



C A L I F O R N I A

DEPARTMENT OF JUSTICE

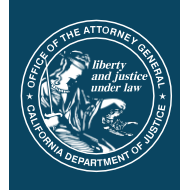
Report on the Investigation into the Death of Guadalupe Zavala on December 10, 2021

Contra Costa County AB 1506

May 2024

TABLE OF CONTENTS

BACKGROUND—AB 1506	1
PRIVACY STATEMENT	2
INTRODUCTION	3
SUMMARY OF INCIDENT	3
INVESTIGATION	13
Evidence Reviewed	13
Incident Scene Description.....	20
Incident Scene Evidence Recovery	20
Body Worn Camera (BWC) and Other Recordings	25
Interviews of Involved Officers.....	27
Interviews of Civilian Witnesses.....	35
Autopsy, Ballistics, and Inquest.....	35
APPLICABLE LEGAL STANDARDS.....	37
LEGAL ANALYSIS	39
CONCLUSION	43



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 such 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 why 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 decedent. 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 identified as follows:

- Neighbor #1 – Resident of the home that shares the Southwest portion of the back fence with Mr. Zavala’s residence.
- Neighbor #2 – Resident of the home that shares most of the South portion of the back fence with Mr. Zavala’s residence.
- Neighbor #3 – Resident of the home that shares a fence line with Mr. Zavala’s residence.

INTRODUCTION

On December 10, 2021, at approximately 1:09 PM, law enforcement responded to the residence of 55-year-old Guadalupe Zavala in the City of Antioch, Contra Costa County. 911 callers had reported that Mr. Zavala was shooting at neighboring homes and vehicles and that Mr. Zavala, a former member of the military, had taken cover in his own residence with a rifle.

A standoff lasting more than six-hours ensued during which Mr. Zavala fired multiple rounds from various locations towards law enforcement personnel, vehicles, and nearby residences. De-escalation measures, crisis intervention, and attempts to coerce Mr. Zavala from his residence were unsuccessful. At one point, Mr. Zavala exited his front door carrying what appeared to be a “full AR-15 style rifle.” Officer Scott Duggar and Sergeant Theodore Chang, two snipers with the Antioch Police Department, each fired one round hitting Mr. Zavala, causing him to fall back. However, because Mr. Zavala was wearing body armor, he was able to regain his footing and moved back inside the residence. Later, Mr. Zavala set fire to his own home and took cover in his backyard. When law enforcement approached in an armored vehicle, Mr. Zavala ran towards the armored vehicle as soon as the fence was taken down. Officer Duggar fired a single round, and Officer Rombough and Detective McDonald each fired several rounds, fatally wounding Mr. Zavala.

The Department of Justice investigated and reviewed the above officer-involved-shooting pursuant to Government Code section 12525.3 (enacted by Assembly Bill 1506). This report is the final step in the DOJ’s review of the fatal shooting of Mr. Zavala. The scope of this report is limited to determining whether criminal charges should be brought against the involved officers, and offering possible policy and practice recommendations. The review does not encompass or comment on any potential administrative or civil actions. It may, however, include policy and practice recommendations, as required by Government Code section 12525.3, subdivision (b)(2)(B)(iii).

Based on the criminal investigation, review of evidence, and evaluation of the case, we have determined that there is insufficient evidence to support the filing of criminal charges against Officer Scott Duggar, Sergeant Theodore Chang, Officer Eric Rombough, and Detective Ryan McDonald.

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

SUMMARY OF INCIDENT

On December 10, 2021, at about 1:09 PM, a series of 911 callers reported that Mr. Zavala was shooting at neighbors’ homes and vehicles in a residential neighborhood in the City of Antioch. Mr. Zavala, a former member of the military, had taken cover in his residence with a firearm, which was described as some sort of rifle, and had fired dozens of rounds of ammunition towards neighboring property.

Officers from Antioch Police Department, Oakley Police Department, Pittsburg Police Department, Contra Costa Sheriff’s Office, and Brentwood Police Department responded to the calls for service.

As officers from multiple agencies arrived at the scene, they heard gunshots and confirmed that the shots were fired from Mr. Zavala’s residence. Officers immediately created a perimeter around Mr. Zavala’s single-story house and ordered neighbors to stay in their homes.

Mr. Zavala continued to periodically fire at law enforcement throughout a six-hour standoff. During that time, Mr. Zavala was armed with a rifle, wore camouflage clothing and a ballistic helmet (a helmet designed to protect from bullet impact on the head), and walked around the front of his residence aiming his rifle and firing repeatedly. As the standoff unfolded, officers attempted several methods of de-escalation, including crisis negotiation, use of loudspeakers, and police drones. They also maintained a perimeter around Mr. Zavala's home to give Mr. Zavala time to exit the residence. Mr. Zavala refused to exit the residence, cut off communication with crisis negotiators, declined to listen to his family when they asked him to exit the residence, and continued to discharge the weapons in his possession either at neighboring homes or at officer drones. Mr. Zavala barricaded himself in his home and eventually refused to answer calls from crisis negotiators or communicate with officers in any capacity.

At about 1:28 PM, Brentwood Police Department used a drone to identify Mr. Zavala outside of his residence with a rifle, wearing body armor and a ballistic helmet. (Figure 1.) At 2:14 PM, Mr. Zavala shot down one of the police drones that was about 100 feet in the air. Based on that shot, Sergeant Chang and Officer Duggar, who heard the shots as Mr. Zavala fired off each round, inferred that Mr. Zavala was an experienced shooter.

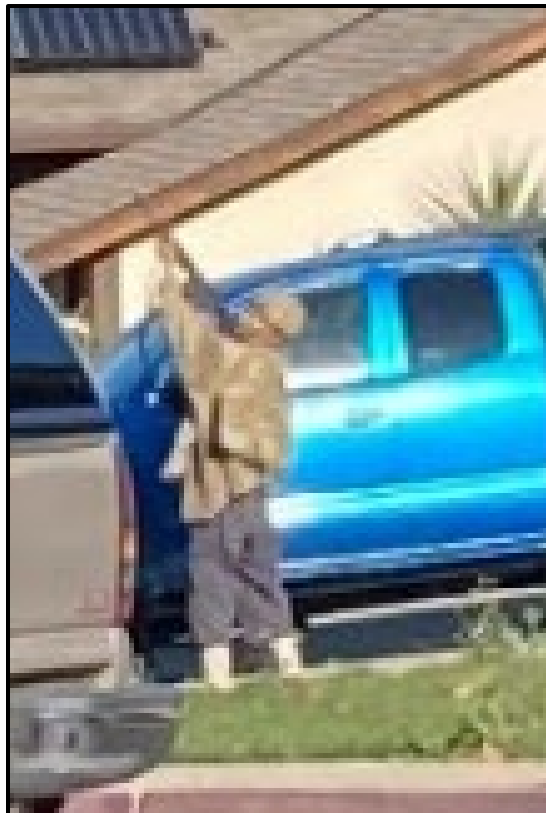


Figure 1: Photograph from Brentwood Police Department drone footage showing Mr. Zavala taking aim and shooting at a police drone.

At 3:51 PM, Mr. Zavala communicated with crisis negotiators and asked how many people he had shot. When negotiators told him no one was injured, Mr. Zavala stated, "I missed my targets?" Mr. Zavala then hung up.

Crisis negotiators also communicated with Mr. Zavala's two sisters and brother who advised them that Mr. Zavala was paranoid, acted erratically, and used methamphetamine. Mr. Zavala's sister confirmed that he had many different types of weapons in his home. Mr. Zavala's brother informed negotiators that Mr. Zavala had about 100 rounds of ammunition and at least one rifle and one pistol in his home, and that he was not a good shooter. This information was all relayed to officers on scene via radio, though the radio transmission was inconsistent throughout the incident due to the geographical location of this neighborhood. Specifically, all officers interviewed indicated that this neighborhood was located in "hilly terrain" that made radio and cellphone communications, both incoming and outgoing, inconsistent and unreliable.

Crisis Negotiators observed that Mr. Zavala appeared "paranoid" and was very easily agitated, making it difficult to maintain consistent communication with him throughout the incident. Negotiator T. Nguyen spoke to Mr. Zavala's brother, who arrived on scene and stated that Mr. Zavala had been "extremely paranoid" and that he had not seen Mr. Zavala since September. Officers allowed Mr. Zavala's brother to communicate with Mr. Zavala via text and video messages to let Mr. Zavala know that his brother was present at the scene. In those communications, Mr. Zavala's brother encouraged him to surrender, but Mr. Zavala did not surrender. Mr. Zavala stated to Crisis Negotiator A. Duffy that he believed the negotiator was "fishing" for information" before hanging up the phone and ceasing communication.

At approximately 4:46 PM, SWAT teams completed evacuations of the surrounding residences except for the two closest residences, to the south and southwest of Mr. Zavala's residence. During the evacuations, officers located along the incident perimeter and officers on the evacuation teams reported that Mr. Zavala was shooting at them. The residents in the two closest residences could not be evacuated from their homes, due to their proximity to Mr. Zavala's residence and the safety risks that evacuation would present. Antioch Police Department dispatch told those residents to shelter in place.

First Officer Involved Shooting

Officer Duggar and Sergeant Chang were both positioned as snipers across the street from Mr. Zavala's house. Their exact distance from Mr. Zavala when they fired is unclear, but is estimated to be about 116 feet. (Figure 2.)

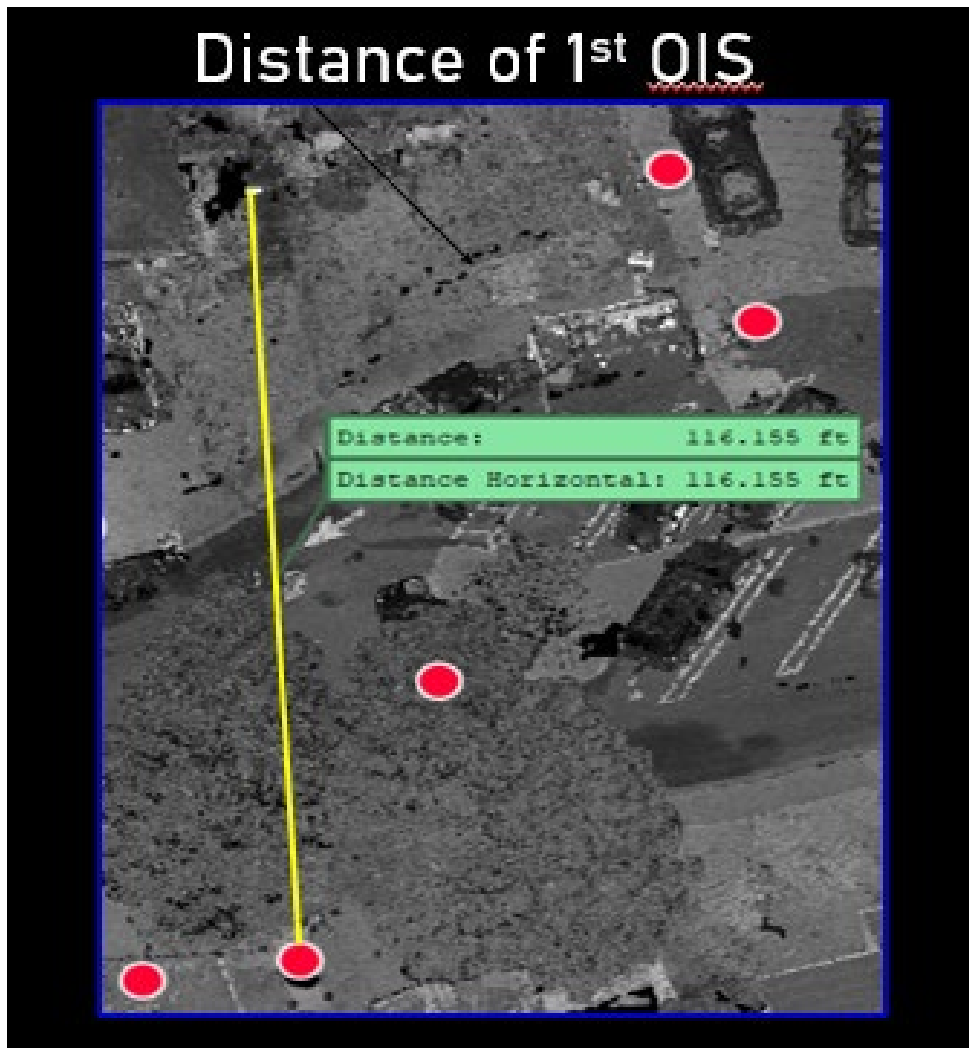


Figure 2: Distance between Mr. Zavala's house and the location where Officer Duggar and Sergeant Chang were when they fired their shots.



Figure 3: Mr. Zavala's front porch area.

At about 4:51 PM, Mr. Zavala “exited the front door of his residence.” According to Officer Duggar, Mr. Zavala appeared to be carrying a “full AR-15 style rifle,” and moved “tactically” as if to take position to fire. Sergeant Chang and Officer Duggar saw Mr. Zavala come out onto his porch area (Figure 3), take cover behind an American flag draped on the railing in front of the porch, and appear to take aim with his firearm. Sergeant Chang and Officer Duggar each fired one round at Mr. Zavala, aiming at “center mass.” Mr. Zavala fell back. According to the officers, however, they were not sure if either shot actually hit Mr. Zavala’s body due to the body armor he was wearing. Mr. Zavala then stood up and went back inside his home through his front door.

