formation again because we still had the knowledge of a possible active shooter, that this suspect possibly has a firearm.”

As we were slowing it down, we got back in our diamond formation, I kept the right flank, partner with the less lethal kept the left. Officer Escobar kept the point with the shotgun. And Officer Mazur, along with the unit that he advising as we were going up the escalators as our possible arrest team, was behind me. As we started to push forward towards where the suspect went, I advised that the suspect was towards the fitting room based off the lettering of the – the wording ‘fitting room’ on the wall that I saw the suspect walk eastbound towards.

And then that’s -- as we were approaching, that’s when Officer Jones bypassed me on my right towards the front passing Officer Escobar.... I did advise that Officer Escobar had the tube, referring to the shotgun, and that he was point. Officer Jones did bypass and approached the aisle where the suspect was, along with our victim who was screaming. And that’s when I heard three rounds that were fired. I did not go down the aisle that Officer Jones and my partner went down and also with Officer Escobar, due to too many people going down that aisle. I didn’t want to clog that aisle, so I went around and observed my partner pulling the suspect onto his stomach to handcuff and secure that suspect.

As that suspect was being detained, I did hear additional screaming coming from the fitting room itself with the knowledge that we have what might be another victim. Also, a suspect that may not have been described within the radio call. So I still had my firearm at a low ready as I did the whole way, you know, with my team. I approached the door. The door was locked to the fitting room that the female was screaming in. The female did open the fitting room, so I did approach to see that we had two occupants in that fitting room. One occupant was down. I saw blood coming from her head with woman next to her screaming erratically. I did approach. I did holster my weapon and approach the victim that had blood coming from her

head. As I saw only blood coming from the general area of her head, I did look to my right and I saw a bullet hole, but I wasn't sure if there was an active shooter or not or if it was from an officer, so I did assume that she was struck in the head with a head wound, [but I was] unsure what had caused it."

Officer Krauss noted that the bullet hole in the fitting room wall was on the west wall at knee height.

Krauss did not render aid to the injured woman in the dressing room immediately because he wanted to clear the second woman from the room; she was behaving "extremely erratic." He felt that he needed a safe environment and did not want the second woman to grab his weapon from behind as he did not know her mental state.

Krauss assisted Officers Vines and Johnson to get the second woman out of the dressing room. Officer Dominguez arrived. Officers Dominguez and Vines spoke Spanish, (which Krauss did not). They were able to communicate with the second woman. Officer Krauss assisted her by grabbing her left arm and helping her get up from the ground where she was lying. He had a grip on her arm to help her get up. She kept falling to the ground, screaming, and crying.

After the second woman was escorted from the dressing room. Officer Krauss returned to the officers who were rendering aid to the suspect. Officer Escobar removed a large metal bicycle lock covered in blood from beneath the suspect, towards the suspect's right side. Officer Mazur told him to secure the bicycle lock because it was evidence. Officer Krauss provided a property bag for the item. The officers moved the bicycle lock away from the suspect to preserve it and to make sure that, if the LAFD came in to work, they did not touch it or move it and misplace it.

Officer Krauss helped to do chest compressions and render aid to the suspect because Officer Mazur was tired. In turn, Krauss was relieved by Officer Escobar. Officer Mazur tried to figure out where the suspect's wound was. The suspect had an exit wound on his left breast area; Officer Mazur tried to pack the wound to keep it from continuing to bleed.

Officer Krauss learned his partner was trying to contact him and he walked outside and joined Officer Head, who advised they were going to go to the hospital with the victim who had been attacked by the suspect. Officer Krauss waited in the car as he and his partner waited for the paramedics to be ready to transport the victim. His partner later said that the original rescue ambulance was not going to transport the victim to the hospital, and they were waiting for another rescue ambulance. Then Officer Krauss heard over the radio that Officer Mazur was asking for him and his partner to return to the store and that another unit would go to the hospital with the victim. He went back to store and was told to turn off his body camera. The officers would be separated from one another so that they could be interviewed.

Officer Krauss was reinterviewed on July 23, 2022, by FID Detectives Jennifer Kim and Frank Marino. Prior to the second interview Officer Kraus reviewed his BWV from the Burlington incident as well as from a prior call at L-1, and the transcript of his first interview.

Officer Krauss clarified that when he saw the suspect with a large metal object, he believed it was a bicycle lock because "that's what it looked like." He did advise other officers that the suspect was hitting the victim. Officer Krauss saw the suspect swing the object in his hand in a striking motion towards the victim on the ground but did not see the object connect with the victim. The victim was screaming, lying on the ground, kicking her legs up towards the suspect. Krauss said, "victim down, victim down, push forward," when he saw this and started going southbound towards where he saw the suspect. He saw the

suspect walking towards the area marked “fitting room.” He was not aware of anyone in the fitting room as he approached. There was a sign reading “fitting room” on the wall, 12 feet up in big letters.

When he saw the victim in the fitting room on the ground, he thought she was hit in the head because the only pooling of blood was by her head, and “it looked like she was dead.”

Officer Krauss recounted that the bicycle lock came out from under the suspect. Officer Mazur pulled it out and Officer Escobar moved it to the side. It appeared as the object that Officer Krauss had seen in the beginning, when the suspect was hitting the victim.

After the OIS, Officer Krauss was in his patrol car talking with Officer Head. He described why he told the team to push forward – it was because he was the one who saw the suspect hitting the victim on the ground. It was a shocking moment, something he had not seen before. He made that comment to Officer Head in response to Officer Head saying that they should have slowed down. Officer Head had not seen what Officer Krauss did.

As to the call at L-1, the call was that there was a “battery suspect there now.” It was a misdemeanor battery which did not occur in the officers’ presence. The victim declined to make a report. They were going to canvass the area for the suspect when the Burlington call came in.

Statement of Officer Jonathan Suarez

Officer Jonathan Suarez was interviewed on December 24, 2021, at 1:21 a.m. by FID Detectives Macchiarella and Arteaga. Officer Suarez reviewed his BWV prior to the interview.

Officer Suarez came on duty at 6:00 a.m. on December 23, 2021. His normal shift ended at 4:30 p.m. He was a Police Officer II, assigned to North Hollywood Patrol. He had worked for LAPD for four and a half years at the time of his interview and had been assigned to North Hollywood Station for two years.

On December 23, 2021, he was on duty in uniform, in a marked patrol car. Suarez was the driver. His partner was Officer Jones. They were assigned to unit 15A3. He had worked with Officer Jones on three prior occasions within the previous four years. They had discussed tactics at the beginning of the shift. Officer Jones had explained the type of firearm and ammunition he carried; he carried a rifle, and each magazine had 28 rounds. Officer Jones’s rifle was in the patrol car, mounted in a rack. They agreed that Suarez would be contact and Jones would be cover unless they encountered a situation where the rifle was needed.

They were driving towards a radio call on Vineland Avenue when they heard a radio call of “ADW, suspect there now” at the Burlington store. Officer Suarez did not hear a weapon described. A second call stated “ADW, shots fired.” When they heard the comments on the Burlington call it sounded like additional units were needed. One of them mentioned it: either Officer Suarez asked, “should we head over there since you have a rifle?” or Officer Jones may have said that and Officer Suarez responded, “okay, show us responding,” and they immediately started heading towards the Burlington store. Officer Jones went on the air and broadcast that they were responding Code 3. Officer Suarez asked Officer Jones what the last description they gave of the suspect was and Jones said he did not know. Officer Suarez had heard that the suspect was not wearing pants, but he did not recall any other description. He concentrated on driving as they were Code 3. It took about 5 minutes to get to the store.

