



PUBLIC RELEASE MEMORANDUM

Date: January 25, 2024

SUBJECT: Officer Involved Shooting (Fatal)

Officers: Officer Michael Babineaux
Rialto Police Department

Officer Joseph Aldama
Rialto Police Department

Involved Subject: Christopher Valadez (Deceased)
Date of Birth 5/12/1998
Fontana, CA

Date of Incident: October 22, 2021

Incident location: At or near North Encina Avenue
Rialto, CA

DA STAR #: 2022-47508

Investigating Agency: San Bernardino County Sheriff's Department

Case Agent: Detective Mauricio Rivas

Report Number#: DR # 602100210 / H # 2021-134

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PREAMBLE

This was a fatal officer involved shooting by police officers from the Rialto Police Department. The shooting was investigated by the San Bernardino County Sheriff's Department. This factual summary is based on a thorough review of all the investigative reports, photographs, video and audio recordings submitted by the San Bernardino County Sheriff's Department, DR# 602100210, H#2021-134.

FACTUAL SUMMARY

On October 22, 2021, at approximately 12:29 in the morning, Rialto Police Department Officer Joseph Aldama was assigned to patrol the city of Rialto in the County of San Bernardino. Officer Aldama initiated a traffic stop on a green Chevrolet Silverado with California license plate 6T49443. The subject, Cristopher Valadez, was the driver of the Silverado. Valadez failed to stop at a stop sign at the intersection of North Eucalyptus Avenue and Rialto Avenue while traveling west on Rialto Avenue. Officer Aldama observed the traffic violation and initiated a traffic stop on Valadez. Officer Aldama activated his emergency lights and siren, and Valadez eventually yielded in front of North Encina Avenue.

Valadez parked in a residential area in an isolated city block with two ways to enter and exit. After yielding to Officer Aldama, Valadez immediately exited his vehicle, and walked toward the front door of a residence on North Encina Avenue.¹ While walking, Valadez told Officer Aldama that he lived at the location. Officer Aldama ordered Valadez back into his vehicle three times, but Valadez refused and continued to walk toward the residence. Officer Aldama then broadcasted over the radio that he needed immediate assistance from other officers.

Officer Aldama attempted to place Valadez into a control hold by grabbing his arm, but Valadez pulled away causing Aldama to lose his grip. Officer Aldama then backed away from Valadez to obtain the address of his location. Officer Aldama then recontacted Valadez outside of the front door threshold of the residence and attempted to place Valadez in a control hold two more times, but Valadez again pulled his arm away. Officer Aldama then ordered Valadez to get on the ground. Valadez refused the order. Officer Aldama then retrieved his department issued Taser 7 device and pointed it at Valadez, while continuing to order him onto the ground. Valadez did not comply with Officer Aldama's orders. Valadez walked toward his vehicle and past Officer Aldama. Officer Aldama attempted to place Valadez in a control hold yet again. On this occasion, Officer Aldama fell on the ground after Valadez pulled his arm away to avoid the control hold.

Valadez then ran back to his vehicle, entered, and turned it on. Officer Aldama did not realize that Valadez turned the vehicle on and contacted him at the driver's side door, which was ajar. Officer Aldama stood between the open driver's door and Valadez in the

¹ Investigators later determined that Valadez had no connection to that particular residence.

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street next to the truck. Officer Aldama attempted to prevent Valadez from fleeing by grabbing him and ordered him to stop. Officer Aldama observed Valadez ball his fists causing him to believe that Valadez intended to assault him. Officer Aldama then punched Valadez three times in his head and chest then heard the vehicle engine revving. Valadez then put the vehicle in gear and Officer Aldama felt it move forward. Officer Aldama held onto Valadez in fear of being run over while Valadez drove six feet in a northwest direction.

Rialto Police Department Officer Michael Babineaux heard Officer Aldama's earlier radio broadcast for immediate assistance and responded to assist him. Though Officer Aldama broadcasted the incorrect address, prior to Officer Babineaux's arrival, a resident of North Encina Ave. contacted 9-1-1 dispatch to report that he heard banging and yelling at his front door. Officer Babineaux determined that Officer Aldama's correct location was the same location as Matias' residence.