Second Officer Involved Shooting

At approximately 6:50 PM, Sergeant Chang observed fire coming from Mr. Zavala’s garage and relayed that information to others via radio.

Officer Duggar and Detective McDonald believed that Mr. Zavala had intentionally set fire to his home to create a ruse for his escape or to prompt officers to enter his residence, at which point he would ambush them.¹ The fire quickly spread throughout Mr. Zavala’s residence and engulfed the structure in flames.

¹ CCCFPD Arson Investigator, Glenn Myer, later determined the fire to be suspicious and the most probable cause was arson, intentionally set by Mr. Zavala.

According to a fire department captain at the scene, the fire, if not contained, would spread to the neighboring homes where neighbors were sheltering in place. Officer Duggar also feared that, under the cover of fire and smoke, Mr. Zavala might exit the perimeter and enter a neighboring residence to hold someone hostage.

At about 6:54 PM, officers observed Mr. Zavala exiting the window on the north side of his residence. Detective McDonald saw Mr. Zavala carrying an object that appeared to be a rifle. A helicopter "STAR 1" operator advised officers the following by radio: Mr. Zavala was "leaning up against the house just under the window on the 2-side, proned out with a rifle"²; Mr. Zavala "is running, running, trying to make his way to the fence"; and "He is laying on the ground, looks like he is shedding clothing...unable to see if he still has a rifle" because the flame from the fire was so bright.

The heat from the fire was evident to officers near the residence, and the fire department could not suppress the fire as long as this was an active shooter incident. A window above Mr. Zavala then exploded from heat, and shards of glass fell onto Mr. Zavala as he lay underneath.

At approximately 6:58 PM, Mr. Zavala quickly stood up, dropped the object believed to be a rifle, and ran east around the back of his residence while holding what appeared to be a ballistic vest. He lay in the grass near the edge of the cement porch and covered his upper body with the ballistic vest for approximately eight seconds. Mr. Zavala then jumped up and moved to the base of the stairs near the sliding back door. Again, he covered himself with the ballistic vest while hot embers appeared to fall down the stairs and over him.

After approximately 90 seconds, Mr. Zavala got up, dropped the ballistic vest, then ran south to the side yard (the "4-side" of the home, as described in the radio transmission), toward the un-evacuated neighboring residence, and lay down under a barbecue for approximately two-and-one-half minutes.

The helicopter then followed Mr. Zavala as he moved to the "4-side" of the home, which is where he remained. The helicopter relayed the following to officers over the radio about Mr. Zavala's actions: "Still unknown if he has a rifle or not"; "He is hiding under the barbeque under the 4-side"; "He is holding something in his hand, possibly a handgun, hard to tell"; and "He is getting up now he is running towards the bearcat...towards the fence."³

Officer Duggar, Detective McDonald, and Officer Rombough all heard the information relayed by radio transmission from the helicopter.

² Officers referred to the north side of the house as the "2-side."

³ BearCat is a brand of armored vehicle.



Figure 4: Mr. Zavala lying prone outside the North side of his home, under a barbecue, with what the helicopter reported to possibly be a handgun in his hands (circled).

Two armored vehicles were positioned outside of Mr. Zavala’s residence, one operated by Pittsburg Police Department (a Ballistic Armored Tactical Transport vehicle or “BATT”) and another operated by Antioch Police Department. Officer Eric Rombough was in the back of the Antioch armored vehicle, which was open and uncovered, and he had a shield that provided coverage. Detective Ryan McDonald was in the turret of the Antioch armored vehicle, which provided partial coverage of the lower body; there was also a shield covering the turret that had holes and gaps that would still allow bullets or fragments to enter. According to both officers during their interviews, their positions left them exposed to impact from gunfire from Mr. Zavala. The Antioch armored vehicle was facing away from the fence, so Officer Rombough was closer to the fence.

At 7:02 PM, Pittsburg Police Department sent their armored vehicle in to take down the fence on the south side of Mr. Zavala’s residence. Review of the armored vehicle video and drone video show that, as the armored vehicle rammed into the fence a second time, the fence got stuck on the vehicle. As the armored vehicle backed up, it took down part of the fence with it. As the fence came down, Mr. Zavala immediately stood up from his position and ran towards the armored vehicle. Mr. Zavala brought his arms out in front of him, hands together near his upper torso area, as if he was holding something out in front of his body, and he took steps towards the armored vehicle.

Officer Duggar fired one round aimed at Mr. Zavala’s head; after that, his gun malfunctioned, and he did not fire any additional shots. At the time he fired, Officer Duggar was approximately 132 feet away from Mr. Zavala. It is unknown whether Officer Duggar’s round made impact, but Mr. Zavala was wearing a ballistic helmet on his head at the time.

Officer Rombough and Detective McDonald were in the Antioch armored vehicle located across the street, and the back of the vehicle was facing the fence where Mr. Zavala was located. Both officers also fired at Mr. Zavala as he moved toward the Pittsburg armored vehicle. First, approximately two shots are heard on armored vehicle video, after which Mr. Zavala falls to the ground and the shooting briefly stops. But then Mr. Zavala got up from the ground about half way, and before he could fully stand up, the officers fired again, with multiple shots heard on video in rapid succession. Based on a later examination of their rifles, Officer Rombough fired approximately 31 times, and Detective McDonald fired approximately 14 times.

The distance between Mr. Zavala and the Antioch armored vehicle is estimated to be about 103 feet. (Figure 6.)



Figure 5: The distance between Officer Duggar and Mr. Zavala was about 132 feet.

Distance from Antioch Armored Vehicle to Mr. Zavala



Figure 6: This image shows that the distance between Officer Rombough and Detective McDonald (both positioned on the Antioch armored vehicle) and were about 103 feet from Mr. Zavala when they fired.

Depicted in Figure 7 is the Antioch armored vehicle and in Figure 8 is the Pittsburg armored vehicle (BATT).



Figure 7: Side photo of Antioch armored vehicle.



Figure 8: Photo of Pittsburg armored vehicle (BATT) at an angle

After Officer Rombough and Detective McDonald fired their final rounds, Mr. Zavala fell to the ground and did not move. As mentioned above, the armored vehicle took down the fence at about 7:02 PM, and Mr. Zavala was shot and fell to the ground for the final time at about 7:03 PM.

Sergeant Baker, with the arrest team, immediately approached Mr. Zavala at about 7:06 PM and moved Mr. Zavala away from the fire. The arrest team began applying chest seals to Mr. Zavala's gunshot wounds and CPR.

At about 7:07 PM, American Medical Response (AMR) personnel arrived and began issuing emergency medical care to Mr. Zavala. The AMR supervisor on the scene was C. Sutter. When they arrived, Mr. Zavala had been pulled away from the fire, his shirt had been cut off, and he was being provided what Sutter described as "excellent" patient care by the arrest team. Mr. Zavala was also wearing a military style helmet and jeans. There was no mention by AMR staff who were interviewed of Mr. Zavala still having anything in his hands or on his person; Mr. Zavala was already unconscious by then. Mr. Zavala was declared dead at 7:12 PM.

California Department of Justice Notification

At the conclusion of the incident, local investigators searched the scene for hours and determined that Mr. Zavala was not armed with a deadly or dangerous weapon when the second officer involved shooting occurred.

The California Department of Justice was notified of the officer-involved shooting on December 11, 2021, at about 3:01 PM. When the California Department of Justice took over the investigation the scene was still being processed and had not yet been cleared.

INVESTIGATION

Evidence Reviewed⁴

The evidence reviewed in this case includes but is not limited to: interviews of 911 callers, fire-medical personnel, and law enforcement (including all four shooting officers); a review of law enforcement video and communications during the incident (radio, calls, body camera videos, drone videos and images, etc.); search warrants of electronic devices, including devices in the area that provided further data of the incident; and an autopsy report of Mr. Zavala. Key evidence, summarized below, aided in the analysis of this incident.

911 Calls

At 1:13 PM the Antioch Police Dispatch Center started receiving 911 calls about a man shooting a gun in a residential area in Antioch. The calls reported that the shooter, Mr. Zavala, was wearing camouflage clothing and a ballistic helmet, he was walking around barefoot, and he was carrying a rifle. Four of the neighbors who called 911 reported that Mr. Zavala was shooting at cars and residences in the neighborhood.

The specific location of Mr. Zavala's residence and the surrounding neighborhood is depicted in Figure 15, an aerial view of the neighborhood, which shows the close proximity of the homes to each other.

Statements from Crisis Negotiators

The Antioch Police Department's Crisis Negotiator Team (CNT) contacted Mr. Zavala multiple times in an effort to deescalate the situation and encourage him to surrender. The CNT was comprised of Team Lead P. Kendall and Officers S. Cole, A. Duffy, J. Chandler, B. Crites, and T. Nguyen. Officer Chandler was on scene at about 1:30 PM. S. Cole was on scene at around 2:00 PM. Officer Duffy was on scene at about 2:20 PM. Team lead Kendall arrived at about 2:30 PM. Officer Crites arrived at some point before 3:00 PM. Officer Nguyen was called later and arrived at about 4:00 PM, and then was briefed on the incident by the other team members.

At 3:19 PM, CNT made their first contact with Mr. Zavala by calling him on a cell phone number that his family provided to the CNT. Officer Cole spoke with Mr. Zavala and relayed to his team that Mr. Zavala was "agitated" said his neighbors were shooting at him, and that the call concluded quickly due to reception issues. Officer Cole spoke to Mr. Zavala a second time, told Mr. Zavala there were officers on scene, to which Mr. Zavala asked "where they at? I'm being shot at" and said the drone was shooting at him. Mr. Zavala said he would only believe Officer Duffy if Officer Duffy arrested "all these motherfuckers who've been shooting at me!" Mr. Zavala said he could feel the shots and his dogs could too, that he would send Officer Duffy a picture of his eye, and then hung up.

Eventually Mr. Zavala sent a video of his eye. Officer Duffy called Mr. Zavala multiple times before he answered. When he spoke to Mr. Zavala again, he told him there was an ambulance outside to check on his eye. Officer Duffy repeatedly assured Mr. Zavala that no one was shooting at him or trying to hurt him. Mr. Zavala said that he was "just trying to stay alive" and that he had evidence people were shooting at him. Mr. Zavala said he had a cut he needed to tend to and hung up on Officer Duffy.

⁴ Only evidence pertinent and relevant to the OIS incident is summarized in this report.

At some point, after Mr. Zavala shot down one of the police drones, Officer Cole called Mr. Zavala and spoke to him. Mr. Zavala asked “How many people are injured today?” When Officer Cole said no one had been injured, Mr. Zavala asked again and Officer Cole repeated his answer. Mr. Zavala then stated “Nobody’s been injured yet?!...I missed all my targets?!” Officer Cole told Mr. Zavala the police were there to make sure he was safe, but Mr. Zavala said that he needed to tend to a “cut” and he hung up the phone.

During at least two more calls with Officer Duffy, Mr. Zavala told Officer Duffy to tell his neighbors to leave him alone, and “you gotta go after my neighbors too man they shooting at me.” Mr. Zavala told Officer Duffy to tell his command officer that he (Mr. Zavala) was “in a heap of trouble for fucking defending myself” and repeatedly said that he was in “life preserver stage.” Mr. Zavala repeatedly referred to himself as a U.S. Sergeant and told Officer Duffy “I need your help officer!” Officer Duffy asked him if he wanted to be safe and Mr. Zavala said, “no I want to be stopped,” and “I need people to stop shooting at me.”

The last phone call in which Mr. Zavala answered a call from Officer Duffy ended at about 4:06 PM. Mr. Zavala stated that his Sergeant was going to verify that they were actually officers outside his house and told Officer Duffy to “hang tight,” then hung up. From about 4:06 PM until about 6:38 PM, Officer Duffy repeatedly called Mr. Zavala’s cellphone and Mr. Zavala did not answer.

At about 4:30 PM, Mr. Zavala’s brother arrived on scene. Mr. Zavala’s brother informed Officer Nguyen that Mr. Zavala had been increasingly paranoid, had schizophrenic tendencies, and a history of methamphetamine use. Mr. Zavala’s sister also informed CNT, during a phone call, that Mr. Zavala was extremely paranoid and was abusing methamphetamine.

Under the direction of Officers Nguyen and Duffy, Mr. Zavala’s brother sent a text message to Mr. Zavala, sometime after 4:30 PM, that stated “Hey Boy, I am outside your house with the police. They are here to help you, so you need to answer your phone when they call you. I’m very worried for you. I love you.” Officer Nguyen reported that she did not see a response from Mr. Zavala responding to his brother’s text. CNT attempted to call Mr. Zavala multiple times but Mr. Zavala stopped answering the CNT phone calls.

Mr. Zavala’s brother told CNT that Mr. Zavala was a former soldier in the U.S. Military. At one point, Mr. Zavala asked the CNT to contact his Sergeant. Mr. Zavala told the CNT that he was a “Tow Gunner” and admitted to having a 5.56 caliber rifle that “stays within boundaries.”