As they pulled up to the parking lot, they had heard the dispatcher state that the suspect was on the second floor of the Burlington store. As the officers drove up, Officer Suarez saw other officers, and

saw Officer Escobar entering the store's double doors; he could not see whether Escobar's firearm was unholstered. His main concern was catching up to the other officers to assist them.

Officer Suarez had a beanbag shotgun in the patrol car. He did not think of deploying it: "[T]he radio call came out as a suspect with shots fired.... Because of that I thought more of like it's going to be an active shooter situation which got out the idea of taking in a less lethal into that kind of situation."

He parked close to the front doors and jogged towards the front to catch up with the other officers. He paused to see where Officer Jones was and saw Jones open the back door of their patrol car to retrieve his rifle. Officer Suarez had never responded to radio call previously where his partner deployed a rifle.

As they were walking up, Suarez saw people pointing towards the store. Suarez entered and saw Officer Mazur and Officer Escobar going up the escalators to the second floor; he followed them. As he was heading to the top of the escalator he noticed that Officer Krauss was up there as well.

Officer Suarez unholstered his firearm when he reached the top of the escalators and realized that the officers were forming a diamond formation. In diamond formation officers proceed with their firearms at a low ready. He unholstered because the radio call had mentioned shots fired and possible suspect with a firearm. "When I arrived at the top they had discussed we're going to do a diamond formation." He explained how a diamond formation is configured and how the officers were trained. He saw that there was a 40-millimeter launcher, he believed Officer Head had it.

He heard Officer Krauss say he saw the suspect. He said, "Oh, I see the person with no pants," and Officer Suarez remembered that in the call comments the suspect had been described as not wearing pants. Suarez never saw the suspect before the OIS – he could not see past Officer Krauss. The officers advanced to the north in diamond formation. Officer Suarez saw Officer Jones pass him. He heard other officers say, "slow down," but Officer Suarez tried to keep up with Officer Jones because he did not want to separate from his partner.

At one point he began to slow down because an officer had said again, "slow down, slow down," but then he saw a woman: "She came out of the aisles and her face was completely covered in blood." Officer Suarez quickened his pace in order to stay with his partner, and in an effort to see what was going on and whether there were a lot of injured people. He did not communicate with Officer Jones because there was distance and officers between them; Jones would not have heard him, and that was not in his mind because after seeing the first victim. He felt comfortable with the speed they were moving because he knew that one of the officers had seen the suspect. As they started moving up the diamond changed so that Officer Jones wound up taking point. There were officers to both sides and Officer Suarez was in the rear. He wanted to move up with the diamond and not break it. It was Officers Krauss, Jones, and Head and then him.

Officer Suarez stated:

"I remember there was -- my partner was all the way in the front. I do recall him saying 'I got point because I have the rifle', and which he did. And I was paying attention to my partner. There was officers in between us and I remember him walking northbound in that store and then make an eastside turn.... And as soon as he did, he -- that's when the OIS occurred."

Officer Suarez recalled that Officer Jones did not say anything when he saw the suspect. Suarez was surprised when Officer Jones started firing. Jones fired three rounds – Suarez saw that Jones put up both of his arms and aim directly at the target. Officer Suarez could not see what Officer Jones aimed at. He was still trying to catch up. He heard two shots right after each other and then a minor delay

and a third round. Officer Suarez could not see the suspect when Officer Jones fired because there were racks of clothing in the way. Jones did not say anything to him after the shooting.

Officer Suarez turned eastbound into the aisle and saw the suspect on the ground still moving. He was lying face down. The suspect was shaking. Suarez could not tell if he was trying to turn over or get up. He initially went to assist the officers who were trying to handcuff the suspect by grabbing the suspect's legs but then realized they had the suspect under control. He then heard screaming from the fitting rooms so he went in that direction. In the fitting room, he saw a younger female who was bleeding profusely, and an older woman (the mother) who was screaming for help. Officer Fornaca tried to check the first woman's pulse and found none; some officers began chest compressions.

Officer Suarez never saw any weapons around the suspect. He did see a folded bicycle lock next to the suspect. It was attached in a circle like a rope.

Officer Suarez stayed with the mother and tried to talk with her, tried to pull her out of the fitting room so the paramedics could work on the victim. Officer Suarez spoke to the mother in Spanish. Eventually, he and another officer took the mother downstairs. After that, Sergeant Case separated the officers, and Officer Suarez turned off his BWV. Detective Allen pulled him aside for a public safety statement. Detectives took statements from every officer who had been present during the OIS. Officer Suarez was then transported back to North Hollywood Station.

After the shooting Officer Jones was looking down and his eyes were watery. "He looked sad."

Statement of Sergeant Jerald Case

Sergeant Jerald Case was interviewed on December 24, 2021, at 4:08 a.m. by FID Detectives Brad Michel and Jose Olmedo. He reviewed his BWV prior to the interview.

Sergeant Case started his shift on December 23, 2021, at 6:00 a.m. He was unit 15L50 on that day, and he did not have a partner. He was responding to a supervisor request at a radio call for a home invasion robbery on Laurel Canyon north of Burbank when he heard two "shots fired" calls. It seemed to him as if there were two or three different calls at the Burlington store for the same type of call; he thought those calls were more important than the home invasion robbery call. As he was responding he heard, "more things like shots fired. And it was inside a department store, the Burlington Coat Factory... it's a big store. It's kind of like a Kmart or a Walmart, that kind of size of a store. So with that many shots fired calls coming out, as I was rolling up I was thinking that it was going to be an active shooter situation." He did not recall hearing a description of the suspect or about any victims.

He pulled up in front and saw other patrol cars. As he was getting out of the car he saw "about six officers" entering the location. He was not involved in any kind of tactical planning with the officers.

He thought the officers were similarly thinking that the situation involved an active shooter because they were using Immediate Action Rapid Deployment tactics, which are for active shooter situations. He saw Officer Jones getting his patrol rifle, which Sergeant Case thought would be helpful in an active shooter situation. He entered the store and Officer Jones came in behind him. Sergeant Case stopped because he did not want the rifle behind him. He let Officer Jones get on the escalator ahead of him. He knew that Officer Jones, armed with the rifle, was going to be a point. Sergeant Case was the supervisor and was supposed to be in back.

As Sergeant Case entered the store there were a lot of people coming out. It looked to him as if there was a lot of activity going on inside the store. There was broken glass on the floor. There was clothing on the ground. It looked like somebody had left hastily and left their “stuff” on the floor.

When Sergeant Case reached the store’s second floor, the officers in front of him were Officers Mazur, Jones, Jones’s partner Suarez, Head, Krauss, Dominguez, and possibly Helms. He did not have a vantage point to see if they were in formation and only saw a group of officers. He knew Officer Head had a 40-millimeter launcher weapon. The group was directly in front of him, northbound in the hallway. Once he was in the building they were already on the second floor. He did not speak with the officers because, in his mind, it was an active shooter situation, and it would have been counterproductive to shout at them to stop. If he had, “then additional victims could have died.” Sergeant Case saw blood on the floor and on the walls and more people leaving. Then he saw the officers moving at a “fast trot” and he shouted out to “slow it down.” They did not. He was concerned that they did not know what they were going into or how many suspects there were. He was concerned that going too quickly could expose them to more harm. Someone else also said “slow down.” It was right after that that the OIS occurred.

When Officer Jones levelled his rifle he was at the end of the aisle near the walkway; he turned from the walkway and pointed eastward and levelled his rifle. Sergeant Case was thirty feet away from Officer Jones when Jones fired. There were several officers grouped behind Officer Jones and all looked eastbound. He heard three shots in a row. He did not see a muzzle flash or rounds being ejected. He did not see any other officer fire their weapon.