Officer Babineaux arrived at the location and observed Officer Aldama fighting with Valadez. Officer Babineaux observed Officer Aldama standing between Valadez's open driver's door and Valadez. Officer Babineaux saw Valadez's vehicle reverse while Officer Aldama held onto the vehicle and was dragged in the street. The vehicle abruptly changed direction and drove forward while Officer Aldama held on. Officer Babineaux believed that Officer Aldama was going to be run over and attempted to pull him away. Officer Aldama heard Officer Babineaux tell him to let go of the vehicle. Neither officer could remember if Officer Aldama was pulled off by Officer Babineaux or if Officer Aldama let go on his own.

Officer Aldama eventually moved away from Valadez's vehicle. Approximately three seconds later, Officer Aldama spun around and heard Officer Babineaux yell "stop". Officer Aldama then heard four to five gunshots in rapid succession. Officer Babineaux stated that he saw Valadez's vehicle coming toward him after Officer Aldama moved away from the vehicle. Valadez made direct eye contact with Officer Babineaux, turned his vehicle's wheels toward Babineaux, and drove toward Babineaux with an angry look on his face. Officer Babineaux was in fear for his life and believed Valadez intended to run him over. Officer Babineaux fired three to four shots at Valadez as his vehicle drove forward.² After the shots, Valadez appeared to lose control of the vehicle and drove through a chain link fence and collided with the east side of the residence at North Encina Avenue.

After the lethal force encounter, Officer Babineaux approached Valadez and saw that he was unresponsive. Officers rendered medical aid, initiated cardiopulmonary resuscitation (CPR), and applied a tourniquet to Valadez's right leg. Valadez was transported to Arrowhead Regional Medical Center and pronounced brain dead on October 22, 2021, at approximately 8:48 in the evening.

² The number of shots described by Officer Babineaux were consistent with Valadez's injuries.

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STATEMENTS BY POLICE OFFICERS

On November 2, 2021, at approximately 9:00 in the morning, **Officer Joseph Aldama** was interviewed by Sergeant Joseph Steers and Detective Amy Bilbao of the San Bernardino County Sheriff's Department.³

Officer Aldama stated the following:

On October 21, 2021, Officer Aldama was assigned to uniformed patrol from 6:00 in the evening to October 22, 2021, at 6:15 in the morning. Officer Aldama wore a Class B uniform, which he described as a dark blue long-sleeved, button up shirt, with Rialto Police Department patches on both shoulders and a Rialto Police Department badge on the left side of his chest. Officer Aldama wore dark blue pants and his complete "Sam Browne" duty belt. Officer Aldama drove a marked Rialto Police Department Ford Explorer, with identification number 4318. Officer Aldama activated his body worn camera (BWC) during this incident.

On October 22, 2021, at approximately midnight, Officer Aldama sat in his vehicle on North Eucalyptus Avenue, in Rialto. Due to drivers' failure to stop at the posted stop signs, vehicle collisions were common at the intersection of Eucalyptus Avenue and Rialto Avenue. Officer Aldama worked on reports as he watched the area. At approximately midnight, Officer Aldama observed a green Chevrolet Silverado truck travel west on Rialto Avenue. The driver of the Silverado failed to stop at the posted stop sign at the intersection of Rialto Avenue and Eucalyptus Avenue.⁴ Officer Aldama determined that Valadez violated California Vehicle Code (CVC) § 22450, failure to stop at a posted stop sign. Officer Aldama activated his BWC, which captured video thirty seconds prior to being activated. Officer Aldama drove south on Eucalyptus Avenue and turned west on Rialto Avenue to catch up with Valadez. Officer Aldama's goal was to conduct a traffic stop on the Silverado and issue Valadez a citation for CVC § 22450.

According to Officer Aldama, Valadez continued west on Rialto Avenue. Valadez accelerated his speed to approximately 45 miles per hour (MPH) when Officer Aldama's marked patrol vehicle was behind him on Rialto Avenue. Valadez made a "very tight" right turn on Encina Avenue from Rialto Avenue. Officer Aldama believed Valadez attempted to evade him because of Valadez's increased speed and tight right turn. Officer Aldama was not close enough to see the license plate on the Silverado, so he did not broadcast his intent to conduct a traffic stop and he did not activate his overhead emergency lights.

Officer Aldama followed Valadez north on Encina Avenue. Valadez stopped and parked on the east curb of North Encina Avenue. Officer Aldama described the lighting as dim,

³ Officer Joseph Aldama reviewed his body worn camera prior to being interviewed by Sergeant Joseph Steers and Detective Amy Bilbao.