At about 4:46 PM, CNT decided to record a video of Mr. Zavala’s brother and the brother’s son to send to Mr. Zavala to help assure him that his family was on scene. Officer Nguyen recorded the video, in which Mr. Zavala’s brother stood with his son and said, “Hey Boy, me and [name of son] are here. We’re concerned about you. We want to see you come out safe. This is real, this is no joke, you know. We love you so, you know, call us back.” In the video, Mr. Zavala’s brother and his son could be seen, as well as officers working in the background, to help assure Mr. Zavala that officers were on scene as well. Officer Nguyen sent the video to the main negotiator cellphone that was used to communicate with Mr. Zavala, and the video was sent to Mr. Zavala.

A short time later, Mr. Zavala called his brother's cell phone back, and his brother was instructed to allow Officer Duffy to answer. Officer Duffy communicated with Mr. Zavala, and Mr. Zavala told Officer Duffy that he did not believe Officer Duffy was actually the police, that he did not care if Officer Duffy was with his brother, and told Officer Duffy to tell his brother to go home. According to Officer Duffy, Mr. Zavala's speech was elevated and he asked for his commanding officer to confirm Officer Duffy's credentials, then cut off Officer Duffy when Officer Duffy attempted to talk about military service in order to establish a repertoire with Mr. Zavala. Mr. Zavala then told Officer Duffy that he felt Officer Duffy was trying to elicit information from him, then Mr. Zavala hung up the phone and ceased any further communication with CNT. Once it became clear that Mr. Zavala would not speak to CNT, Officers Duffy and Nguyen instructed Mr. Zavala's brother not to answer any more calls from Mr. Zavala and to leave the scene. They informed Mr. Zavala's brother that they would contact him if they needed him to return. After this last contact between Mr. Zavala and CNT, Mr. Zavala continued to fire shots from his residence. (During the entire encounter, radio traffic mentioned shots fired from Mr. Zavala's property 49 times.)

Since Mr. Zavala would not answer his phone, Antioch Police Department decided to break his second story window using the armored vehicle so they could send a drone into his residence to drop a "throw phone" (disposable cell phone) and reestablish communication with Mr. Zavala.

CNT Team Lead Kendall then sent a drone in through the window. This drone successfully dropped the phone, and Officer Duffy placed calls to the throw phone, but Mr. Zavala never answered. This drone had visual of Mr. Zavala, even during the initial stages of the fire, but eventually lost visual when Mr. Zavala went into hiding. According to CNT report, at some point Mr. Zavala threw something over the drone that disabled it, and both the drone and phone were "damaged" and inoperable for intelligence or communication for the rest of the incident.

CNT were unable to send anything additional in to Mr. Zavala's residence to reconnect with Mr. Zavala for the duration of the incident because the fire in Mr. Zavala's home became too intense.

During the incident, CNT made 97 calls to Mr. Zavala's phone, six of which Mr. Zavala answered and spoke to CNT. CNT left five voicemails and sent three text messages as well. When he did answer their calls, Mr. Zavala's speech was elevated and difficult to understand at times. Mr. Zavala made multiple statements to the CNT about being under attack and under pressure.

Photographs

1. Mr. Zavala's Cellular Phone

On December 10, 2021, the date of the incident, Mr. Zavala took a photograph on his phone (Figure 9) at about 8:11 AM. Depicted in this photograph is Mr. Zavala looking down the barrel of his gun as if aiming at a specific target outside his residence. The door appears to be open and Mr. Zavala is aiming the rifle at the entryway of the door. Mr. Zavala also has items stacked up around him. The rifle in the photograph is consistent with the rifle recovered at the scene following the conclusion of the incident.



Figure 9: Cellphone image from Mr. Zavala's phone from the day of the incident.

2. Bullet Holes In Neighboring Homes and Vehicles

The below photos depict bullet holes in a neighbor's windows and vehicles. At 1:58 PM the neighbor to the north of Mr. Zavala's residence reported that she and her granddaughter were in the bathroom of their home sheltering in place when a bullet came through their window. This home shares a fence line with Mr. Zavala's home and had 13 bullet holes in it, one of which made it through to the interior. Another residence that shares a fence line with Mr. Zavala's was found with bullets in the side of their home.

These photos are consistent with the bullet holes that investigators located in surrounding neighbors' residences, vehicles, and windows. All witnessing officers and neighbors heard intermittent firing throughout the duration of the incident as well.



Figure 10: Bullet holes photographed in residence neighboring Mr. Zavala's, where neighbors reported shots fired by Mr. Zavala.



Figure 11: Bullet holes photographed in residence neighboring Mr. Zavala's home where neighbors reported shots fired by Mr. Zavala.

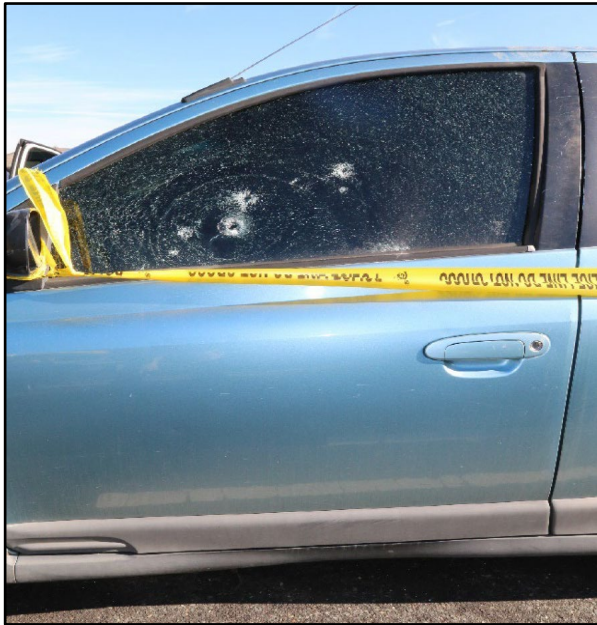


Figure 11A: Bullets holes in neighbor's vehicle outside Mr. Zavala's residence.



Figure 11B: Bullets holes in neighbor's vehicle outside Mr. Zavala's residence.

3. Image of Mr. Zavala Immediately Before Fatal Shots Fired

The below image is from the video recorded from the Pittsburgh armored vehicle, which shows that just before the second officer involved shooting, Mr. Zavala had run out of his hiding position and stood right in front of the armored vehicle. In this still-frame, as the fence came down, Mr. Zavala stood facing the armored vehicle with his arms forward, pointing at the officers on the armored vehicle.



Figure 12: A still frame from the armored vehicle (BATT) video, depicting Mr. Zavala on the right as the fence fell.

4. Mr. Zavala Dropped Item That Was in His Hand

Following the final shots fired at Mr. Zavala, which proved to be fatal, Mr. Zavala fell forward. Images captured show that Mr. Zavala appeared to drop an object from his hand. Despite a search through the rubble at the scene, no object was located.

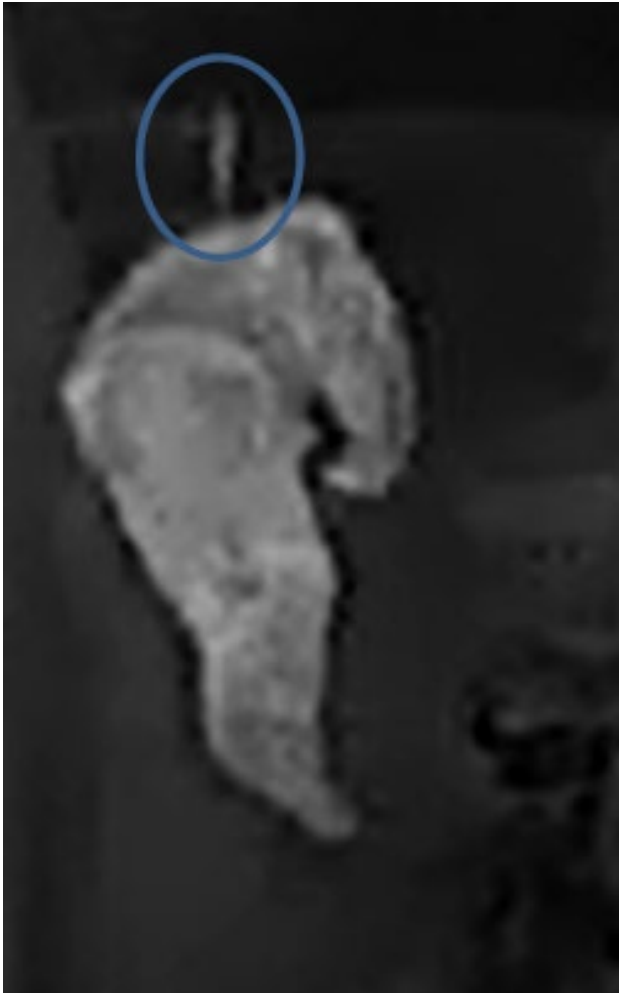


Figure 13: Still frame of Thermal video imaging of Mr. Zavala



Figure 14: Still frame of Thermal video imaging of Mr. Zavala

Mr. Zavala's Firearms Registry

Mr. Zavala had two firearms registered to him: one AR-15 Rifle and one Glock nine millimeter handgun.

Incident Scene Description

The officer involved shooting occurred in a residential neighborhood on Dove Court. Mr. Zavala's residence was located near the end of the street. The homes surrounding Mr. Zavala's residence shared a fence with his residence. Mr. Zavala was positioned at the front of his residence, between the front door and porch and his driveway for much of the incident. He entered and exited his residence periodically to shoot at surrounding property and in the direction of law enforcement and law enforcement drones.

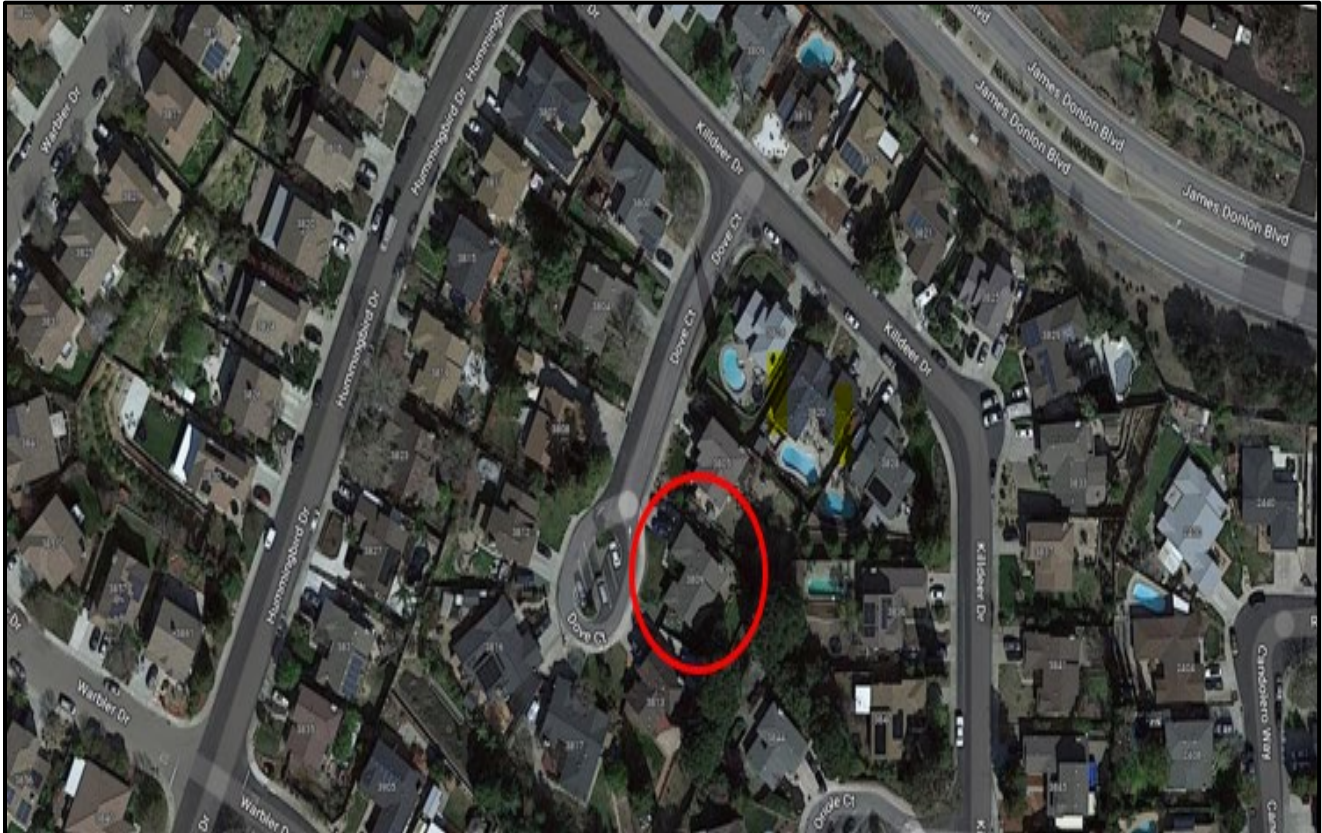


Figure 15: Aerial photo of the neighborhood, with Mr. Zavala's residence circled in red.