After the shooting, Sergeant Case walked down to where Officer Jones was to see what the result was. He was going to make sure that the suspect was handcuffed, but Officer Mazur was already giving commands to do the same thing. Sergeant Case felt that Officer Mazur had control of the situation, so he went to the fitting room. There were more officers there with a “hysterical” woman. He later learned there was a victim there, but he did not see her at that point.

He saw Officer Jones, who appeared to be distraught. Sergeant Case wanted to let Jones sit down but he did not want him to be alone, so he had Officer Dominguez stay with Jones. Dominguez picked up Officer Jones’s rifle so Jones could sit down.

Sergeant Case did not know whether there was another suspect, so he directed some officers away from the suspect and told them to clear the location, to make sure there were no additional suspects. He did not have enough officers because the store is “enormous.” Officer Ching approached and said he saw the video and there was only one suspect. Nonetheless, Sergeant Case wanted officers to clear the store and look for additional victims: “Because I’m still thinking in my mind, active shooter and there could be victims scattered throughout the store and I wanted to make sure that there weren’t any that weren’t being tended to.”

He requested two rescue ambulances, one for the suspect and one for a woman he saw as he was walking in who had blood all over her face; she had serious injuries to her face and head. He told Officers Head and Krauss to take the woman downstairs and get her medical treatment. He requested five additional supervisors and tried to keep the area where the OIS had occurred undisturbed for the investigation by FID. After that, Sergeant Case went back to monitoring the different areas within the store, and then went back to the fitting room again. This time, he saw another victim. She was lying on her back and there was a lot of blood around her head. He thought the suspect had shot her.

It seemed to Sergeant Case that it was taking a long time for the paramedics to arrive. Case broadcast that the scene was clear, and that the one suspect was in custody. He heard someone go over the air

and declare themselves incident commander. Moments later a number of detectives arrived. Case talked to Detective Fournier, who told him Lt. McNulty was the incident commander. He saw Officer Jones being walked off by one of the detectives. He followed directions to gather up the officers who had witnessed the OIS and go downstairs; they were then instructed to turn off their BWVs. They then gave a public safety statement to Detective Lee.

Statement of Officer Mark Stratton

LAPD Officer Mark Stratton was interviewed on January 12, 2022, at 10:32 a.m. by FID Detectives Jose Olmedo and Ubaldo Zesati. Officer Stratton reviewed his BWV prior to the interview. Officer Stratton had previously viewed the BWV compilation which had been released to the media by the Chief of Police.

Officer Stratton had worked for LAPD for 18 years at the time of his interview. He was a Police Officer III assigned to North Hollywood patrol. On December 23, 2021, he was assigned to NH Patrol unit 15A43. His partner that day was Officer Roxanne Helms. He was the driver. Officer Stratton had been Officer Helms's field training officer for two deployment periods; after that they worked together periodically. He trained Helms on active shooter incidents and use of force policy, including when officers can and cannot shoot, use of lethal and less lethal force, and engaging in MACTAC situations with active shooters. He had gone over various use of force scenarios with Officer Helms.

On December 23, 2021, Officers Stratton and Helms had just finished a radio call and were at 7-Eleven to use the restroom and get a drink. He heard the radio call of an ADW suspect at the Burlington Coat Factory at Laurel Canyon and Victory. They were at Laurel Canyon and Oxnard, down the street from the Burlington store. The primary unit and backing units had been assigned and were responding to the store. As more information came out over the radio, Officer Stratton and his partner headed towards their patrol car, and he broadcast to state that they were backing the primary unit at the incident.

As they were responding, Officer Stratton heard the call get upgraded from an "ADW suspect there" to a "shooting in progress" call. That added urgency - they needed to respond quickly. He recalled the suspect description was "a male Hispanic and at one point he took his clothes off. He was wearing a multi-colored jacket." They started driving northbound on Laurel Canyon and he heard Officer Mazur call for backup. He then activated their patrol car's lights and sirens, and they responded Code 3 to the incident. On the way to the call, he and his partner discussed what they were going into and what they heard on the air – what the suspect was wearing and where he was, what he was doing. It was a very quick response time. He knew there were already units there. Their job was to communicate with the other units and find out what the other units needed.

They pulled up, parked, exited the patrol car, and headed towards the entry doors to the Burlington store. In his mind, they had an active shooter situation. He saw customers running out of the store in fear and in panic as they were exiting and scrambling around. He then saw that the glass in the front door had been shattered. He knew there was some type of altercation going on inside the store. He made entry into the Burlington Coat Factory ground level along with other officers who had run up. In the entryway, right before the escalator, he saw clothes scattered around. He did not know who the clothes belonged to. It was not a normal thing to see. He looked up the escalator and saw one woman coming down in a state of panic, "she was so scared."

Officers Stratton and Helms ran up the escalator as fast as they could and got to the top. He did not know exactly where the suspect was or what was going on. He looked to his right and saw the team. As Officer Stratton was going up the escalator he could hear a commotion on the upper level. He heard talking and screaming. As he got to the top of the escalator he could hear sounds of a struggle.

When Officer Stratton went up the escalator he heard the commotion to the north, where the incident was occurring. He could still hear screaming and yelling and something like a struggle, “like there’s a fight going on.” As he approached the area where the commotion was, he saw a team formed in a diamond, using Immediate Action Rapid Deployment tactics as are used in active shooter situations.

“An active shooter, so immediate action rapid deployment where... we have a diamond formation where you’ll put a long gun in the front, either a shotgun or rifle or something, and then officers, two on the side, one in the back.”²⁶

According to the active shooter training that Officer Stratton had received, the officers need to act quickly:

“[T]he idea behind it is time is of the essence. So we need to get to the threat as soon as possible. Every second that we delay could cost the life of an individual. So it was imperative for me to not stop and delay to get additional information... [but to] join the team that’s there and offer assistance and fill the gap of whatever is needed. So we’ve all received the same training in the department, so you just fill in that gap.”

Officer Stratton did not hear any shots prior to making entry or going up to the second level. Nevertheless, he believed it was an active shooter “because of the prior radio call communication, the broken window coming in and the people running out scared.” The broken window was at the very front entrance of the Burlington Coat Factory. He assumed it had been broken by a gunshot.

He saw Sergeant Case and Officer Mazur. He saw a team moving in diamond formation towards the threat where the active shooter was. He did not want to slow down the team but wanted to join them. Stratton came up alongside Officer Mazur and joined the team. As he approached he saw drops of blood on the ground. He heard Officer Jones say, “There’s blood on the ground. I got blood.”

As he and his partner were approaching the team of officers, Officer Stratton unholstered his weapon. He held his service pistol at low ready with his finger along the frame because he believed the situation could escalate to the use of deadly force:

“[B]ecause you have an ADW suspect there, I believe an active shooter. You have blood on the ground. You have screaming. You have people in fear. And I saw the broken window, everything that’s going on. And I believe we have a crime in progress at the time. So, when we approach there I do unholster my gun....”

When Officer Stratton joined the team, he was behind and a little to the right of Officer Jones. Officer Stratton could see Officer Jones but there were other officers in front of him, clearing and going forward. Officer Stratton estimated that he was about 15 feet behind Officer Jones.

He saw Officer Jones make his way to an aisle and then pivot. Jones raised his rifle as if he was going on target, though Stratton could not see the suspect. Jones then fired his rifle down the aisle, shooting eastbound. Because there was a partition in the way Stratton could not see who Officer Jones shot at or what was going on at Jones’s location, but he knew the team was in place.