⁴ The Silverado was later identified with California license plate number 6T49443 and the driver was later identified by investigators as Cristopher Valadez.

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or "low light" in the area. Officer Aldama activated his overhead emergency lights and Valadez immediately exited the driver's door of the Silverado. Officer Aldama intended to broadcast the traffic stop over the Rialto Police Department radio frequency but was not able to because Valadez exited the Silverado so quickly. Officer Aldama stated that he typically conducted traffic stops during each shift since he began patrolling in 2018. According to Officer Aldama, it was very unusual during a traffic stop for a driver to immediately exit their vehicle. Valadez exited his Silverado and turned his body to face Officer Aldama. Officer Aldama ordered Valadez to enter his Silverado since, according to Officer Aldama, it was safer to have a driver controlled inside their vehicle than to walk around during a traffic stop. Valadez ignored Officer Aldama's command and walked to a driveway east of their location.⁵ Valadez said, "I'm going to my house," and walked east into the driveway, approximately four feet from the east curb of Encina Avenue.

Officer Aldama followed Valadez and ordered him to "get on the ground." Valadez said, "No, fuck you. You're on my property." Officer Aldama believed at this point that Valadez violated California Penal Code (PC) § 148, resisting, obstructing, or delaying a peace officer in the performance of his or her duties. Officer Aldama determined that it was necessary to "go hands on" to arrest Valadez. According to Officer Aldama, hands on meant to utilize necessary physical force to overcome resistance and affect an arrest. Officer Aldama ordered Valadez to "get on the ground," and placed both of his palms on the top of Valadez's shoulders and applied downward pressure to guide Valadez to a seated position on the ground. Valadez pulled away from Officer Aldama and did not sit on the ground. Valadez yelled, "No, this is my house," and did not follow Aldama's lawful order. Valadez walked toward the front porch and Officer Aldama walked back to the east curb line to locate the address of the residence.

Officer Aldama broadcast that he was at a traffic stop at Encina Avenue and he requested a "10-11," which was a radio code request for a backup officer. Officer Aldama requested a backup officer because Valadez immediately exited his Silverado, refused to follow his lawful orders, and walked away from him. Valadez's actions were confrontational, and he feared Valadez would fight him to avoid arrest. Officer Aldama followed Valadez to the front porch of the residence and ordered Valadez to get on the ground. Rialto Police Department Dispatch broadcasted, "What's your status?" Aldama broadcasted, "415 verbal," which was radio code for a suspect who refused to follow lawful commands and was argumentative. Officer Aldama stated that he was afraid Valadez's aggression would escalate to physical force against him.

Valadez stood on the front porch with his hands balled into fists and a grimace on his face. Valadez's breathing was rapid, and he appeared sweaty. Officer Aldama stated that his training and experience in law enforcement led him to suspect Valadez was under the influence of methamphetamine due to his aggression, heavy breathing, and excessive sweating. Officer Aldama attempted to grab Valadez's right arm to arrest him for PC § 148, and Valadez pulled his arm away. Officer Aldama struggled to control Valadez as he pulled away from him. Valadez's t-shirt was pulled off over his head as Valadez pulled

⁵ The residence was later identified as a residence on Encina Avenue.

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away from Officer Aldama. Officer Aldama broadcasted, "step it up," which meant he needed backup officers as soon as possible. Officer Aldama requested the backup officer to step it up because Valadez's behavior was escalating, and Officer Aldama believed a second officer was necessary to safely place Valadez under arrest.

Officer Aldama explained it was common for Rialto Police Department officers to request backup when suspects resisted arrest. Officer Aldama stated he responded to other Rialto Police Department officers' requests for backup many times since he started patrol. Officer Aldama explained he requested backup officers during previous calls to avoid using force. Due to Valadez's actions, Officer Aldama did not believe Valadez would willingly be placed in handcuffs. Officer Aldama believed a second officer would help him physically control Valadez's body enough to place him in handcuffs. Officer Aldama heard male and female voices inside the residence scream in Spanish. Officer Aldama stated he did not speak Spanish and did not understand what they said. Valadez yelled something in Spanish through the closed front door and pulled on the door handle. Officer Aldama believed Valadez lived at the residence and he feared Valadez's family would confront him on the porch. Officer Aldama was concerned he would be outnumbered, and the situation would escalate. Officer Aldama estimated Valadez stood on the porch and refused to follow his commands for approximately three minutes.