Incident Scene Evidence Recovery

Contra Costa County Sheriff's Office Crime Scene personnel (CSI) and Contra Costa District Attorney's Office inspectors arrived on the scene immediately after the officer involved shooting and began processing the scene. All shooting officers turned over their weapons pursuant to their local Officer Involved Shooting protocol and CSI conducted precise round counts.

Officer Rombough's H&K rifle was a semi-automatic⁵ loaded with .40 caliber ammunition, and his magazine and chamber were both empty following the incident. According to the Contra Costa Sheriff Office's forensic report of the weapons, the maximum capacity a single magazine for that rifle could hold was 31 rounds, and if there was an additional round in the chamber before the magazine was loaded (which is unlikely considering the operation of a rifle), then Officer Rombough could have fired a

⁵ This rifle had full automatic capability, but was set in semi-automatic mode during the shooting.

maximum of 32 rounds.⁶ Officer Rombough stated during his interview that his rifle was fully loaded with 30 rounds, but it is unclear from the interview whether he also had one more round in the chamber.

Detective McDonald's Colt rifle was also in semi-automatic mode (with full automatic capability) at the time of the shooting, loaded with .223 caliber ammunition, with 16 rounds left in the magazine after the second shooting, and one unfired cartridge in the chamber. According to the Contra Costa Sheriff's Office report, one magazine for this rifle has a maximum capacity of 30 rounds, with the potential (however unlikely) that there could also be one round in the chamber, for a total of potentially 31 rounds. During his interview, Detective McDonald stated that his rifle was loaded with 28 rounds, not the full 30, which he explains is done to reduce the risk of malfunction. Assuming he had a full 31 rounds in that rifle, 17 were recovered unfired, therefore he could have fired no more than 14 rounds.

CSI found a knife and a pocket knife, as well as bullet casings belonging to the weapon fired by Mr. Zavala in the backyard of his residence and the front porch, depicted in Figures 16 through 18.



Figure 16. Mr. Zavala's knives, found in the bedroom hallway of Mr. Zavala's residence.

⁶ The Contra Costa Sheriff's Office firearms analysis report states that Officer Rombough could have fired a maximum of 31 rounds based on the maximum magazine capacity, but that number does not account for the potential that one more round could have been in the chamber as well. Contra Costa Sheriff's Office report also does not account for the officers' statements during their interviews.



Figure 17. One 5.56 mm Bullet casing from front porch of Mr. Zavala's residence.



Figure 18. Seven 5.56 bullet casings recovered from front porch of Mr. Zavala's residence.

Inside Mr. Zavala's residence CSI found an assault rifle (Figure 19) and a BB gun (Figure 20). A partially burnt ballistic vest was recovered from the backyard (Figure 21). In the master bedroom they found a safe. Inside the safe was an ammunition box less than half full of .40 caliber ammunition, jars of what appeared to be marijuana, an iPhone, and a small bag that appeared to contain methamphetamine (Figures 22, 23). A gun belt (Figure 24) and fired cartridges were also found in the master bedroom.



Figure 19. Assault rifle found in the hallway of a bedroom in Mr. Zavala's residence.



Figure 20. BB gun recovered in the master bedroom.



Figure 21. Ballistic vest recovered from the backyard.

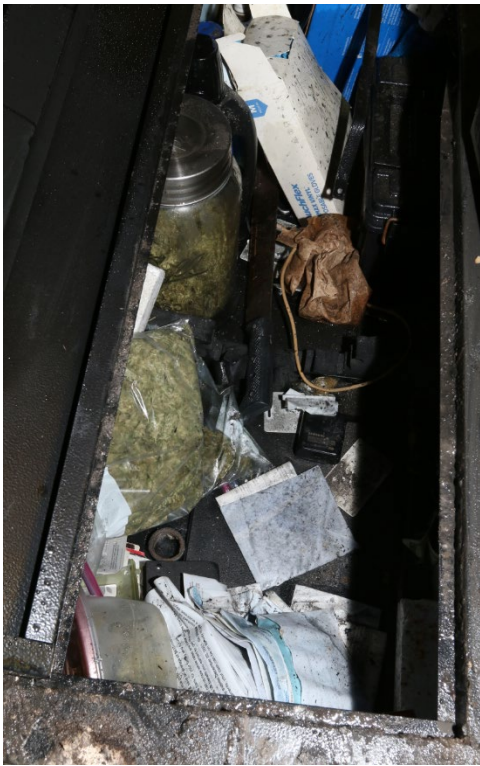


Figure 22: Marijuana jars and other items found in the master bedroom safe in Mr. Zavala's residence.



Figure 23: A box of unfired .40 caliber S&W ammunition found in the safe of the master bedroom of Mr. Zavala's residence.



Figure 24: Gun belt recovered from the master bedroom.

Many of these items were damaged by the heat from the residential fire. Arson investigators examining the home determined that the most probable cause of the fire was arson, intentionally set by Mr. Zavala.

Body Worn Camera (BWC) and Other Recordings

Every shooting officer had a body camera activated except for Sergeant Chang. Sergeant Chang was called to the incident on his day off and did not take time to retrieve a camera from the station before arriving on scene, because SWAT officers were instructed to get to the scene as soon as possible.

Review of the body camera footage for each of the other four shooting officers does not provide a clear vantage point of Mr. Zavala’s movements immediately preceding the shootings.

As to the first shooting, the officers were shooting from a distance of about 116 feet (see Figure 2). The officers who fired at Mr. Zavala were located in the yard across the street from the Zavala residence, and Mr. Zavala was on his front porch. Their body cameras were not equipped with magnification capabilities, so the images of Mr. Zavala were not discernible.

As to the second shooting, the officers’ body cameras did not provide a clear view because the conditions, including the smoke from the fire and the position of the body camera relative to the position within the armored vehicle, made it very difficult to see or hear what the officers saw or heard during the event.

The clearest video of the second shooting came from the Pittsburg armored vehicle, which shows that, just as the fence came down, Mr. Zavala got up from where he was hiding and took several steps towards the Pittsburg armored vehicle along the fence as it came down, where he was ultimately shot. The video shows Mr. Zavala then gets up about half way, after which the additional, final shots were fired (see Figure 25).



Figure 25: Still frame from armored vehicle video of Mr. Zavala getting up half way after the first round of shots were fired by officers.

The drone video of the second shooting, which was in night vision mode, showed Mr. Zavala's actions leading up to the final shooting. In the video, Mr. Zavala is seen crawling to different positions and locations in the side yard of his home, staying close to the ground at all times. He can also be seen fidgeting with something in his hand that appears to be the length of a handgun or knife. (Figure 26). Mr. Zavala is then seen hiding under the barbecue, lying with his back flat on the ground. (Figure 27).

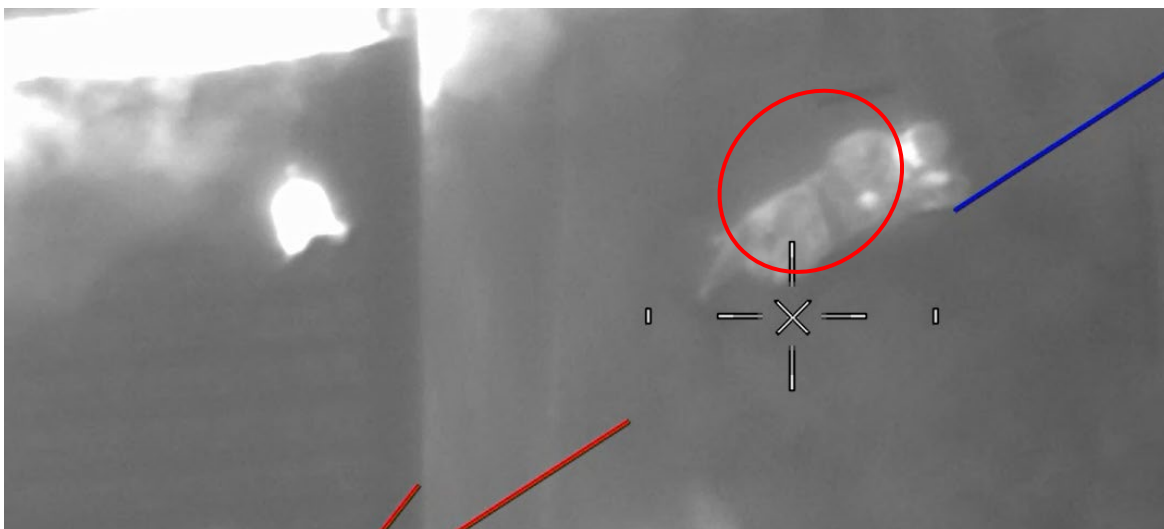


Figure 26: Still frame of drone video showing Mr. Zavala lying on the ground outside of his residence. Circled in red shows Mr. Zavala with an object in his hand.

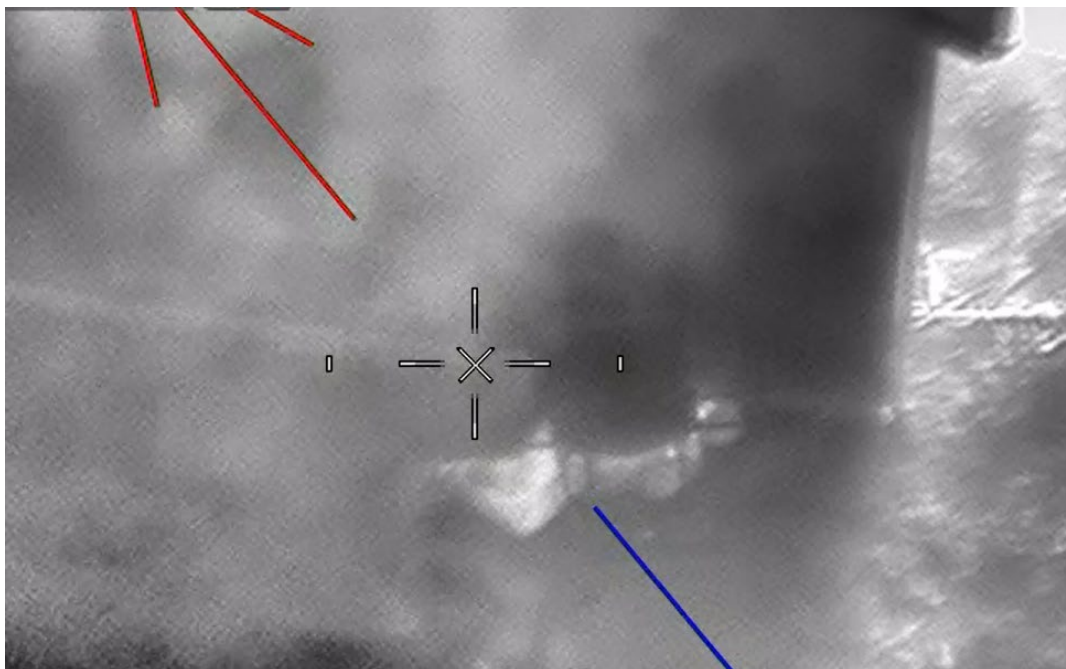


Figure 27: Still frame of drone video showing Mr. Zavala hiding under a barbecue outside of his residence.

Mr. Zavala remained in this position until the armored vehicle crashed into his fence. When the armored vehicle first rammed his fence, Mr. Zavala ran towards the fence at the corner of the yard. As the fence came down Mr. Zavala appeared to try and cross over the threshold to get to, or past, the armored vehicle. Mr. Zavala falls to the ground after the first shots are fired, gets up half way, then falls to the ground again when the remaining shots were fired.

Interviews of Involved 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.)

Each of the shooting officers involved in this incident gave a voluntary statement and was interviewed. The following statements are summaries of their interviews, which describe the incident from the point of view of the individual officers. Please note that the interviews contain facts relayed by the officers that may be inaccurate or inconsistent with the facts of this incident as they are currently understood.

Sergeant Chang's Statement

Sergeant Chang, with Antioch Police Department, was interviewed on December 14, 2021, by DOJ Special Agent Mansfield. Investigator J. Cox with Antioch, and attorney D. Foley representing Sergeant Chang were also present. Sergeant Chang had been an officer for 20 years, 15 years of which were with Antioch Police Department. Before that Sergeant Chang worked with Walnut Creek Police Department. Sergeant Chang had worked in SWAT, sniper training, and was a field training officer, police academy instructor, and POST-certified firearms instructor.

On the date of the officer involved shooting, Sergeant Chang arrived at the scene as a SWAT sniper observer at about 2:00 PM or 2:30 PM. He heard through radio transmission that Mr. Zavala was armed, was "proned out" on the ground outside his front porch area, and was firing at his surroundings. Sergeant Chang explained that radio and cell phone communication was spotty throughout the incident due to the nature of this residential area and surrounding hills, so he did his best to just rely on what he could see.