He saw Officer Jones discharge his rifle two times. There was no break between rounds. Both rounds were fired from the same gun. Officer Jones fired towards the area Officer Stratton later learned was the dressing room. The background where Officer Jones fired appeared to be “just a wall.” Officer Stratton did not know it was a fitting room. From his vantage point, it “looked like just a wall.”

Officer Stratton believed Jones had fired at the suspect, but Stratton could not see the suspect from his vantage point. He knew they were going where the struggle was, where someone was hurting somebody, and where the cries for help were coming from.

He could not see the victim until after Officer Jones fired, and then he saw her crawl out from the aisle. She was on her hands and knees, she was “completely bloody, and she was struggling to get away.”

Officer Stratton holstered his gun and went to the team of officers to assist in handcuffing the suspect. As Officer Head rolled the suspect over, Stratton grabbed the man’s left arm so that they could handcuff him. They were having trouble getting the suspect’s other arm out from underneath him and were yelling at him to get it out. At one point they used a baton to get leverage to get the arm out. Officer Escobar assisted and handcuffed the left wrist, and Stratton released his grip.

Officer Stratton believed he was responding to an active shooter and during the handcuffing he asked where the gun was:

“In my mind there was -- it was an active shooting that had taken place and so I wanted to render the firearm safe. So I was looking around the ground for the gun underneath the suspect or in the aisleway or anywhere else for a gun.... The only weapon that was identified that I saw was a bike lock and chain there.” Stratton was standing over a shell casing. He saw another shell casing underneath the clothing close to the aisle

Officer Stratton went into the dressing room area briefly to see what was going on and whether there was another suspect or victim in there. The victim in the fitting room was lying down on the floor. Officer Stratton heard someone screaming. Officers Vincas and Fornaca were rendering aid. Fornaca was trained in first aid and CPR. Stratton saw that the other officers had the situation under control, so he went back to the suspect. At that time, Officer Escobar was with the suspect. He had him rolled over on his side to render first aid. Blood was coming from the suspect’s mouth. Officers were looking for entry and exit wounds but could not find them. Stratton took out his knife and cut off the suspect’s jacket and shirt to find the wound and pack it to stop the bleeding. Officer Stratton asked Officer Escobar whether the suspect had a pulse. Escobar checked and said “no,” and Officer Stratton advised Officer Escobar to start CPR.

Sergeant Case approached and put Officer Stratton in charge of clearing the rest of the store to make sure there were no additional suspects or victims. Officer Stratton assembled a team of officers and cleared the rest of the store. He unholstered his weapon while he was clearing the store to protect himself and his partners because “I believe we had an active shooter. And even if this suspect is down, doesn’t mean that there’s not additional suspects armed with guns going throughout the store.”

There were radio communications of multiple people locked in a room, employees that had locked themselves in and the officers began to search for them. “They were scared and they were trapped.” Officer Stratton went over and checked on the employees. He then went back to the main crime scene. He saw a casing and stood by it until another officer marked it with a field identification card. He then identified himself to Lt. McNulty. At that point Officer Stratton was directed to walk downstairs and he deactivated his BWV.

Decedent Information

Daniel Abisa Elena Lopez was a male Hispanic with a date of birth of March 26, 1997. He was 24 years old at the time of the incident. He was five foot, seven inches tall and weighed 209 pounds.

Valentina Orellana Peralta was a female Hispanic with a date of birth of May 26, 2007. She was 14 years old at the time of the incident. She was five foot, seven inches tall and weighed 148 pounds. She was with her mother at the time of the OIS. She had recently moved to the United States of America from Chile and had been living in the United States for approximately six months. She was in the process of obtaining residency at the time of the incident.

Injuries

Daniel Elena Lopez sustained a gunshot wound to the chest, with an entrance wound on the right upper back and an exit wound on the left upper chest. LAFD Firefighter Paramedic Adam Gatica²⁷ assessed Mr. Elena Lopez at scene, attached a monitor to Mr. Elena Lopez and noted that there was no heart rhythm. He was not breathing and he had no pulse. Gatica told investigators that he noticed one entrance wound in the mid-torso range. Mr. Elena Lopez was pronounced dead at the scene.

Valentina Orellana Peralta sustained a gunshot wound to the chest, with an entrance wound on the midaxillary line of her left chest and no exit wound noted. Gatica also assessed Ms. Orellana Peralta at scene, attached a monitor to Ms. Orellana Peralta and noted that there was no heart rhythm. She was not breathing, and she had no pulse. Gatica stated that he noticed an entrance wound penetrating her torso. Ms. Orellana Peralta was pronounced dead at the scene.

W-10 sustained lacerations to her head, which required suturing; her head, face, eyes, and cheeks were bruised, red and swollen, as were her arms and hands. She was transported by LAFD from the scene to Holy Cross Hospital for treatment.



W-10 when interviewed (identity concealed)

²⁷ LAFD Firefighter-Paramedic Adam Gatica was interviewed on January 21, 2022, commencing at 7:08 a.m., by LAPD FID Detectives Eduardo Gonzalez and Brad Michel.

Coroner's Investigation

On December 24, 2021, at approximately 8:00 a.m., the Department of Medical Examiner-Coroner, County of Los Angeles, Deputy Medical Examiner Dr. Abubakr Marzouk performed an autopsy on the body of Ms. Orellana Peralta and found a single penetrating gunshot wound (GSW) to the chest. There was an entrance wound on the left side of the chest and no exit wound was noted. The path of injuries was through the diaphragm, spleen, left lung, aorta, and right lung with associated bilateral hemothorax, and soft tissue of the right arm. The trajectory was left to right, slightly back to front and upward. A projectile was recovered from the right arm. A toxicology investigation revealed no ethanol or illicit drugs of abuse detected. The cause of death was determined to be a gunshot wound to the chest and the manner of death was determined to be a homicide.

On December 24, 2021, at approximately 9:15 a.m., Dr. Marzouk performed an autopsy on the body of Mr. Elena Lopez and found a perforating gunshot wound to the chest. There was an entrance wound on the right upper back and an exit wound on the left upper chest. The path of injuries was through the chest cavity with injuries of both lungs, bilateral hemothorax, fracture of thoracic vertebra #8 (T-8), and a transected spinal cord. The trajectory was near straight, back to front, and right to left. A projectile fragment of copper-colored jacket was recovered from the left lung. The cause of death was determined to be a gunshot wound to the chest and the manner of death was determined to be homicide.

The coroner's toxicology investigation revealed that Mr. Elena Lopez had methamphetamine, amphetamine, and marijuana present in his body.

Use of Force Expert's Analysis

The DOJ submitted this matter for review by Greg Meyer. At the time of his review, he had 46 years of law enforcement experience, and is a former Captain at the LAPD Academy in charge of training. Mr. Meyer chaired LAPD's Use of Force Best Practices Work Group and its Tactics Training Review Committee. Mr. Meyer was the designated independent law enforcement expert for the U.S. Department of Homeland Security's Division of Civil Rights and Civil Liberties, where he conducted special investigations involving use of force by Federal agencies including the Border Patrol and ICE. He had conducted reviews of eight police use of force cases as a consultant to four District Attorney's offices and had taught law enforcement and other professions about police use of force on more than 50 occasions. Mr. Meyer was a member of the design committee and taught classes for the revised California Peace Officer Standards and Training (POST) course on the investigation of officer-involved shootings. He had been an expert witness or consultant for more than 400 cases in the past 33 years, mostly involving police officers making arrests and mostly involving lethal and nonlethal use of force. More than 90 of those cases involved officer-involved shootings. Mr. Meyer had testified in court on police procedures matters more than 60 times and had been deposed in such matters more than 70 times.