Officer Aldama unholstered his Taser, activated it, and pointed it at Valadez's upper torso to gain Valadez's compliance or to use the Taser if Valadez attempted to fight him. Officer Aldama ordered Valadez to get on the ground. Valadez repeatedly yelled no, threatened to video record Officer Aldama, and refused to get on the ground. Officer Aldama repeatedly instructed Valadez to get on the ground. Officer Aldama did not use his Taser toward Valadez at this time because Valadez "was only verbal," and did not attempt to fight. Approximately one minute later, Valadez said "okay, fine, get me your supervisor," but he did not get on the ground. Valadez walked a few steps west to Officer Aldama and kicked off one of his sandals. Officer Aldama re-holstered his Taser and Valadez walked north from the porch and turned west down the driveway. Officer Aldama ran after Valadez and attempted to tackle or "bear hug" Valadez from behind. Officer Aldama reached both of his arms around Valadez's back and upper torso and attempted to use his forward momentum to take Valadez to the ground. Officer Aldama's goal was to stop Valadez, arrest him for resisting an officer, and issue a citation for failure to stop at a posted stop sign. Valadez pulled away from Officer Aldama's grasp and Valadez fell onto his back, which he described as a backward "belly flop."

Officer Aldama then realized Valadez violated PC § 69, resisting an executive officer with force or violence. Officer Aldama scrambled to his hands and knees and saw Valadez run to the driver's side of his truck. Officer Aldama then realized Valadez did not live at the residence and intended to flee the scene. Officer Aldama feared Valadez would drive away and initiate a vehicle pursuit, which was dangerous to the public and to law enforcement officers. Officer Aldama's immediate goal was to prevent Valadez from getting inside his Silverado to avoid a vehicle pursuit.

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Officer Aldama chased after Valadez and caught up with him as Valadez stood in the threshold of the Silverado's open driver's door. Valadez "squared up," which meant Valadez faced his body toward Aldama with his hands balled into fists at his chest level. Officer Aldama believed Valadez squared up and raised his fists because he intended to fight Officer Aldama and flee the scene to avoid arrest. Valadez refused to follow his verbal commands and pulled away from his attempts to physically restrain him. Officer Aldama determined he had to use physical force to stop Valadez from fleeing the scene and to arrest him. Officer Aldama attempted to punch Valadez in the face with his right fist but missed and struck Valadez's upper chest. Officer Aldama ordered Valadez to get on the ground. Valadez said, "No, fuck you," and sat in the Silverado's driver's seat. Officer Aldama estimated this was less than 10 minutes after he initiated the traffic stop and Valadez exited his Silverado.

Officer Aldama reached into the cabin of the Silverado and punched Valadez's face and upper body with his right fist approximately two times. However, his punches had no effect on Valadez. Valadez attempted to push Officer Aldama out of the Silverado as Officer Aldama attempted to pull Valadez out of the driver's seat. Officer Aldama did not know if both of his feet were on the ground or if one foot was inside the Silverado. Officer Aldama did not give any commands as they grappled inside the cabin of the Silverado. Valadez said, "Fuck you, nigga." Officer Aldama heard sirens approach and believed a backup officer was close.

Officer Aldama did not realize Valadez inserted the key into the Silverado's ignition and did not hear the Silverado's engine turn on. Officer Aldama's upper body was inside the cabin when he heard the engine rev and felt the Silverado move forward. He was afraid he would fall out of the moving vehicle and be crushed underneath the tires. Officer Aldama feared for his life and held onto Valadez's chest and neck to avoid falling out. Officer Aldama stated that he "hung on for dear life." Officer Aldama estimated Valadez drove approximately six feet in a northwest direction as he was dragged alongside the Silverado. He was not able to estimate the speed the Silverado traveled as it dragged him. Officer Aldama estimated Valadez dragged him from the Silverado for less than one minute. Valadez drove the Silverado forward, and he did not recall the Silverado travel in reverse. Officer Aldama heard Officer Michael Babineaux say, "let go, let go." Officer Aldama did not see Officer Babineaux, and he did not know if Officer Babineaux pulled him out of the Silverado. Officer Aldama let go of Valadez as the Silverado drove northwest on Encina Avenue.