Upon arrival at the scene, he and Officer Duggar found a location across the street from Mr. Zavala's house for cover and observation. Sergeant Chang heard the sounds of gunfire coming from various areas around Mr. Zavala's residence. He was concerned because, based on what was reported, Mr. Zavala had a high-powered firearm, and based on what he observed and the radio communication received, Mr. Zavala was using sniper-type tactics. Sergeant Chang then found another location across the street and joined Officer Duggar on the roof of that home. From that position they could see the full garage of Mr. Zavala's house, some of the windows in the home, part of the front door, and part of the interior of the house. But Sergeant Chang felt they still could not see as much as they needed to. Sergeant Chang moved around to find a position where he could better see Mr. Zavala's front porch, but was unable to find a location where he was safely covered or protected from Mr. Zavala's bullets. Sergeant Chang settled on a different location next to a tree and he set up his rifle there. Sergeant Chang had his Remington 700, .308 caliber rifle, but expressed that he wished he had his M-4 rifle instead. Sergeant Chang felt that his Remington rifle and his pistol were no match for what could potentially be a "full-auto" firearm if that is what Mr. Zavala had. Sergeant Chang felt that if Mr. Zavala

discovered him, Sergeant Chang would be at a significant disadvantage. The Remington rifle that Sergeant Chang had was equipped with a scope (fully magnified field of view “depending on distance”) and was loaded with one five-round magazine of .308 caliber hollow point Ruag ammunition. Sergeant Chang said that, due to the distance from Mr. Zavala’s residence across the street, his scope was not of much assistance, and that he could “barely get a whole-window view in” when looking through the scope. Despite being partially exposed, he felt safe so long as Mr. Zavala did not see him there. Sergeant Chang expressed concern, though, that if Mr. Zavala came out through the side gate, Sergeant Chang would be fully exposed and vulnerable.

At one point, Mr. Zavala shot out the front window closest to Sergeant Chang, and Sergeant Chang said that he “felt extreme fear” that Mr. Zavala had shot out that particular window because he had seen Sergeant Chang’s location and was planning on shooting at Sergeant Chang next. Mr. Zavala was shooting from the front and back of his home, making it difficult to anticipate his actions. Mr. Zavala even put up a lamp at his window to create a glare and prevent officers from seeing him through that window. Sergeant Chang felt that Mr. Zavala was definitely using tactics to throw them off.

Immediately preceding the first officer involved shooting, Sergeant Chang stated that he heard Officer Duggar say, “he’s on the porch.” Sergeant Chang saw Mr. Zavala had come back out and was at the front doorway. Mr. Zavala seemed hyper-alert. At one point, Mr. Zavala got down on the ground with the rifle pointed out as if to shoot at a target, but then he stood up. Sergeant Chang stated, “He is completely out...at the doorway...He had a full AR-15 style rifle. He has the rifle kind of like a low ready and he’s intently looking down the court. And I thought, ‘oh my God, is there someone there? Did the neighbor come out?’ And it looks like he’s looking for a target because every time he shot, something stimulated him...and I thought, is he going to shoot someone? Or shoot me?”

Sergeant Chang had a clear shot at Mr. Zavala’s head, and he tried to fire, but his safety was on so the gun did not fire. While he was trying to figure out why his gun did not fire, he heard Officer Duggar fire a shot and saw Mr. Zavala drop to the ground. Then he heard Officer Duggar say “he’s up again.” Sergeant Chang saw Mr. Zavala “pop” back up and look around as if to engage whoever he had intended to shoot at. Sergeant Chang switched his safety off and fired one shot at Mr. Zavala’s torso area, which did not appear to hit Mr. Zavala because Sergeant Chang saw that Mr. Zavala was able to make it back into his residence “like it was nothing.” Even if Mr. Zavala had been hit, it appeared that whatever armored vest Mr. Zavala was wearing had protected him from being affected. Mr. Zavala then continued to fire rounds from the inside of his home, so it became clear that he was still an active shooter.

Sergeant Chang heard APD SWAT tell the officers to stand down, after which Mr. Zavala responded by firing more shots.

At around 6:50 PM, Sergeant Chang spotted the fire at the residence. He heard dispatch report Mr. Zavala’s movements and say that Mr. Zavala “had a rifle,” he was “running towards the back” of the residence, and then that he was on the “foreside fence” with a “pistol” in his hand and “hiding under the BBQ.” Sergeant Chang then heard the Pittsburg armored vehicle approach the fence and, as the armored vehicle took down Mr. Zavala’s fence, Sergeant Chang heard radio communication that Mr. Zavala was “charging” towards the armored vehicle, at which point he heard multiple shots fired. Sergeant Chang did not fire any shots during the second shooting.

Officer Duggar's Statement

Officer Duggar, with Antioch Police Department, was interviewed on December 14, 2021, by DOJ Special Agent Mansfield. Investigator J. Cox with Antioch, and attorney D. Foley representing Officer Duggar, were also present. Officer Duggar had been in law enforcement for seven years, all with Antioch Police Department. Officer Duggar's experience included gang investigation, problem-oriented-policing program, and the SWAT and sniper/observer team. Officer Duggar had been enlisted with the US Marine Corps since 2003 and was a Gunnery Sergeant (E-7), billet-platoon for a reconnaissance platoon at the time of his interview.

Officer Duggar was notified of the incident at about 1:30 PM. Officer Duggar arrived at the scene at approximately 2:30 PM. Before arriving at the scene, Officer Duggar drove to the police department to retrieve his gear and heard from radio communication that they were going into "an active shooter environment" because Mr. Zavala was armed, shooting at neighbors, and that people were sheltered in place. Once he arrived at the scene, Officer Duggar heard a pattern of shots coming from inside Mr. Zavala's residence, about once every five minutes from "different angles and directions." As Officer Duggar moved to different locations to obtain a view of Mr. Zavala, he eventually saw Mr. Zavala come out of his front door. Officer Duggar observed that Mr. Zavala was selecting his targets and firing single shots at a time at his targets. Officer Duggar saw him "popping his head out" to find his targets, and he felt that another shot from Mr. Zavala was "imminent."

Officer Duggar had a Remington 700 rifle, loaded with one five-round magazine of .308 caliber ammunition. During the first officer involved shooting, Officer Duggar initially had his safety on, and so his first attempt to shoot Mr. Zavala did not discharge any ammunition. As he switched off the safety, Officer Duggar observed Mr. Zavala move along the front porch in a "very tactical grounded manner" and his movements were stealthy. Mr. Zavala held his rifle at the low ready, then moved to a position of cover inside the porch area and seemed to be actively looking for a target to shoot. Officer Duggar stated that his "immediate reaction to seeing the body position and type of movement" of Mr. Zavala was that he was "on a mission...looking for targets to shoot" and Officer Duggar felt that Mr. Zavala was "seconds away from him finding his target and shooting that target." Officer Duggar was concerned that Mr. Zavala's "target" could be any neighbor or officer in sight.

At that point, Officer Duggar fired one shot at Mr. Zavala's center-mass, or chest/torso area. Officer Duggar saw Mr. Zavala fall but briefly lost view of Mr. Zavala behind an American flag on the porch. Almost immediately after he shot one round, Officer Duggar heard Sergeant Chang fire one round as well. Then Officer Duggar observed Mr. Zavala "high crawl" back into his residence through the front door. A center-mass shot would typically be effective in stopping someone, but Officer Duggar heard Mr. Zavala once again continue to shoot from inside his home in the same pattern previously observed, which indicated that any rounds that may have hit him were ineffective.

Officer Duggar feared throughout the incident that Mr. Zavala could shoot anyone at any time, especially because he knew from the briefing that Mr. Zavala had previously come out of the front door, take a shooting position on the porch, and was actively shooting. At the scene, Officer Duggar saw and heard Mr. Zavala shooting from inside the home and from the side, front, and back of his home. Based on the single-shot pattern that Mr. Zavala used, and the windows that Officer Duggar saw shatter, Mr. Zavala was shooting in the direction of where some officers were located. As a result, Officer Duggar and others were careful to remain concealed. Officer Duggar was primarily responsible for observing the front door and garage door, and he eventually saw Mr. Zavala exit the front door in a manner that was "tactically grounded" because Officer Duggar saw the "rifle at the low-ready" position and noted that Mr. Zavala "appeared to be a right-handed shooter." Officer Duggar also saw that Mr.

Zavala was positioned in the front porch in a manner that “allowed him to take a position of cover” that made it difficult to keep a consistent visual on Mr. Zavala. Officer Duggar also saw that Mr. Zavala came out of his house and was fixated on a target, and saw Mr. Zavala had his rifle in the low-ready position once again and looked ready to shoot. Officer Duggar believed that Mr. Zavala’s actions showed “above average” capability of handling a firearm which increased the threat level posed by Mr. Zavala.

Officer Duggar observed the subsequent de-escalation techniques by APD SWAT, including instructions via loudspeaker demanding that Mr. Zavala surrender and stop firing at officers. Officer Duggar also knew that a drone went inside the house, and radio traffic relayed that Mr. Zavala was able to disable the drone that went inside the house. Another drone was sent in to drop a throw phone into the home through a window to establish a form of communication with Mr. Zavala. Officer Duggar learned via radio communication that the second drone was also “taken down” by Mr. Zavala inside the house. Suddenly, Officer Duggar noticed a “glow” coming from inside the garage, which turned out to be a fire.

During the fire and reports of movement from dispatch, Officer Duggar explained that, at that point, they had lost the ability to negotiate with Mr. Zavala and they felt that the fire was an attempt to “lure” officers or first responders into the residence and ambush them there. Once the fire broke out, Officer Duggar repositioned himself, as did Sergeant Chang, to the front yard of the home directly across from Mr. Zavala’s residence. The helicopter advised officers of Mr. Zavala’s actions, including that he had jumped out a side window, that he was lying prone with the rifle under a barbecue that was located in the side yard of his home, and that he had an object in his hand that was believed to be a firearm.

Officer Duggar and Sergeant Chang repositioned themselves to the “foreside fence” once more so that their view was not blocked by the approaching armored vehicles. The Antioch armored vehicle was near one side of Mr. Zavala’s residence, while the Pittsburg armored vehicle (which later rammed the fence) was closest to where Mr. Zavala was hiding. The helicopter gave an estimate of how far the barbecue was from the fence and Officer Duggar recalled that it was a short distance, a few feet. Officer Duggar then saw the Pittsburg armored vehicle ram the fence.

After the armored vehicle took down a few pieces of Mr. Zavala’s fence, the helicopter announced that Mr. Zavala was running towards the Pittsburg armored vehicle. Officer Duggar was able to see into the backyard and saw Mr. Zavala running “towards the intact portion of the fence” that was facing the Pittsburg armored vehicle. At the same time, Officer Duggar described Mr. Zavala’s run as “significant” with “his hands in front of him” as if “holding a rifle” and appeared to be a “tactical, assaulting” run directly towards the Pittsburg armored vehicle. When the Pittsburg armored vehicle was able to push the fence over, Officer Duggar could see Mr. Zavala “scrambling up” from where the fence had been taken down by the armored vehicle. Officer Duggar saw Mr. Zavala “assaulting towards” the Pittsburg armored vehicle and the officers there.

Officer Duggar then fired on single round aimed at Mr. Zavala’s head. Officer Duggar saw Mr. Zavala’s ballistic helmet and considered the ineffectiveness his earlier center-mass shot had on Mr. Zavala due to the body armor. Officer Duggar said that he fired that shot because he wanted to protect the Pittsburg officers and stop Mr. Zavala from advancing towards them. Officer Duggar fired one round with the intent to stop Mr. Zavala from harming the officers in the armored vehicle. Officer Duggar was not sure if his shot made impact. Officer Duggar then experienced a malfunction with his rifle, such that he could not fire any more rounds from his rifle. By the time he fixed the issue, he heard other

officers fire at Mr. Zavala. Officer Duggar saw that Mr. Zavala was on the ground and not moving, and therefore Officer Duggar did not fire any more rounds.

Detective McDonald's Statement

Detective McDonald, with Antioch Police Department, was interviewed on December 16, 2021, by DOJ Special Agent Mansfield. Investigator J. Cox with Antioch Police, and attorney V. Bigot representing Detective McDonald, were also present. Detective McDonald had thirteen and a half years of law enforcement experience, all at Antioch Police Department with the exception of one year where he worked with Martinez Police Department (lateral transfer) before returning to Antioch Police Department. Detective McDonald had experience as SWAT, special operations, investigations unit, and canine handling. Detective McDonald was also a field training officer, firearms instructor, and active shooter instructor. Detective McDonald was also enlisted in the United States Army and attained the rank of Sergeant and he handled firearms, including a rifle, as a primary function of his duties there.

Detective McDonald received a call about the incident and arrived at the scene shortly thereafter, but it is unclear about what time he arrived. Detective McDonald was assigned as SWAT Officer. As he drove to the Police Department to retrieve his gear, before heading to the scene, he heard over the radio that Mr. Zavala was outside his home going from the driveway to the front porch, that he was "proned out" behind some flag in his front yard, shooting at a police drone, and that it was an active shooter situation. Detective McDonald was familiar with the area and knew it to be "heavily populated" so he was already concerned about how to make the scene safe for the public before he got there. He also heard over the radio that Mr. Zavala had military experience, he had an AR-15 style assault rifle with about 100 rounds, had a Glock pistol with an unknown amount of rounds, and that Mr. Zavala had shot down a police drone. These facts increased his level of concern. Detective McDonald also heard over the radio that the armored vehicle for Antioch Police Department was responding to the scene as well as Pittsburg Police Department's armored vehicle along with a four-person team. Upon arrival at the scene, he was assigned to the security turret on the top of the Antioch armored vehicle.