Mr. Meyer was asked to and did review the record in this matter, and also reviewed relevant LAPD training materials and LAPD policies.²⁸ He noted that "the sound of a bicycle lock impacting plate glass with a forceful blow is similar to the sound of a gunshot," which could have accounted for witness reports of hearing gunshots.

Mr. Meyer said that, after hearing a "shots fired" radio broadcast, "the mindset of the responding LAPD officers would inspire them to comply with their training about responding to 'active shooter'

²⁸ Per LAPD policy, the Mac-Tac Immediate Action Rapid Deployment (active shooter) training is required for all LAPD officers. LAPD reported that Officer Jones was in compliance with all training requirements.

incidents.” Such training included use of an Urban Police Rifle, like that used by Officer Jones, and “moving forward to position himself as the point of the diamond formation.”

Mr. Meyer noted that LAPD training and policy instructed officers: the first priority was “to locate the assailant(s) and STOP the aggressive deadly behavior”; “responding personnel must keep in mind that their primary role is to protect innocent persons at risk”; when entering a location, the Contact Team should move in a diamond formation; the officer with a “long gun” or an Urban Police Rifle should take the point position during the search; and that, during active shooter encounters, delayed deployment can “have catastrophic consequences.” He noted:

“In their tactical training, police are taught that ‘action is faster than reaction,’ sometimes stated as ‘action beats reaction.’ As applied to this incident, this means that even if the officer had his gun pointed at the fleeing suspect and had their finger on the trigger, if the suspect held a handgun in his hand the suspect could fire in ¼ second, shooting and perhaps crippling or killing the officer before the officer could possibly react and fire in his or her own defense. This is because the officer must first perceive the suspect’s movement, then analyze whether or not the movement is life-threatening, then decide what to do in response, and then, if the decision is to fire in self-defense, the officer must aim or point his gun at the threat, put his finger into the trigger guard and onto the trigger, and move the trigger rearward far enough to fire the gun. In fact, even if a suspect has his gun down by his side, he can raise his gun and shoot an officer before the officer, with gun already aimed at the suspect and finger on trigger, can react and fire.”

Mr. Meyer noted that police officers are trained to shoot multiple times, at the center of mass, to stop a threat:

“Police officers are trained to shoot to ‘stop the threat’ that has necessitated their shooting. In order to stop a deadly threat, officers are trained to fire multiple shots at the threat’s ‘center of mass,’ meaning the center of the largest exposed area of the target. Officers are trained to fire multiple shots as rapidly as they can fire with a reasonable chance of hitting the target, until they observe that the threat has been stopped. ‘Stopped’ can mean the threat falls or lies down on the ground and/or stops moving, or that the officer sees the weapon fall or be dropped from the suspect’s hand, or that the suspect puts his hands up in a ‘surrender’ position, or that the suspect in some other manner unambiguously displays that the deadly threat has ceased.”

He also noted that “LAPD Ballistics Testing Data” documents demonstrated that the penetration capability of .40 caliber handgun rounds fired from a Glock Model 22 pistol were nearly identical to the penetration capability of 5.56 millimeter rounds fired from a Colt Model M16A1 rifle.

Mr. Meyer concluded that, under the circumstances, Officer Jones could have “easily ... mistaken” the bike lock held by Mr. Elena Lopez to be a firearm:

“Based upon Officer Jones’s BWC video, as he approached the downed and bleeding female victim ([W-10]), at the end of the same aisle the suspect suddenly was in view and holding a dark object in his right hand. Under the totality of circumstances and in a split-second threat assessment by Officer Jones (‘active shooter’ call and observing a downed and bleeding victim) the dark object the suspect was holding could easily be mistaken for a handgun that was an imminent/immediate threat of death or great bodily injury to Officer Jones, the downed and bleeding victim ([W-10]) and others.”

He noted that “Research has thoroughly documented that sensory distortions are a normal part of fear events.” Further, “people under stress react to contextual cues (experiences from life and training that influence one’s perceptions of various objects and moves) and confabulations (i.e., mentally ‘filling in the blanks’) based upon training and experience.”

Mr. Meyer formed the following opinions regarding Officer Jones’s use of force in this incident after reviewing the evidence in light of LAPD’s policies and applicable legal principals governing police use of force. He concluded that Officer Jones could have reasonably assessed the dark object in Mr. Elena Lopez’s hand to be a handgun. Further, in light of radio traffic and seeing W-10 bleeding from the head, Officer Jones could reasonably believe that Mr. Elena Lopez had inflicted serious bodily injury on W-10 that could result in death.

He further concluded that, “Under the totality of circumstances, there was no opportunity for Officer Jones or any other officer to attempt de-escalation tactics in this situation.” In addition, “[t]ime and circumstances did not allow for planning and assessment of such factors as the potential for an unseen innocent person being in the background, rifle bullet penetration capability, or assessment of the physical structure of the walls behind the suspect.” Thus, he concluded that, “[u]nder the totality of circumstances of this incident, if Officer Jones reasonably believed that the suspect held a firearm in his hand, it was objectively reasonable for Officer Jones to assess that there was an imminent/immediate deadly threat to himself or others when he fired three shots at the suspect.”

He concluded that “The shooting of the innocent young woman who was hiding in the dressing room and was struck by a bullet that missed the suspect then went through two walls after bouncing off the floor, was a tragic but unforeseeable accident.”

Applicable Legal Standards

Homicide is the killing of one human being by another. (*People v. Beltran* (2013) 56 Cal.4th 935, 941.) There are two types of criminal homicide, murder and manslaughter.

Murder

Murder is the unlawful killing of a human being with malice aforethought. (Pen. Code, § 187, subd. (a).) Murder is divided into first and second degrees. A willful, deliberate, and premeditated killing is murder of the first degree. (Pen. Code, § 189; *People v. Hernandez* (2010) 183 Cal.App.4th 1327, 1332.)

Second degree murder is the unlawful killing of a human being with malice aforethought but without the additional elements of willfulness, premeditation, and deliberation that would support a conviction of first degree murder. (*People v. Knoller* (2007) 41 Cal.4th 139, 151.) The malice required for second degree murder may be express or implied. (Pen. Code, § 188; *Hernandez, supra*, 183 Cal.App.4th at p. 1332.) Malice is express when there is an “intent to kill.” (Pen. Code, § 188; *People v. Delgado* (2017) 2 Cal.5th 544, 571.) Malice is implied “when the killing results from an intentional act, the natural consequences of which are dangerous to life, which act was deliberately performed by a person who knows that his [or her] conduct endangers the life of another and who acts with conscious disregard for life.” (*People v. Dellinger* (1989) 49 Cal.3d 1212, 1215.)

A homicide may also be reduced to second degree murder if premeditation and deliberation are negated by heat of passion arising from subjective provocation. If the provocation precludes a person from deliberating or premeditating, even if it would not cause an average person to experience deadly passion, the crime is second degree murder. (*People v. Padilla* (2002) 103 Cal.App.4th 675, 678.)

Voluntary Manslaughter

Manslaughter is an unlawful killing without malice. (Pen. Code, § 192; *People v. Thomas* (2012) 53 Cal.4th 771, 813.) Several factors may preclude the formation of malice and reduce a killing that would otherwise be murder to voluntary manslaughter including: (1) heat of passion, and (2) imperfect self-defense. (*People v. Moye* (2009) 47 Cal.4th 537, 549.)

Imperfect self-defense is the killing of another human being under the actual but unreasonable belief that the killer was in imminent danger of death or great bodily injury and that the use of deadly force is necessary to defend against that danger. Such a killing is deemed to be without malice and thus cannot be murder. (*People v. Cruz* (2008) 44 Cal.4th 636, 664.) The doctrine of imperfect self-defense cannot be invoked, however, by a person whose own wrongful conduct (for example, a physical assault or commission of a felony) created the circumstances in which the adversary's attack is legally justified. (*People v. Booker* (2011) 51 Cal.4th 141, 182.)