Officer Aldama lost his balance as he fell out of the moving vehicle. Officer Aldama did not know what direction he turned, but he spun in a circle as he stepped onto the ground. Officer Aldama heard Officer Babineaux yell "stop." Approximately three seconds after Officer Babineaux yelled stop, Officer Aldama faced southeast and heard approximately four or five gunshots in rapid succession. Officer Aldama was faced away from the Silverado and Officer Babineaux after he fell out of the Silverado and did not see the shooting. Officer Aldama turned west and saw the Silverado parked in the front yard of a residence. Officer Aldama did not realize he unholstered his Taser when he looked at

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the parked Silverado. Officer Aldama broadcasted, "shots fired," and he walked west across Encina Avenue to the Silverado's front passenger side. Officer Aldama saw Officer Babineaux at the front driver's door of the Silverado. This was the first moment Officer Aldama saw Officer Babineaux during the lethal force encounter (LFE). Officer Aldama saw Valadez in the driver's seat motionless and bleeding from his upper body.

Officer Aldama reached through the passenger side of the Silverado and removed the keys from the ignition. Officer Aldama walked to the driver's side door to help Officer Babineaux remove Valadez from the Silverado. Officer Babineaux pulled Valadez onto the grass and placed him in handcuffs. Officer Aldama saw blood on Valadez's head and chest, but he did not know where Valadez was struck by gunfire.

Officer Aldama described the incident as rapidly evolving. The ideal outcome would have been to conduct a traffic stop and issue Valadez a traffic citation. Officer Aldama positively identified Cristopher Valadez as the driver of the Chevrolet Silverado and the suspect involved in this LFE. Officer Aldama's lower back was sore, and he had an abrasion on his right elbow as a result of the incident.

On November 2, 2021, at approximately 1:04 in the afternoon, **Officer Michael Babineaux** was interviewed by Sergeant Joseph Steers and Detective Amy Bilbao of the San Bernardino County Sheriff's Department.⁶

On October 21, 2021, Officer Babineaux was on duty. Officer Babineaux wore a Class C uniform, which he described as a black polo style shirt, with Rialto Police Department patches on each side and a cloth badge with his name on the front. Officer Babineaux wore black cargo pants and his complete "Sam Browne" duty belt. Officer Babineaux activated his body worn camera (BWC) during this incident.

At around 12:30 in the morning, Officer Babineaux heard Officer Aldama conduct a traffic stop on the radio. Officer Babineaux noted the location and also heard Officer Aldama ask for a backing officer. Officer Babineaux was about a mile away, so he drove toward Officer Aldama. Officer Babineaux turned on his red and blue emergency lights to make a U-turn in the middle of Riverside Avenue. Officer Babineaux was concerned about Officer Aldama's tone of voice. Officer Babineaux could tell that it was not a normal traffic stop based on the way Officer Aldama sounded over the radio. Officer Babineaux then heard Officer Aldama ask for the unit to "step it up." Babineaux stated this meant that Officer Aldama wanted a unit there as quickly as possible, which would be lights and sirens. After this, Officer Babineaux engaged both his patrol vehicle's emergency lights and sirens. Officer Babineaux also remembered Officer Aldama broadcasting over the radio that he had one subject "415 verbal," which meant they were likely arguing. Officer Babineaux believed Officer Aldama was likely having a difficult time getting the subject to follow commands. Officer Babineaux was in fear for Officer Aldama's safety at this point.

⁶ Officer Michael Babineaux reviewed his body worn camera prior to being interviewed by Sergeant Joseph Steers and Detective Amy Bilbao.

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Officer Babineaux had a female civilian ride-along with him, but he could not remember her name. Officer Babineaux advised her to stay in the car because he was worried about the potential for the incident to be a dangerous one. The ride-along asked Officer Babineaux, "what's, what's going on?" and Officer Babineaux responded that he did not know more than it was a traffic stop and Officer Aldama was asking for a backing unit quickly.

Officer Babineaux remembered hearing dispatch say there were subjects fighting in the front yard of the residence where the traffic stop was occurring. Officer Babineaux did not find Officer Aldama where the traffic stop was reported. According to dispatch, the initial traffic stop was on South Encina Avenue. Officer Babineaux found Officer Aldama relatively quickly due to Officer Aldama's unit lights at North Encina Avenue. Officer Babineaux arrived on the scene and saw Officer Aldama in the front driver door threshold of a truck. Officer Babineaux broadcasted on the radio that the suspect was fighting with officers. Officer Babineaux was able to see Officer Aldama's arms were through the driver door's threshold, and it looked as if he either pinned or was grappling with the driver. Officer Babineaux believed that whoever Officer Aldama was fighting with was either trying to get away or hurt Officer Aldama. Officer Babineaux did not recall whether Officer Aldama had one boot or two boots down on the ground. Officer Babineaux did not remember hearing any yelling or commands.