Detective McDonald knew that snipers were deployed at the incident, but the communications were poor due to poor radio signals. Detective McDonald was also aware that two residences closest to Mr. Zavala's residence had not been evacuated due to their close proximity to Mr. Zavala's residence.

In an attempt to clear a path for a police drone to enter Mr. Zavala's residence, Detective McDonald shot a 40-millimeter foam round through Mr. Zavala's window. The round made a hole in the window but did not get through the blinds. Mr. Zavala immediately returned fire out the window, three or four rounds, in Detective McDonald's direction. Detective McDonald closed the turret door to avoid being shot, because otherwise he could have been hit by Mr. Zavala's rounds.

Detective McDonald then heard multiple loud speaker announcements that called out to Mr. Zavala by his name, informed Mr. Zavala that they were Antioch PD, and instructed Mr. Zavala to stop shooting and surrender. Mr. Zavala did not surrender.

The Antioch armored vehicle then drove up to a position north of Mr. Zavala's residence. A drone was sent inside his residence. Detective McDonald was able to watch live video from the drone. From the drone view, it appeared that Mr. Zavala was creating barricades in his home using a mattress and other items stacked up. Through the drone, he saw a rifle propped up and a military uniform. Mr. Zavala then came into view wearing body armor and some type of helmet. He threw something on the drone that disabled the drone. This confirmed to Detective McDonald that Mr. Zavala did not appear to be injured.

During the standoff, Detective McDonald discussed, with other members of the Antioch SWAT team, various contingency plans based on the ongoing intelligence collected and Mr. Zavala's actions. They also discussed how to keep their perimeter tight so that Mr. Zavala could not escape and pose an even greater threat to the safety of the community and officers at the scene. Detective McDonald specifically recalled thinking, "What is our priorities here? And obviously, the safety of the community is the number one priority. This guy cannot get out of our perimeter. He's already been firing several rounds out of his house into other houses or cars. We don't know where it's going. He's...fired at us...and every time he's been seen up until this point, he's been armed...And still in the back of my mind, there's still two houses that still have people inside."

A second drone was sent into the residence with a throw phone, and it succeeded in entering the home and dropping the phone. The drone briefly had visual of Mr. Zavala, but the fire was active at that time, and eventually the drone lost visual of Mr. Zavala. Mr. Zavala eventually threw an object on that drone that disabled it.

While the Pittsburg Armored vehicle was getting into place to evacuate the neighbors in the adjacent homes due to the rapidly growing fire, Mr. Zavala jumped out of the north side window with what appeared to be a rifle. Detective McDonald feared that Mr. Zavala had set the fire to intentionally draw in first responders, where he could then ambush them.

It became dark, and smoke made it difficult to see, so Detective McDonald relied on the helicopter's descriptions in part. Detective McDonald, while up in the turret, saw Mr. Zavala in an "all-out sprint" towards the side yard. Detective McDonald heard the helicopter announce that Mr. Zavala had something in his hand and was hiding under a barbecue. The Pittsburg armored vehicle rammed Mr. Zavala's fence, and the helicopter said Mr. Zavala was still under the barbecue with something in his hand. As the Pittsburg armored vehicle pulled back, Mr. Zavala started to "charge" towards the armored vehicle and the neighboring home. Based on the threat, Detective McDonald concluded there was no other option than to fire his weapon, and he did not recall exactly how many rounds he fired. Detective McDonald recalled calculating the priorities, which were to make sure that Mr. Zavala did not kill anyone still in their homes or kill officers. Detective McDonald felt he had no other option because he felt Mr. Zavala was not concerned with anyone else's safety. Detective McDonald thought, based on his position in the turret, that he was the only officer who had a shot at Mr. Zavala. He did not know where the snipers were located or whether they could even see Mr. Zavala. Detective McDonald's instincts told him that if Mr. Zavala got out of the perimeter, it would be fatal to anyone in his path, and that no other option existed but lethal force. Detective McDonald stated, "And this guy's fighting his way out of his house...the whole time I'm thinking...I want to make the best decision I can. You know, I can live with, you know, maybe taking a life, but I can't live with not acting and somebody else getting hurt."

Detective McDonald estimated that he fired about "once or twice" before Mr. Zavala "went down to his knees." When Mr. Zavala was seen still "up and moving" towards the vehicle, Detective McDonald fired "a few more times," but he was not sure how many.

Officer Rombough's Statement

Officer Rombough, with Antioch Police Department, was interviewed on December 16, 2021, by DOJ Special Agent Mansfield. Investigator J. Cox, and attorney V. Bigot representing Officer Rombough, were also present. Officer Rombough had approximately 10 years of law enforcement experience, five years with Antioch Police Department and about five years with the Alameda County Sheriff's Office.

Officer Rombough's experience included gang unit, vehicle theft task force, problem-oriented-policing program team, SWAT, and sniper/observer.

Officer Rombough reported to the incident as a SWAT Officer, but it is unclear what time he arrived on scene. He was assigned to the Arrest/React team and was positioned in the back of the Antioch Police Department SWAT armored vehicle. Upon arriving at the scene, Officer Rombough immediately heard shots being fired from the direction of Mr. Zavala's residence and was informed by officers on scene that Mr. Zavala had already fired at least "30 to 40 shots."

Officer Rombough and his team, as well as SWAT and officers from Pittsburg Police Department, devised a plan to evacuate residents in the neighborhood from the west side of the street by going door to door, and physically assisting residents in leaving their homes. While he was evacuating residents, Officer Rombough believed, based on what he heard, that Mr. Zavala fired shots in his direction. Officer Rombough heard more shots come from Mr. Zavala's residence and believed Mr. Zavala was firing shots directly at the officers and the residents who were evacuating.

Officer Rombough heard a shot by Officer Duggar and a shot by Sergeant Chang, but saw Mr. Zavala go back inside his residence. As Officer Rombough approached the east side of Mr. Zavala's residence, he heard three or four shots fired in his direction, but he was still able to evacuate a house with an elderly individual and their grandchild. Officer Rombough knew that at least one home nearby was unable to be evacuated. Officer Rombough then heard Mr. Zavala fire more shots from inside his house. The shots coming from inside Mr. Zavala's residence confirmed to Officer Rombough that Mr. Zavala was still alive.

Officer Rombough knew that Mr. Zavala was asking to speak to his "staff sergeant," which indicated to Officer Rombough that Mr. Zavala was military trained, sophisticated, and a heightened threat. Officer Rombough heard, via radio communication, that Mr. Zavala had shot down at least one drone. Officer Rombough heard numerous loud speaker announcements that ordered Mr. Zavala to come out of his house, to stop shooting, and to surrender, and he knew that these orders were unsuccessful in convincing Mr. Zavala to surrender. Officer Rombough was also aware that a 40 millimeter round was fired into a window of Mr. Zavala's residence in order to make room for officers to send in another drone. Officer Rombough knew that after the 40 millimeter round made impact, Mr. Zavala fired shots and believed that he was firing at the Antioch armored vehicle.

Officer Rombough knew that an armored vehicle was used to break a couple of other windows in Mr. Zavala's home in another attempt to send drones into Mr. Zavala's residence. Officer Rombough knew from watching the live stream of the drone on his phone that Mr. Zavala threw a blanket or similar item over one drone, which "crashed" the drone. Officer Rombough knew another drone was sent in with a throw phone, and that ultimately, the drones were ineffective in making contact with Mr. Zavala. Officer Rombough believed that officers also threw gas canisters into the home, but they were ineffective because a fire started growing in Mr. Zavala's home.

Officer Rombough expressed serious concern about the future of the incident stating, "I was afraid that not only was I going to get shot at but the majority of people involved were going to get shot at as well."

At the time of the second officer involved shooting, Officer Rombough was on the Antioch armored vehicle, which was positioned directly across the street from the Pittsburg armored vehicle, at the south side of the residence. The Antioch armored vehicle was positioned with its rear facing south, in the direction of the home. Sergeant Hoffman was in the front passenger seat, and Officer Bledsoe was

in the driver's seat. Officer Rombough was in the rear of the armored vehicle and grabbed a shield because he knew some officers who remained inside (Sergeant Hoffman and Officer Bledsore) were exposed to gunfire because the back door of the armored vehicle was open. Detective McDonald was also partially exposed in the turret. The rest of his team was unable to see where Mr. Zavala was coming from. Officer Rombough knew his team was relying on radio transmission but could not see what Officer Rombough could see.

Officer Rombough also stated that he was worried that the other members of his team and officers in Mr. Zavala's immediate path did not know where Mr. Zavala was because of the smoke, darkness, and difficulty in getting a clear line of sight. Officer Rombough said, "and I don't even know if they see him coming and we can't get on the radio, let him know they're coming...I was pretty afraid that not only was I going to get shot at, but the majority of people that were involved were all going to get shot at as well."

As the Pittsburg armored vehicle took down the fence, Officer Rombough saw Mr. Zavala come out of his house wearing a ballistic helmet, he saw Mr. Zavala's right side, upper torso, and he heard one shot which he thought was from a sniper. Officer Rombough was worried that Mr. Zavala would start to shoot at the officers, so Officer Rombough rested his rifle on his shield and prepared to shoot if Mr. Zavala posed an immediate threat to the exposed officers (Hoffman, Bledsoe, and McDonald). Officer Rombough was also afraid that Mr. Zavala would try and flee into the neighboring home, which still had residents inside. As soon as he saw Mr. Zavala he could only see from "upper torso" from "the belt-line up," saw that he was wearing a "ballistic helmet," and that Mr. Zavala "came out towards Pittsburg's armor[ed]" vehicle. Officer Rombough heard a shot fired and was unsure from where. Officer Rombough learned from radio communications that Mr. Zavala had a "firearm in his hand" and knew from radio communications that his team could not see where Mr. Zavala was. Officer Rombough saw Mr. Zavala running towards the Pittsburg armored vehicle, and Officer Rombough believed that Mr. Zavala was trying to "inflict the most amount of casualties" because he was "hallucinating" and likely did not even know that they were police officers. Officer Rombough knew that military "tactical" training would enable Mr. Zavala to inflict harm because Officer Rombough found it "impressive" that Mr. Zavala had been able to shoot down a drone that was in flight.

That is when Officer Rombough fired five to ten rounds at Mr. Zavala, and then stopped for "a couple of seconds." He saw Mr. Zavala "crawling," and heard screaming, but could not make out any words. Officer Rombough could not see Mr. Zavala's hands but believed, based on what he heard and that Mr. Zavala was still "moving," that Mr. Zavala was still trying to "fight through," and that none of the rounds he fired made impact. Officer Rombough assumed that the rounds he fired "hit his vest" and therefore did not actually deter Mr. Zavala. Officer Rombough was not sure whether Mr. Zavala was wearing body armor, but he knew that snipers had previously "hit" Mr. Zavala earlier on in the incident, and that he "did not go down," so Officer Rombough assumed based on that information, the radio communication about Mr. Zavala's military background and the firearms in his home, that Mr. Zavala was wearing body armor which is why he was still moving. Officer Rombough stated that, after firing his initial rounds, he was worried that Mr. Zavala was "playing opossum" and waiting for officers to approach to ambush and fire at them again, or that he would try and flee into the house right next door, which Officer Rombough knew had not been evacuated. Because Mr. Zavala made no physical gestures (hands up, etc.) indicating that he would surrender, and was moving "full speed" towards "clearly marked police units," Officer Rombough believed that Mr. Zavala was "making a last attempt to, if he was going to go, to take some people with him." Officer Rombough was determined to make sure that "was not going to happen." Based on what he saw, Officer Rombough stated that he believed Mr. Zavala's state of mind was to "take out as many people as he can."

So when Officer Rombough saw Mr. Zavala “got up” and was “still moving,” Officer Rombough “finished off [his] magazine,” which he believed had a total of 30 rounds in it. Officer Rombough then put the rifle down and picked up his pistol, waited, “reevaluated,” and announced over the radio that he fired shots and that Mr. Zavala did not appear to be moving anymore. Since he did not see Mr. Zavala move any longer, Officer Rombough did not fire any more rounds.

Interviews of Civilian Witnesses

Interview of Neighbor #1

Neighbor #1, Mr. Zavala’s next door neighbor, was interviewed on December 13, 2021, by DOJ Special Agent Tann and DOJ Special Agent Samano.

Neighbor #1 shared a fence line with Mr. Zavala’s residence. On the day of the officer involved shooting, Neighbor #1 called 911 reporting “loud explosions” coming from Mr. Zavala’s home.

Before calling 911, the neighbor was woken up by the sound of these loud bangs, so he went outside and stepped on a chair and looked over his fence at Mr. Zavala’s yard. When he did, Mr. Zavala was there and said to him, “Don’t fuck with me motherfucker.” As the neighbor got down, he heard a loud “bang” and felt “ringing” in his ear. Based on what the neighbor described and the bullet holes found in the side of the home where the neighbor had been standing, investigators deduced that Mr. Zavala had fired a shot at the neighbor that had barely missed.

Interview of Neighbor #2

Neighbor #2, another next door neighbor of Mr. Zavala’s, was interviewed on December 13, 2021, by DOJ Special Agent Samano.