Self-Defense

A homicide is justified and lawful if committed in self-defense. Self-defense is a complete defense to a homicide offense, and, if found, the killing is not criminal. (*People v. Sotelo-Urena* (2016) 4 Cal. App.5th 732, 744.) When a person is charged with a homicide-related crime and claims self-defense, the prosecution must prove beyond a reasonable doubt that the homicide was not committed in self-defense. (*People v. Winkler* (2020) 56 Cal.App.5th 1102, 1167.)

Penal Code sections 196 et. seq. set forth the law of self-defense in homicide cases. Penal Code section 196 provides that a homicide committed by a peace officer is justified when the use of force complies with Penal Code section 835a. (Cf. Pen. Code, § 197 [listing circumstances where homicide committed by "any person" is justifiable, which includes self-defense or the defense of others].)

Under Penal Code section 835a, an officer may use deadly force only when the officer "reasonably believes, based on the totality of the circumstances, that such force is necessary": (1) "to defend against an imminent threat of death or serious bodily injury to the officer or to another person"; or (2) to apprehend a fleeing person who has committed a felony "that threatened or resulted in death or serious bodily injury," and the officer "reasonably believes that the person will cause death or serious bodily injury" if not immediately apprehended. (Pen. Code, § 835a, subd. (c)(1); see Pen. Code, § 835a, subd. (a)(2) [peace officers may lawfully use deadly force "only when necessary in defense of human life"]; see *People v. Randle* (2005) 35 Cal.4th 987, 994 [self-defense arises when a person actually and reasonably believes in the necessity of defending against imminent danger of death or great bodily injury], overruled on other grounds by *People v. Chun* (2009) 45 Cal.4th 1172.)

To determine whether deadly force is necessary, "officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer." (Pen. Code, § 835a, subd. (a)(2); *People v. Hardin* (2000) 85 Cal.App.4th 625, 629-630 ["only that force which is necessary to repel an attack may be used in self-defense; force which exceeds the necessity is not justified" and "deadly force or force likely to cause great bodily injury may be used only to repel an attack which is in itself deadly or likely to cause great bodily injury"].)

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 to another person. (Pen. Code, § 835a, subd. (e)(2); see *People v. Lopez* (2011) 199

Cal.App.4th 1297, 1305-1306 [imminent peril is “immediate and present” and “must be instantly dealt with”; it is not prospective or even in the near future].)

“Totality 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. (Pen. Code, § 835a, subd. (e)(3).) De-escalation methods, tactics, the availability of less than lethal force, and department policies may be used when evaluating the conduct of the officer. However, when an officer’s use of force is evaluated, it must be considered “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.” (Pen. Code, § 835a, subd. (a)(4); accord, *Graham v. Connor* (1989) 490 U.S. 386, 396-397 [“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight”]; *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082-1083 [to determine whether use of force is objectively reasonable for self-defense, trier of fact must consider all the circumstances that were known or appeared to the officer as well as consideration for what a reasonable person in a similar situation with similar knowledge would have believed]; *People v. Bates* (2019) 35 Cal.App.5th 1, 9-10 [knowledge of another person’s prior threatening or violent conduct or reputation for dangerousness may provide evidence to support a reasonable belief in imminent harm].)

Self-defense also has a subjective component. (*Humphrey, supra*, 13 Cal.4th at p. 1082.) The subjective element of self-defense requires that a person actually believes in the need to defend against imminent peril or great bodily injury. (*People v. Viramontes* (2001) 93 Cal.App.4th 1256, 1262.)

Transferred Intent

Under the doctrine of transferred intent, an individual who fatally kills a bystander may be liable for criminal homicide of the bystander. The doctrine is a “classical formulation” created within California’s common law: an individual who shoots with the intent to kill a certain person, misses, and hits a bystander instead, is subject to the “same criminal liability that would have been imposed had the fatal blow reached the person for whom intended.” (*People v. Bland* (2002) 28 Cal.4th 313, 321, citation and internal quotation marks omitted; see *People v. Scott* (1996) 14 Cal.4th 544, 551 [the doctrine does not denote an actual transfer of intent based on its literal meaning, but rather a policy—that an individual who shoots at an intended target and hits a bystander should be subject to the same criminal liability had the individual hit the intended mark].) The individual’s criminal intent of the intended target transfers to the unintended bystander, and as such, “the [individual] is deemed as culpable as if [the individual] had accomplished what he [or she] set out to do.”²⁹ (*Scott, supra*, 14 Cal.4th at p. 546; *Bland, supra*, 28 Cal.4th at pp. 323-324.)

The doctrine of transferred intent, however, applies equally to self-defense and defense of others. Where an individual uses deadly force in lawful self-defense or defense of others, the individual’s lack of criminal intent for homicide of the intended target transfers to the killing of the bystander. In such an event, where the individual intends to “injure or kill the person who poses the threat” and “inadvertently kills an innocent bystander,” the individual’s actions “insulate[s] [him or her] from criminal responsibility.”

29 Depending on whether the intended target is killed in addition to the bystander, the shooter can be liable for two criminal homicides if both are killed (*People v. Souza* (2012) 54 Cal.4th 90, 120 [“[A] person maliciously intending to kill is guilty of the murder of all persons actually killed”], citing *Bland, supra*, 28 Cal.4th at pp. 323-324), or liable for an attempted murder of the intended target (if not killed) and criminal homicide of the bystander (if killed) (*Scott, supra*, 14 Cal.4th at p. 551 [“In their attempt to kill the intended victim, defendants committed crimes against two persons”]). But if the bystander is not killed, the shooter cannot be liable for attempted murder of the bystander under the theory of transferred intent. (*People v. Falaniko* (2016) 1 Cal.App.5th 1234, 1243.)

(*People v. Curtis* (1994) 30 Cal.App.4th 1337, 1357 [“[U]nder the doctrine of transferred intent, self-defense may also apply where the defendant intends to injure or kill the person who poses the threat, but inadvertently kills an innocent bystander instead”]; *People v. Mathews* (1979) 91 Cal.App.3d 1018, 1024 [“[W]e conclude that the doctrine of self-defense is available to insulate one from criminal responsibility where his act, justifiably in self-defense, inadvertently results in the injury of an innocent bystander”].) Thus, “one’s criminal intent follows the corresponding criminal act to its unintended consequences . . . the reasoning applies equally to carry the lack of criminal intent to the unintended consequences and thus preclude criminal responsibility.” (*Mathews, supra*, 91 Cal.App.3d at p. 1023.)

Burden of Proof

A prosecutor bears the burden of proving a criminal defendant’s guilt beyond a reasonable doubt. (Pen. Code, § 1096.) Where an investigation is complete and all of the evidence is available for review, prosecutors should file charges only if they believe there is sufficient admissible evidence to prove the charges beyond a reasonable doubt at trial. (See, e.g., Nat. Dist. Attys. Assn., National Prosecution Standards (3d ed. 2009) Part IV, § 2 pp. 52-53; United States Department of Justice Manual § 9-27.220; Melilli, Prosecutorial Discretion in an Adversary System (1992) B.Y.U. L.Rev. 669, 684-685 [surveying ethical standards used in the exercise of charging discretion by prosecutors]; accord, *People v. Catlin* (2001) 26 Cal.4th 81, 109 [“A prosecutor abides by elementary standards of fair play and decency by refusing to seek indictments until he or she is completely satisfied the defendant should be prosecuted and the office of the prosecutor will be able to promptly establish guilt beyond a reasonable doubt,” quotation and internal quotation marks omitted]; *People v. Spicer* (2015) 235 Cal.App.4th 1359, 1374 [explaining that a prosecutor may have probable cause to charge a crime but reasonably decline to do so if they believe there is a lack of sufficient evidence to prove the charge beyond a reasonable doubt at trial]; cf. Rules Prof. Conduct, Rule 3.8(a) [prosecutor should not initiate or continue prosecution of charge that is not supported by probable cause].)