Officer Aldama was dragged backwards as the truck went in reverse and accelerated, with his feet dragging along. Officer Babineaux approximated that the truck was traveling about 10 miles per hour (MPH) for approximately 10 feet. Officer Babineaux ran out of his patrol vehicle, which was within six feet, as the truck started driving forward with Officer Aldama hanging in the door. The truck was moving northbound and started to take a southbound turn, to make a U-turn. Officer Babineaux did not remember hearing any commands but recalled seeing Officer Aldama's face with an expression of panic and grimace of pain. Officer Babineaux reached out for Officer Aldama to get him away from the truck but could not recall if he was able to grab Officer Aldama. Officer Babineaux believed he told Officer Aldama, "Let go," "get off," or something to that effect. Officer Babineaux stated that he was scared Officer Aldama was going to get hurt or run over by the truck. A second later, Officer Aldama freed himself from the truck and started moving back into the street.

Officer Babineaux then observed the truck stop and quickly back up, in an attempt to complete the U-turn. He observed that the wheels were turned so the truck was facing him as it backed up. As the truck reversed, the front end swung as if the driver was trying to hit Officer Babineaux, causing him to jump out of the way. Officer Babineaux believed the driver was going to hit him, knock him down, and run him over. Officer Babineaux feared that he was going to die. Officer Babineaux then observed the truck coming toward him. Officer Babineaux remembered the driver looking directly at him with a look of anger on his face as he accelerated forward. Officer Babineaux believed the driver was looking at him as if he was a target. Officer Babineaux was terrified and thought he was going to die.

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Officer Babineaux drew his duty weapon because he thought the driver was going to kill him. According to Officer Babineaux, he did not have any other options to stop the driver from driving toward him. Officer Babineaux did not believe there was any ability to escape or get away from being struck by the truck. Officer Babineaux was in a “fighting stance” with his feet shoulder width apart, left foot slightly in front of the right, and a two-handed grip with his dominant hand on the handgun. Officer Babineaux yelled “stop, stop” at the driver and that he was going to get shot. The driver ignored Officer Babineaux’s commands, so he shot at the driver. Officer Babineaux fired the first round aimed at the driver’s chest and the second round was fired immediately after. Officer Babineaux did not remember the third or fourth rounds, or any rounds after the first two. Officer Babineaux fired the first two rounds in rapid succession and was prompted to shoot again when he heard the truck’s engine accelerate. He stopped shooting because the direction of the truck changed to a westbound direction. The truck crashed into a home through the fence. Officer Babineaux heard the engine accelerate before the crash happened.

Officer Babineaux broadcast “Shots fired, one subject down,” over the radio. However, he did not remember the information going out. Officer Babineaux told Officer Aldama to handle the radio as he approached the truck with his gun raised. Officer Babineaux approached the driver’s side and did not see any movement or hear anything. Officer Babineaux noticed the driver was unresponsive and observed the driver bleeding from his face.⁷ Officer Babineaux and Officer Aldama extracted the driver from the truck, handcuffed him, and assessed him for injuries. Officer Babineaux could not find strike marks on the driver. He recalled that other officers arrived within 10 seconds to administer medical aid with their medical kits.

Officer Babineaux stated that his only goals were to keep Officer Aldama from getting hurt and to stay alive himself. Officer Babineaux was stressed as he was responding to the scene because he could tell the situation was escalating and was worried upon arrival that Officer Aldama was going to get hurt. Officer Babineaux believed Officer Aldama’s life was in jeopardy when he was dragged by the truck. At the time of the LFE, Officer Babineaux was at an exceptional level of stress.

STATEMENTS BY CIVILIAN WITNESSES⁸

⁷ Officer Babineaux learned the driver’s name was Cristopher Valadez during his interview with Sergeant Steers and Detective Bilbao, and only recognized Valadez from the incident.

⁸ All civilian witness statements regarding the lethal force encounter were reviewed. Not all those statements will be included in the summary of statements by civilian witnesses.

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On October 22, 2021, at around 7:51 in the morning, **Witness 1** was interviewed by Detective Mauricio Rivas and Detective Cory Drost of the San Bernardino County Sheriff's Department.