On the day of the officer involved shooting, Neighbor #2 heard multiple loud sounds outside that he initially assumed were fireworks. But when he looked outside his second story window, he clearly saw Mr. Zavala outside, holding a rifle, aiming it towards Neighbor #2’s home. Neighbor #2 then saw Mr. Zavala shoot twice. Neighbor #2 described the firearm as a “high powered rifle.” Neighbor #2 called 911. Neighbor #2 had a clear view of Mr. Zavala’s rear sliding door and saw Mr. Zavala pacing around his home, in the front porch area, aiming his firearm at various targets, and firing off rounds.

Interview of Neighbor #3

Neighbor #3, another neighbor of Mr. Zavala’s, was interviewed on December 13, 2021, by DOJ Special Agent Tann. Neighbor #3 shared a fence line with Mr. Zavala’s home.

On the day of the officer involved shooting, Neighbor #3 was home with her granddaughter when she heard shots being fired from Mr. Zavala’s residence. She heard Mr. Zavala call for his dog, then she heard a series of shots fired at her home, with at least one bullet going through her window and living room, just feet from where she was standing. Thirteen bullet holes were observed at her residence.

Autopsy, Ballistics, and Inquest

The coroner determined that Mr. Zavala had been shot 24 times and that 19 of those shots combined were the cause of death.

There was one gunshot wound that entered the right “frontotemporal region” of Mr. Zavala’s head and exited the left “parietal aspect of the head.” A projectile was not recovered and this injury could not be attributed to any particular bullet or firearm.

There were 18 other gunshot wounds where the round entered Mr. Zavala's body, and those wounds were located in the right cheek, right arm, right and left wrist, right and left hand, left and right thigh, right shoulder, left armpit, left side of the chest, top of the right armpit area, and right side of the abdomen.

Eleven projectiles were recovered from Mr. Zavala's body: one embedded in the neck, one in the right armpit area, one in the left flank/armpit, two from the left chest, three from the abdomen, one in the lumbar vertebrae, one from the right thigh, and one from the left wrist. All of the projectiles were "medium caliber jacketed projectile" and "deformed." In addition, "multiple" "lead core" projectiles were recovered from the clothing and body bag.

Contra Costa Sheriff's Office, Forensic Services Division, conducted a laboratory examination of 16 projectiles, i.e., the 11 recovered from Mr. Zavala's body and another five that were recovered from clothing and the body bag, to determine which firearm each could have come from.

The five projectiles that were recovered from outside the body were fired from Officer Rombough's rifle. Of the 11 projectiles recovered from Mr. Zavala's body, nine were fired from Officer Rombough's rifle, and two were fired from Officer McDonald's rifle. The nine projectiles that had come from Officer Rombough's rifle were removed from the following gunshot wounds, described in the laboratory report generally as: right thigh, left side/back⁷, left hand, left chest cavity, right side/lower back, right rib area, base of neck, left/mid back, lower spine. The two projectiles fired from Detective McDonald's rifle were found in gunshot wounds described in the laboratory report generally as: heart and center-back.

The toxicology report found 3100 ng/mL of methamphetamine in Mr. Zavala's blood and described this as "acute drug (methamphetamine) intoxication." The coroner's report states that "reported blood concentrations in amphetamine-related fatalities ranged from 500-4100 ng/mL."

Independent of DOJ's investigations, the Coroner's Division of the Contra Costa County Sheriff's Office (CCCSO) conducts a Coroner's Inquest following most deaths that involve law enforcement personnel or law enforcement operations or activities within Contra Costa County.

The Coroner's Inquest is open to the public, conducted by a hearing officer (a private attorney hired by the Coroner's Division) and held in front of a jury of citizens randomly selected from the Contra Costa County Superior Court jury pool. During the Inquest, the hearing officer questions witnesses, and additional evidence may be presented. After hearing all the evidence, the role of the jury is to decide whether the death was by (1) natural causes, (2) suicide, (3) accident, or (4) at the hands of another person other than by accident (i.e., homicide). The jury's decision has no legal bearing on the civil or criminal investigations or liability of any person(s) involved in the incident.

The jury ultimately found that Mr. Zavala's cause of death was "at the hands of another person, other than by accident." The jury determined this by at least a majority, as a unanimous decision is not required.

⁷ While the projectiles were recovered from what the lab report describes as Mr. Zavala's "back" or "spine," per the coroner's report, the "direction of injury" is "front to back" – so the bullets did not enter from Mr. Zavala's back.

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. Moya* (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.)

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 focus of this legal review is on whether there is affirmative proof beyond a reasonable doubt that the officers who shot Mr. Zavala during two shooting incidents acted in lawful self-defense or defense of others. A detailed analysis of the evidence surrounding the conduct of the officers demonstrates that a prosecuting agency would not be able to establish that Officers Chang, McDonald, Rombough, and Duggar were objectively unreasonable in their determination that lethal force was necessary to protect themselves or others, or that they did not actually hold this view.

The First Shooting Incident

From the outset of the encounter, Mr. Zavala posed an imminent threat of death to multiple officers and residents in the incident area. Mr. Zavala fired in the direction of neighbors, surrounding property, responding officers, police drones, used tactics to make it difficult for officers to see inside his residential windows, shot down at least one drone and disabled another, barricaded furniture in his residence to take cover, and showed no intent to surrender or to even stop firing rounds. Instead, Mr. Zavala's actions became more erratic despite attempts to communicate with him. Mr. Zavala had military training and used it to his advantage, including wearing protective gear requiring the use of greater force to disable him and eliminate the threat he posed. Mr. Zavala's words and conduct indicated that he did not want to negotiate, intended to continue fighting, and planned to shoot anyone who may get in his way. In addition, the CNT made numerous attempts to contact Mr. Zavala, and when they were able to speak to him, he did not respond to efforts to de-escalate the situation.

At about 4:51 PM, more than three hours after officers first arrived at the scene, Officer Duggar and Sergeant Chang were both positioned as snipers across the street from Mr. Zavala's house when Mr. Zavala exited his front door carrying what appeared to be an AR-15 style rifle. According to Officer

Duggar, Mr. Zavala moved “tactically” as if to take a position to fire, then took cover inside of the porch area behind an American flag that he hung on a railing, assumed a prone position, and appeared to take aim at a target.

The officers each fired one shot at Mr. Zavala when he was standing on his porch near the doorway with the rifle in “low-ready.” Mr. Zavala then retreated into his residence, and neither Sergeant Chang nor Officer Duggar fired a second round. There is no indication that either round actually hit Mr. Zavala, or that either was fatal, as he continued the standoff for hours thereafter. The video and contemporaneous statements are consistent that Mr. Zavala was prone on the ground with a rifle aimed at a target, that Mr. Zavala was in a physical position indicating he was about to open fire, and that he was pointing in the direction of neighboring homes where residents were being actively evacuated by officers. The risk of death or serious bodily injury to the public and officers at the scene was therefore imminent. It was reasonable, based on the totality of circumstances, for Sergeant Chang and Officer Duggar to believe that Mr. Zavala had the present ability, opportunity, and apparent intent to shoot and kill anyone in the path of his bullets.

The Second Shooting Incident

The second and fatal officer-involved shooting occurred at the end of the six-hour standoff with police and emergency personnel.

Mr. Zavala was shot by Detective McDonald and Officer Rombough when he emerged from behind a fence that was being taken down by the Pittsburg armored vehicle and moved toward the vehicle and officers. Both shooting officers stated that they believed they fired their weapons in defense of Mr. Zavala’s neighbors, their fellow officers, and themselves. The evidence corroborates their statements that they were acting in the actual belief in the need to defend themselves or others.

Leading up to the fatal shooting incident, Detective McDonald was aware that Mr. Zavala had military experience and was heavily armed with an assault rifle, ammunition, and a pistol. He was informed that Mr. Zavala had shot down a drone. After Detective McDonald attempted to send another drone into the house, Mr. Zavala fired 3-4 rounds out a window in Detective McDonald’s direction, causing him to close the turret to avoid being struck by bullets. Footage from a later drone seen by Detective McDonald showed Mr. Zavala using a mattress and other items to build barricades in his house. Mr. Zavala then exited his house wearing a helmet and body armor and disabled the drone by shooting it down. Detective McDonald stated that Mr. Zavala did not appear injured and did not surrender.

Detective McDonald discussed with other officers that Mr. Zavala posed a threat to the community. According to Detective McDonald, the safety of the community was his highest priority. In his view, it was critical to keep Mr. Zavala in the law enforcement perimeter since Mr. Zavala was armed each time he had been observed, he had fired into neighboring houses, and there were still people inside two nearby houses.

When the fire started in Mr. Zavala’s house and first responders began moving to evacuate those in neighboring houses, Detective McDonald feared that Mr. Zavala was going to ambush them. Detective McDonald saw Mr. Zavala jump out of a window with what appeared to be a rifle and sprint to the side of the house. The helicopter reported that Mr. Zavala had a rifle in his hands when he first came out of his house. Then, as Mr. Zavala moved to another side the house, Detective McDonald heard the helicopter report that Mr. Zavala was lying down by a barbecue with “something” in his hand that appeared to be a gun, which is consistent with the radio dispatch from the helicopter at that time. When the fence was pulled down, Detective McDonald again heard the helicopter report that Mr.

Zavala had “something” in his hand. When Detective McDonald saw Mr. Zavala charge from the falling fence toward the armored vehicle and a neighboring house, Detective McDonald believed that Mr. Zavala posed a lethal threat to officers and neighbors, and that using deadly force was his only option. Detective McDonald said he could live with the possibility of taking a life, but could not live with others being harmed. All of this evidence corroborated Detective McDonald’s assertion that he was acting in self-defense or defense of others.

Officer Rombough also believed it was necessary to use deadly force against Mr. Zavala. When Officer Rombough was on scene, he was told that Mr. Zavala had fired 30-40 rounds. After the first shooting incident with Sergeant Chang and Officer Duggar, Officer Rombough evacuated an elderly individual and a grandchild, but was aware of others in homes who could not be evacuated. Officer Rombough believed that Mr. Zavala had military experience and posed a heightened risk. After Mr. Zavala fired from his house, defeated a drone, and set his house on fire, Officer Rombough thought that he and the majority of people involved would be shot.

Eventually, Officer Rombough saw Mr. Zavala exit his house wearing a military helmet. When the fence was pulled down, Officer Rombough was in the rear of the Antioch armored vehicle. He positioned his rifle on top of a shield. When Mr. Zavala charged toward the armored vehicle, Officer Rombough recalled firing 5-10 times. He stopped firing when Mr. Zavala dropped down. Officer Rombough stated that Mr. Zavala then began to move and scream. He believed that Mr. Zavala was “playing opossum” and would shoot any officers that approached. When Mr. Zavala started to get up, Officer Rombough fired the remaining bullets in his rifle’s magazine. During this final encounter, Officer Rombough feared that other officers could not see Mr. Zavala in the darkness and smoke, and that he and others would be shot. It appeared to Officer Rombough that Mr. Zavala wanted to fight and take others down with him, and that he would not surrender. Similar to Detective McDonald, the evidence corroborated Officer Rombough’s assertion that he was acting in self-defense or defense of others.

The use of deadly force by Detective McDonald and Officer Rombough was also not objectively unreasonable based on the status of the scene at that time and Mr. Zavala’s specific actions in the seconds leading up to the lethal shots.

Both Officer Rombough and Detective McDonald were at the scene throughout the majority of the event and were aware of Mr. Zavala’s military experience, the firearms in Mr. Zavala’s possession, his extreme paranoia, his lack of cooperation with crisis negotiators, his tactics that made it difficult to communicate with him or to observe him in his residence, and that Mr. Zavala was shooting at-will with no concern for others around him. It was not until the officers observed Mr. Zavala’s residence quickly catching fire that the situation became more urgent and required immediate action. At least one of the homes next to Mr. Zavala’s residence still had innocent civilians inside sheltering in place. Because this was an active shooter situation, the fire fighters could not begin to put out the fire until Mr. Zavala was detained or incapacitated.

Even after setting fire to his own residence, Mr. Zavala showed no signs of slowing down as he continued to move about his property. Mr. Zavala then exited the residence through the window. Police helicopters and drones maintained visual contact with him and announced to officers through radio transmission that Mr. Zavala had an object in his hand that appeared to be a firearm. Officer Rombough and Detective McDonald were aware of this transmission prior to shooting. All of this information reasonably made the incident even more life threatening to residents, law enforcement, and first responders than it had been hours prior. Officers became convinced that Mr. Zavala had no intent to surrender. Mr. Zavala had previously stopped responding to crisis negotiators, rendering

further de-escalation attempts ineffective. More than six hours into the standoff, and due the rapidly growing fire, the Pittsburg and Antioch police departments decided they would use their armored vehicle to try and take down the fence where Mr. Zavala was hiding with the reported firearm and finally apprehend Mr. Zavala. Other options, such as negotiating with Mr. Zavala, sending in drones and phones to reestablish communication with him, had already been unsuccessful. As a result, the police departments felt this was their only option before the fire spread to surrounding homes. This option was also determined to be best since Mr. Zavala was now outside his residence, hiding under the barbecue with a reported firearm, which meant the threat of death or serious harm was now less contained than it had been when Mr. Zavala was inside his residence.