Further, the prosecution has the burden of proving beyond a reasonable doubt that a killing is not justified. It is not a criminal defendant’s burden to prove that the force was necessary or reasonable. (*People v. Banks* (1976) 67 Cal.App.3d 379, 383-384.) Thus, in an officer-involved shooting, the prosecution must prove beyond a reasonable doubt that the officer did not have an actual or reasonable belief in the need for self-defense or the defense of others.

LEGAL ANALYSIS

The DOJ has completed an independent investigation and review of the facts and circumstances that led to the deaths of Daniel Elena Lopez and Valentina Orellana Peralta. This analysis is based on all of the evidence obtained by DOJ in this matter, including police reports, witness statements, forensic evidence, Coroner’s report, body-worn camera footage, digital in-car video, and surveillance footage from the incident location. The question raised by this OIS is whether Officer William Jones, Jr. acted in self-defense or defense of others. A detailed analysis of the evidence surrounding the OIS demonstrates that a prosecuting agency would not be able to establish that Officer Jones was unreasonable in a determination that lethal force was necessary to protect himself or others, or that he did not actually hold this view. Accordingly, the examined evidence does not support the contention that the shooting of Mr. Lopez violated any criminal law. Because of transferred intent, the examined evidence similarly does not support the contention that the shooting of Ms. Orellana Peralta violated any criminal law.

The evidence shows that Officer Jones likely believed he was acting in self-defense or defense of others. Officer Jones was informed by at least two radio broadcasts that a suspect was armed with a gun and had fired shots within the Burlington store. His partner, Officer Suarez was in their patrol car with Officer Jones when he heard radio broadcasts regarding assault with a deadly weapon and shots being fired. They discussed the call, decided to respond, and Office Jones called in that they were responding. By that time, there had been five separate broadcasts, which took place in the span of two minutes and 20 seconds. Two of those calls reported assault with a deadly weapon, and three reported “shooting just occurred.” These broadcasts all took place while Officers Suarez and Jones were in their patrol vehicle. In his statement, Officer Suarez stated that he heard at least one report of a firearm having been shot. Based on the timing and fact that Officer Jones was in the same vehicle as Officer Suarez, it is reasonable to infer that Officer Jones also heard this report of shots having been fired.

Similarly, other officers believed, based on the radio communications, that they were responding to a scene where shots had been fired. Officers Mazur, Escobar, Krauss, Suarez, Case, and Stratton all believed they were responding to an active shooter situation. Officer Head believed that the assault with a deadly weapon might involve a firearm.

While the radio traffic was technically reporting on two different “incidents” (1582 and 1586), the officers assumed that the two incidents were the same, likely because they were both at the same location and they were so close in time. Even officers who specifically mentioned that there were two distinct calls said that they believed they were going into an active shooter situation (Officers Escobar, Case), or at least one that possibly involved a firearm (Officer Head).

There was some information that suggested that the incident was limited to an assault with a deadly weapon. W-9 informed Officer Mazur that a suspect, wearing no pants, was armed with a bicycle lock, and there was no mention of a firearm. Officer Jones was not present during that conversation. Officer Mazur broadcast this information over the radio just as Officer Jones arrived at the scene, but it is not known whether he heard it; his partner Officer Suarez did not mention hearing that description. However, the officers who did receive this information did not believe it disproved the reports that shots had been fired. Even Officer Head, who recognized that the sound of a bicycle lock striking an object could be mistaken for a gunshot, acknowledged that a firearm might still be involved. As noted, however, nearly all of the officers felt that, notwithstanding the calls regarding assault, they were responding to an active shooter situation given the calls regarding shots having been fired.

When Jones arrived at the store, his fellow officers had already made entry. Prior to entering the store, he would have seen the shattered glass door, as the Officers Stratton, Head, Krauss, Case all mentioned seeing. Officer Stratton specifically noted that the glass might have been broken as a result of a gunshot. It is reasonable to infer that Officer Jones was likely aware of the same possibility.

Officer Jones ran up the escalator to the second floor, where he encountered the other officers who had formed a contact team and were already in “diamond formation,” prepared to encounter the suspect. As Officer Jones was aware from his training, LAPD officers are trained to assemble in the diamond formation when encountering an active shooter who has access to multiple potential victims. He had further been trained that in such situations, “delayed deployment could have catastrophic consequences.” He was further trained that, “the first priority is to locate the assailant(s) and STOP the aggressive deadly behavior...,” and that “responding personnel must keep in mind that their primary role is to protect innocent persons at risk.” The fact that the officers were in a diamond formation reflected their belief that they were in an active shooter situation, and Officer Jones would have understood their formation to reflect that belief.

As Officers Stratton and Head entered the store, they both noticed blood on the ground, and Officer Stratton recalled Officer Jones expressly remarking on the blood. Seeing the blood would further have led Officer Jones to believe he was entering a situation so dangerous that a victim had been injured enough to leave visible blood.

As Officer Jones joined the officers upstairs, Officer Krauss yelled, “victim down,” and the officers advanced. Officer Jones, as he was trained to do, took the lead in the diamond formation because he had the patrol rifle. The officers continued to advance with Jones at the lead. Officer Jones came upon W-10, prostrate on the floor and bleeding profusely from wounds to her head and face and yelled, “she’s bleeding, she’s bleeding.” As Officer Jones reached W-10, Mr. Elena Lopez came into view as he turned to run.

When Officer Jones saw Mr. Elena Lopez, Mr. Elena Lopez was holding a dark object. Expert Greg Meyer concluded that Officer Jones could reasonably have been assessed the object as a gun, given the information Officer Jones had that a suspect armed with a gun had fired shots inside the store, and the appearance of W-10, who was lying on the floor with her head and face covered with blood. The circumstances suggested that Mr. Elena Lopez had inflicted serious bodily injury on W-10, and, as Officer Head noted, that Mr. Elena Lopez had tried to kill her. Further Mr. Elena Lopez moved rapidly toward another aisle, potentially endangering other officers or innocent civilians. The most reasonable interpretation of the evidence is that Officer Jones likely perceived an apparent need to immediately react to this perceived threat.

Officer Jones fired his rifle three times in rapid succession, stopping when Mr. Elena Lopez fell to the ground and no longer posed an imminent threat. This was in accord with officer training that instructed officers to fire multiple shots at the threat’s center of mass until a deadly threat has been stopped. Mr. Elena Lopez did not fall to the ground until after Officer Jones fired his third shot. All of this evidence strongly suggests that Officer Jones believed that Mr. Elena Lopez was about to shoot him or a nearby civilian when he shot Mr. Elena Lopez.

The above evidence also suggests that Officer Jones reasonably believed that Mr. Elena Lopez posed a significant threat of death or great bodily injury not only to W-10, but also to the responding officers, to Jones himself, and to any civilian employees or shoppers inside the store. Officer Jones and the other officers had received information that a shooting had occurred at the store. Officer Jones responded and observed his fellow officers in the tactical formation used when encountering an active shooter. Upon reaching W-10, her appearance was consistent with someone who had been shot, and Mr. Elena Lopez held a dark object in one hand as he took cover. Under these circumstances, the officer’s apparent belief that Mr. Elena Lopez was armed and posed an imminent threat to him and others in the store cannot be shown to be unreasonable.