On October 21, 2021, at approximately 6:50 in the evening, Witness 1 arrived at the Rialto Police Department for a ride along. After Officer Babineaux arrived, Witness 1 joined him for her ride along. She described Officer Babineaux's Rialto Police Department uniform as a black long-sleeve shirt, black pants, black hat, and duty belt with a Rialto Police Department patch sewn on the right shoulder and his name on his right chest. She described the patrol unit Officer Babineaux drove as a black and white Ford sport utility vehicle with Rialto Police Department stickers on the sides and red and blue emergency lights with sirens. Witness 1 rode with Officer Babineaux as he responded to and completed calls for service. Officer Babineaux told her to stay in the patrol vehicle for her safety if he conducted a traffic stop because the driver could be unpredictable.

At around midnight, Officer Babineaux made a U-turn while driving south on Riverside Street, near San Bernardino Avenue. Officer Babineaux told Witness 1 that another Rialto Police Department officer needed immediate assistance but did not know why. She did not know the other officer's name. Witness 1 did not hear the broadcast that Officer Aldama needed assistance. Officer Babineaux activated his patrol vehicle's emergency lights and sirens as he responded. Officer Babineaux drove fast, but she believed he was in control of the vehicle.

Approximately three to four minutes after making the U-turn, Officer Babineaux turned north onto Encina Avenue from First Street. Witness 1 saw emergency lights from another patrol vehicle ahead of them. She described the area as residential with single-story homes on both sides of the street. It was wide enough for vehicles to park on the other side and to allow for one vehicle to drive on the street. Officer Babineaux stopped his patrol vehicle next to Officer Aldama's patrol vehicle approximately six feet away from the side of Officer Aldama's driver door. Officer Babineaux quickly exited the patrol vehicle and left the driver's door open as he ran toward Officer Aldama. Witness 1's window was down approximately one to two inches and she believed she heard Officer Aldama yell, "Get out of the car," as Officer Babineaux opened his door.

The lights from both patrol vehicles illuminated a dark colored, unknown make or model pickup. Witness 1 had an unobstructed view of Officer Aldama and the Silverado through the windshield of Officer Babineaux's patrol vehicle. She estimated that Officer Babineaux stopped his patrol vehicle approximately eight to ten feet south of the Silverado. The Silverado was parked with the front half in the roadway, in front of Officer Aldama's patrol vehicle, and the back half was in the driveway. She could not remember if the Silverado's headlights or brake lights were illuminated. The Silverado's driver's door was open, and Officer Aldama stood in the open door. She remembered that Officer Aldama wore a black uniform but could not remember specific details about the uniform's appearance. Officer Aldama's body faced the inside of the Silverado. Witness 1 noticed Officer Aldama's arms reached into the Silverado and his feet appeared to be planted

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beneath the Silverado's frame. The hood of Officer Babineaux's patrol vehicle interfered with Witness 1's view of Officer Aldama from his waist down. She saw Officer Aldama pulling back and forth with the driver. She thought Officer Aldama struggled to pull Valadez out of the vehicle and had his feet positioned under Silverado's frame for more leverage. She could not see Officer Aldama's hands and did not know if he held anything at the time.

Witness 1 did not fully see Valadez because of the angle of the Silverado compared to Officer Babineaux's patrol vehicle. She could only see Valadez's head and a portion of his left shoulder, but she could not see if he had any weapons. She could not see if Valadez held onto the Silverado's steering wheel to prevent Officer Aldama from pulling him out of the vehicle. She believed Valadez was shirtless and had approximately three-to-four-inch dark colored hair. She did not notice if Valadez had any tattoos or notable scars. She could not see anyone else in the Silverado.

Witness 1 heard the Silverado's engine rev and Officer Babineaux yell at Officer Aldama to get back immediately before the Silverado rapidly accelerated west. She did not recall hearing Officer Aldama or Valadez yell, the Silverado's tires screech, or the Silverado's engine continue to rev as it drove forward. Officer Babineaux ran toward Officer Aldama as he yelled for Aldama to get back. Based on Witness 1's perspective, it did not appear the Silverado turned left or right as it accelerated forward. Valadez could have driven left or right and Witness 1 did not remember anything that would have blocked his path.