As the helicopter announced that Mr. Zavala was hiding under a barbecue on the side of his residence, with what was reported to be a firearm, officers restrained from firing upon Mr. Zavala because they did not have a clear visual of him due to the fence blocking the way. As the Pittsburg armored vehicle approached Mr. Zavala's residence and began to take the fence down, officers regained visual of Mr. Zavala when they saw him stand up right as the fence came down, facing the Pittsburg armored vehicle.

When the Pittsburg armored vehicle pulled back, finally bringing the fence down with it, Mr. Zavala took several steps towards the vehicle with his arms stretched out. All officers explained, and the video from the armored vehicle supports, that Mr. Zavala appeared to have some sort of object in his hand when he came out from where he was hiding behind the fence and ran towards the officers. Only then did Officer Rombough and Sergeant McDonald open fire on Mr. Zavala. After the first set of rounds were fired, Mr. Zavala fell. Officer Rombough estimated that he initially fired about 5 to 10 shots at that point before he stopped to reassess. Detective McDonald estimated that he fired about "once or twice" before Mr. Zavala "went down to his knees." When Mr. Zavala was seen still "up and moving" towards the vehicle, Detective McDonald fired "a few more times," and was not sure how many rounds, and Officer Rombough fired the remaining rounds that were left in his 30-capacity magazine. Officer Rombough stated that he fired multiple additional rounds out of fear that Mr. Zavala was repositioning himself to use the firearm that the helicopter reported was in his possession.

In reviewing the video, no further rounds were fired after Mr. Zavala stopped moving. The video reflects that the first few rounds were fired, Mr. Zavala fell to the ground, got back up about half-way, then the rest of the rounds were fired in rapid succession. It is unclear from the audio just how many times there was a pause between the firing of the rounds, and if there was a pause, whether there was adequate opportunity taken to truly reassess the threat once Mr. Zavala was already down.

Even so, the evidence is insufficient to prove that Officer Rombough's use of deadly force was not reasonable, especially given the very short and intense sequence of events leading to the final shots fired. What Officer Rombough believed to be a threat was consistent with Mr. Zavala's actions of running towards the Pittsburg armored vehicle, the radio transmission about Mr. Zavala having a rifle in his hands when he exited his home, what the helicopter reported as "something in his hands" and a "handgun" as Mr. Zavala hid under the barbecue. This informed Officer Rombough's belief that, as soon as Mr. Zavala tried to run past that broken fence, he was going to open fire just as he had done during the preceding six hours. From the perspective of a reasonable officer, Mr. Zavala posed an imminent danger to human life, specifically to every single individual present in and around that residential neighborhood during the six-hour standoff.

Moreover, the position of Detective McDonald in the turret of the Antioch armored vehicle, and Officer Rombough positioned in the back of the same armored vehicle, did not eliminate the present ability of Mr. Zavala to threaten the Pittsburg officers immediately in front of him or harm the people

who were still barricaded inside their home right next door. As far as Officer Rombough and Detective McDonald knew and could see, Mr. Zavala was wearing some type of ballistic helmet and body armor-type vest, he was trained military, and the helicopter informed that he was armed. Both Officer Rombough and Detective McDonald were also unsure of whether snipers or other members of their team had any visual on Mr. Zavala, so Officer Rombough and Detective McDonald believed that they were the only ones who could see Mr. Zavala and that if they did not act immediately when Mr. Zavala tried to run towards the officers, that Mr. Zavala would shoot down anyone in his way. Under this legal threshold, that satisfies this use of force under the unique circumstances described.

As noted above, Officer Duggar also fired one round at Mr. Zavala's head, immediately after which Officer Duggar experienced a rifle malfunction. By the time he fixed the issue, other officers had already fired at Mr. Zavala, so Officer Duggar did not make any further attempts to shoot at Mr. Zavala. None of the projectiles collected were fired from Officer Duggar's rifle, and it is unclear whether Officer Duggar shot Mr. Zavala. However, his use of force, based in the belief of the need to defend against an imminent threat of death by Mr. Zavala, was reasonable for the same reasons as the use of force by Officer Rombough and Detective McDonald.

Based on a thorough review of all the evidence gathered in this case and described above, and taking into account the totality of circumstances presented to officers, there is no proof that the shooting officers acted unreasonably in using deadly force to kill Mr. Zavala. This was an active shooter situation and Mr. Zavala was engaging in actions that would lead a reasonable person to conclude that he was going to kill others. For the above reasons, it was not unreasonable for the officers to shoot Mr. Zavala until he posed no further threat of death to those around him.

CONCLUSION

The evidence does not show, beyond a reasonable doubt, that Officers Duggar, McDonald, Chang, or Rombough acted without the intent to defend themselves and others from what they reasonably believed to be imminent death or serious bodily injury. Therefore, there is insufficient evidence to support a criminal prosecution of the officers. For the above reasons, the Department of Justice declines to file charges against any of the involved officers.



C A L I F O R N I A

DEPARTMENT OF JUSTICE

Policy and Practice Recommendations for the Antioch Police Department Related to the Officer- Involved Shooting of Guadalupe Zavala on December 10, 2021

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

May 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).) Therefore, the Department of Justice (DOJ) through its Police Practices Section (PPS) conducts a supplemental review of the information obtained through the criminal investigation, including 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 officers who are subject to the criminal investigation.

Because of the nature of this process, PPS 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. PPS uses the review process under Government Code section 12525.3, subdivision (b)(2)(B)(iii), to identify “applicable” recommendations, including any recommendations to modify policies and practices that may reduce the likelihood that officers use deadly force, as well as recommendations to address any other deficiency or concern related to the officers’ conduct or the agency’s response that PPS observes. PPS’s goal is that these recommendations will assist the agency and the officers involved in the incident in understanding, from an independent perspective, improvements that may be made to address what was observed through this incident.

PPS limited its review to the information obtained through this criminal investigation. However, the Antioch Police Department (APD) is currently under civil investigation by the DOJ pursuant to Civil Code section 52.3, and the findings of that investigation may lead to further recommendations to APD that supplement or expand upon the recommendation below. PPS’s recommendation herein will not serve to limit or otherwise prevent PPS from making additional recommendations after it concludes its active civil investigation.

As background, on December 10, 2021, at approximately 1:09 p.m., APD officers were dispatched to a call of a male shooting a gun, while also carrying a rifle, and walking around in camouflage clothing, ballistic helmet, and barefoot on Dove Court (court) in a residential neighborhood. The male with the gun was later identified by dispatch as the decedent, Guadalupe Zavala (Zavala), and the Automated Firearms System found that he had a rifle and a pistol listed in his name.

Throughout the time the APD officers were on scene of the eventual officer-involved shooting, they had difficulties communicating with one another. Their radio communications with dispatch and each other were working sporadically, and many of their department-issued cell phones did not have reception in the area. Acting Captain Desmond Bittner called the radio communication “horrible,” explaining that:

[W]e had fairly good cell reception and radio communication throughout the city, but that one area is probably the worst spot in the city, so as I’m trying to get things put out over the air, my radio at times wouldn’t work, and I couldn’t get it across. So sometimes I tried to make a cell call to Sergeant Hoffman, my cell phone wouldn’t work, so it was a bad situation.

Officer Eric Rombough also stated that that they had to “constantly walk back and forth to the CNT [crisis negotiations team] truck to get updates because of the radios being so horrible,” and that at one point several officers had to “huddle[] around a phone together, the one that actually had service, and trying to watch [the drone APD had flown inside Zavala’s home].” These statements about communications problems were confirmed by other officers on scene, as well.

At approximately 4:51 p.m., nearly four hours after APD officers were dispatched to the scene, Zavala exited his front door with his rifle held in a low-ready position. He looked toward a neighbor’s residence, as if looking to acquire a specific target. Both APD snipers fired their weapons. Zavala fell to the ground, then opened his front door and crawled inside.

For the next two hours, officers strategized and utilized multiple means to contact Zavala, including making numerous announcements from the armored rescue vehicle (ARV) that Zavala was surrounded and to “stop shooting,” deploying a 40 mm foam baton round from the turret APD’s ARV through the front window and using Pittsburgh Police Department’s (PPD) ballistic armored tactical transport vehicle (BATT) to remove the front windows of Zavala’s residence, flying an unmanned aerial vehicle (UAV) into the residence, and flying a UAV with a throw-phone into the residence. Zavala did not respond other than to throw items at the UAVs in his residence. APD and PPD SWAT officers and their tactical commanders also discussed additional less-lethal options, including introducing gas into the residence and deploying a canine into the residence to confirm if Zavala was injured or to encourage him to surrender.

Before gas or a canine could be deployed, at approximately 6:50 p.m., a fire was observed in the area of Zavala’s garage. Zavala exited the north side window of his residence holding what appeared to be a rifle in his hands. Flames and smoke poured out of the windows throughout the residence. Zavala moved to the back of his house, then to the side yard and hid under a grill, with what appeared to be a pistol in his hands. PPD breached the south fence with their BATT. As they backed up their BATT, Zavala moved quickly toward the BATT and appeared to take a shooting stance, pointing at the BATT.

Though APD snipers had difficulty communicating with other officers, they were aware that the fire had forced Zavala out of the house and could observe him in his yard heading towards the PPD BATT. One APD sniper across the street and two APD SWAT officers inside the ARV parked in the street at the north side of Zavala’s residence fired at and struck Zavala. APD officers quickly moved Zavala away from the fire, and officers and medics provided first aid until the paramedics arrived on scene and took over medical care. Zavala was declared deceased at the scene at approximately 7:12 p.m., more than six hours after the initial 911 calls.

PPS commends APD for the manner in which they handled this volatile, dangerous situation, coordinating with neighboring agencies, exploring less-lethal options, and rapidly deploying the SWAT and CNT teams to the incident to attempt to achieve a peaceful surrender. PPS evaluated all the facts and available evidence, and pursuant to its obligations under Government Code section 12525.3, subdivision (b)(2)(B)(iii), PPS advises that APD review and implement the following focused recommendation.¹

1. COMMUNICATION

APD should evaluate its communications systems, including radios and department-issued cell phones, to ensure that officers can communicate with each other throughout the region covered by APD. Due to the hilly terrain of the area, many of the officers' radios and cell phones did not work properly, so they could not send or receive radio broadcasts and cell phone messages, and when messages were sent or received, it required multiple attempts. Multiple officers confirmed the severity of the communication problems during their interviews. Acting Captain Desmond Bittner, Officer Rombough, and Detective Ryan McDonald all volunteered during their interviews that the challenges with communications made it difficult for officers to communicate with each other on scene.

Importantly, those challenges do not appear to have affected the overall outcome because the APD sniper and SWAT team members were able to observe the fire forcing Zavala out of his house and into the yard and were in position to be able to see him as he advanced towards the Pittsburgh BATT. However, failed or inconsistent radio communications and cell phone reception have the potential to place officers and the public at risk if officers cannot efficiently and effectively communicate with each other during critical incidents regarding their location, what they are seeing and hearing, any potential risks to officers or the public, and strategies and tactics. Moreover, in an already stressful environment with a dangerous and chaotic situation, communications problems should not add to the officers' stress.

APD should ensure that officers are equipped with effective communications devices that can operate in the hilly areas covered by their Department. APD can seek additional coverage or upgrades through their department-issued cell phone or radio carriers or, if that is impracticable or not feasible, examine whether there are other cell phone carriers or radio channels that would work in all areas they serve. While this may be beyond the current resources of APD, or the City of Antioch, they should explore their options to increase the communications capacity of their officers to be able to address any critical incident without the added challenge of inadequate communications systems.

Additionally, APD was coordinating at the scene with officers from PPD, Oakley Police Department, Brentwood Police Department, and deputies from Contra Costa County Sheriff's Office. The tactical commanders from APD, PPD, and the other agencies were communicating with each other regarding less-lethal options and strategies to communicate with Zavala, but they had to conduct these communications in person because their agencies could not communicate with each other through their radio systems. Thus, APD officers were not always aware of what PPD and other officers were

¹ PPS reviewed and evaluated APD's Crisis Intervention policy as part of its assessment. Though APD called its Mobile Crisis team, in this instance, the team would not have been able to intervene because Zavala was armed and shooting at the neighbors' residences and cars, and so he presented an ongoing and dangerous threat. APD Crisis Intervention Incident policy would only be applicable in a non-violent incident that did not involve any criminal activity. (Antioch Police Department Policy No. 414, "Crisis Intervention Incidents" (July 28, 2021).) In this incident, APD's SWAT/CNT and Hostage and Barricade Incidents policy are the primary policies that APD did follow. (Antioch Police Department Policy No. 310, "Special Weapons and Tactics (SWAT) & Crisis Negotiation Team" (July 28, 2021) and No. 407, "Hostage and Barricade Incidents" (July 28, 2021).)

doing. For example, Officer Rombough stated in his interview that he did not know if the PPD team was in their armored BATT vehicle when Zavala started running toward the vehicle.

APD should assess their communications systems to ensure their radios have regional channels capable of communicating with other neighboring agencies. When there are mutual aid calls to agencies from multiple counties and cities for critical incidents, it is important for officers to be able to communicate with the other officers from their neighboring agencies, especially as the events are unfolding and rapid tactical decisions must be made. APD should ensure that their officers can effectively and efficiently communicate with officers from other agencies in future incidents by setting up regional radio channel systems for interagency communication.