One of the three rounds fired by Jones ricocheted off the floor near Mr. Elena Lopez, changed course, and penetrated the wallboard of a fitting room in which Ms. Orellana Peralta and her mother were hiding, striking Ms. Orellana Peralta, and killing her. Because Ms. Orellana Peralta and her mother were concealed behind a wall, it was not apparent that they or any other persons were present in the “background” of Officer Jones’s shots. This killing appears to have been unintended and unforeseeable. Officer Jones’s intent in shooting Mr. Elena Lopez transferred to the unintended killing of Ms. Orellana Peralta, and thus no charges relating to her death can be proved beyond a reasonable doubt.

CONCLUSION

The evidence does not show, beyond a reasonable doubt, that Officer Jones acted without the intent to defend himself and others from what he reasonably believed to be imminent death or serious bodily injury. The doctrine of transferred intent mandates that the same reasoning applies to the death of Ms. Orellana Peralta. Therefore, there is insufficient evidence to support a criminal prosecution of Officer Jones. As such, no further action will be taken in this case.



C A L I F O R N I A

DEPARTMENT OF JUSTICE

Policy and Practice Recommendations for the Los Angeles Police Department Related to the Officer-Involved Shooting of Daniel Elena Lopez and Valentina Orellana Peralta on December 23, 2021

ISSUED PURSUANT TO CALIFORNIA GOVERNMENT CODE
SECTION 12525.3, SUBDIVISION (B)(2)(B)(III)

APRIL 2024



POLICY AND PRACTICE RECOMMENDATIONS

The Attorney General is required to include "[r]ecommendations to modify the policies and practices of the law enforcement agency, as applicable" as a component of this report. (Gov. Code, § 12525.3 subd. (b)(2)(B)(iii).) To that end, the DOJ conducts an additional review of the information obtained through the criminal investigation (for example, body-worn camera footage, interview recordings, video recordings, witness statements and other records) as well as the publicly-available policies of the agency employing the officer(s) who are subject to the criminal investigation. The DOJ uses the review process to identify "applicable" recommendations, including any recommendation to modify policy and practices that may reduce the likelihood that officers use deadly force as well as recommendation to address any other deficiency or concern related to the officers' conduct or the agency's response that the DOJ observes. Because of the nature of this process, the DOJ does not generally obtain additional information from the employing law enforcement agency or conduct independent investigation of the agency's practices outside of the single incident under review, which makes this process different from the DOJ's formal Civil Code section 52.3 investigations and oversight reviews of local law enforcement agencies. DOJ's goal is that these recommendations will assist the agency and the officer(s) involved in the incident in understanding, from an independent perspective, improvements that could be made to address what we have observed through this incident.

Pursuant its obligations under Government Code section 12525.3, subdivision (b)(2)(B)(iii), the DOJ offers the following recommendations:

1. LAPD should evaluate its policies and training to improve lines of communication in response to Immediate Action/Rapid Deployment scenarios.

Although a tactical plan was developed and communicated a breakdown of communication occurred upon the arrival of the formation of the contact team, and in particular Officer Jones.

Here, consistent with LAPD's Training Bulletin on Command and Control (Volume XLVII, Issue 4, July 2018), Officer Mazur, as the senior officer on the scene, took the lead and formulated a plan. Officer Mazur advised Officer Escobar to "[g]et the tube" (referring to the shotgun) and that he had "the 40" (referring to the 40mm less-lethal launcher) which he gave to Officer Head when he arrived. In doing so, Officer Mazur ensured that there was an option to use less-lethal force but also the flexibility to use lethal force if necessary.

Officer Mazur and other officers stopped at the front of the building, where they talked to W-9 and assessed the scene, including whether there was any possible weapon involved and whether there were people in the building. Officer Mazur broadcasted to the LAPD Communications Division (CD) that the contact team was going to make contact, stating, "[h]old the frequency, please. And we're going to be moving up right now. . . . We have one suspect, no pants, with a bike lock. We are making contact. Have one unit come in from the east side. He's on the second floor. Make that a backup on that call."

Consistent with LAPD's Training Bulletin on Immediate Action/Rapid Deployment (Part I, Volume XXXV, Issue 11, July 2003), Officer Escobar advised the four-person contact team to form a "diamond formation" upon entering the building and as the team ascended the escalators up to the second floor. Officer Mazur advised Officer Escobar to let Officer Head "hit him with the 40" if they saw Elena Lopez. The contact team continued up the escalator and Officer Mazur advised to "get that tube up in front" and repeatedly cautioned team members to "hold." Officer Escobar reminded team members

to maintain a diamond formation. Officer Mazur also loudly called out for “all victims [to] come out.” Upon his arrival and throughout the incident, Officer Mazur regularly broadcast the team’s actions to the LAPD CD.

These actions, among others, reflect a lead and a contact team that was deliberate and intentional with their planning and the steps they took to approach the suspect and manage the aftermath of the shooting.

Nevertheless, the arrival of additional officers on scene after the formation of the contact team, and in particular Officer Jones, resulted in a breakdown of the communication, roles, and responsibilities. After Sergeant Case waved Officer Jones up the escalator, Officer Jones approached the contact team around the same time that contact team members first observed and announced that a victim was down. Officer Jones moved to the front of the contact team and assumed the position of point, stating “let me take point with the rifle.” With Officer Jones now as point, Officer Escobar, the original point, asked Officer Jones, “You got it? You got it? On your six. Straight ahead on the right-hand side” and stated “[s]low down, slow down partner, slow down partner.”

As reflected in Officer Mazur’s body-worn camera footage, the original diamond formation changed once Officer Jones moved to point. Officer Jones did not respond to Officer Mazur’s calls to slow down. As Officer Jones got closer to the victim, he shouted, “Hey, she’s bleeding, she’s bleeding!” Officer Head responded, “Hold up, hold up Jones, hold up - I got it,” consistent with the contact team’s original plan for him to “hit [Elena Lopez] with the 40.” Officer Head began to raise the 40mm less-lethal launcher, as was part of the original plan set out by Officer Mazur. But Officer Jones instead fired his patrol rifle. As described above, Officer Jones did not take an opportunity to determine the original plan of the diamond formation or any additional information learned by the contact team. Nor did Officer Mazur communicate the plan or additional information to Officer Jones, as an incoming officer who took the position of point from Officer Escobar.

The DOJ acknowledges the situation was highly stressful and the number of victims and the location of the armed suspect was uncertain. However, it is important to note that when it is practically feasible, taking into account the safety of the officers and civilians, officers should engage in continuous and clear communication.

LAPD’s Immediate Action/Rapid Deployment Training Bulletin (Part I, Volume XXXV, Issue 11, July 2003) states only that “[t]ravel is conducted in a fluid movement - aggressive, controlled and precise” and that “[e]ach officer must remain flexible as individual responsibilities can vary in an ever-changing and unpredictable environment.” While these factors are important, the training bulletin does not provide guidance, among other issues, on (1) how and when contact team leaders should communicate the plan, roles, and responsibilities to officers who arrive later on scene; (2) the criteria and circumstances that warrant a change in team roles and plans; (3) how officers arriving after a contact team is formed can and should obtain information about the scene and determine how to support the contact team; and (5) how team leaders should alert other team members when a plan needs to be abandoned (e.g., through the use of a code word). LAPD should consider whether this 2003 training bulletin and any related training should be updated to provide additional guidance as described above. LAPD should also consider whether this training bulletin and any related training be accompanied by scenario training to account for the type of situation presented here (e.g., uncertainty about the type of deadly weapon, number of victims, location of victim, crowded retail store, and officers with different types of equipment and force options).