Officer Babineaux was next to his patrol vehicle, slightly behind the driver's side headlight, and Officer Aldama stood in the Silverado's open driver's door as it started to drive west. Witness 1 estimated that Officer Aldama was within six feet of the Silverado and feared Aldama was going to be run over by the Silverado. She did not believe Officer Babineaux was in danger of being struck by Valadez because Valadez drove west. If Valadez had turned "hard left," he could have hit Officer Babineaux. She did not believe Valadez would stop for any reason as he tried to escape and would do anything to get away from the officers.

As the Silverado drove west, Officer Aldama moved out of the way of the vehicle. Witness 1 believed Officer Aldama moved diagonally backwards to get out of the way, but stated it happened very quickly and was "fuzzy." She could not see what Valadez did as he drove forward because of the diagonal angle of her view of the driver's side of the Silverado from within the patrol vehicle.

She saw Officer Babineaux draw his firearm and shoot more than once, potentially two to three times, at the Silverado in a quick cadence. The Silverado drove west a "few" feet before Officer Babineaux shot at it, but Witness 1 could not estimate a more precise distance. The Silverado did not drive in any other direction but west. She did not see if the fired bullets struck the Silverado, but she did see Valadez's head abruptly jerk up as the Silverado continued to drive west and collided with a residence on the west side of the street. The Silverado stopped after it collided with this residence.

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Witness 1 believed the Silverado maintained its momentum after the gunshots, causing it to go over the curb and collide with the residence. She did not remember if the Silverado's engine continued to rev after the gunshots. She believed Valadez drove west because he was shot and did not have time to turn left or right before Officer Babineaux reacted. Witness 1 could not think of a reason why Valadez would intentionally drive into the residence.

Immediately after the Silverado collided with the residence, Officer Babineaux and Officer Aldama ran to the vehicle, removed Valadez, and placed him on the ground. They also quickly provided Valadez with medical attention. Witness 1 could not recall if the Silverado's driver door was open or closed when it collided with the residence. She could no longer see Valadez once he was on the ground because of bushes and vegetation which blocked her view from Officer Babineaux's patrol vehicle. Although she could not see Valadez, Witness 1 believed Officer Babineaux and Officer Aldama provided "compressions." She heard a comment about compressions being done and thought she heard the information broadcasted over the radio through Officer Babineaux's patrol vehicle.

According to Witness 1, the events of the LFE unfolded quickly and occurred within seconds. She stated that the LFE occurred less than one minute after she and Officer Babineaux arrived on the scene. She did not know if Officer Babineaux or Officer Aldama were injured during the LFE, which was a major concern to her. At the time Officer Aldama struggled to pull Valadez from the Silverado, Witness 1 was not concerned about her safety and was only worried Aldama would be injured. After the LFE, she realized she did not know if Valadez had a gun. She noticed her body trembled and she could not calm herself, attributing it to adrenaline and stress from the incident. Witness 1 opined that Officer Babineaux and Officer Aldama handled the situation appropriately based on the circumstances. It also appeared to her that Officer Babineaux and Officer Aldama remained calm during the incident. Witness 1 did not believe that officers could have reasoned with Valadez to make him comply, and that he planned to do what he could to escape.

On October 22, 2021, at around 11:43 in the morning, **Witness 2** was interviewed by Detective Cory Drost of the San Bernardino County Sheriff's Department.

On October 22, 2021, shortly after midnight, Witness 2 watched television in her living room. She noticed alternating lights from a patrol vehicle through her front window. She went to the window, which faced south, and saw a patrol vehicle stopped behind a green pickup truck. The truck stopped behind her daughter's boyfriend's Toyota pickup truck and faced north. Witness 2 did not see the police officer, but thought it was a normal traffic stop and returned to watch television.

Approximately five minutes after Witness 2 sat down, she heard a vehicle collision and returned to her living room window to see what happened. As she walked toward the

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window, she noticed the truck appeared to be making a three-point turn to go south on Encina Avenue. While the truck turned around, she heard approximately five gunshots. She did not see where the officer was when she heard the gunshots because she did not make it to the window to clearly see what was happening outside. She immediately dropped to the floor and yelled for her family to get down as she crawled toward her bedroom on the north side of her residence. She knew her family was asleep at the time of the gunshots, but she yelled anyways.

Witness 2 woke her husband and told him what happened. She waited approximately 15 minutes before she went to her front porch. At her front porch, she saw the Silverado collided with a residence on the west side of Encina Avenue. She also saw at least three patrol vehicles and a fire truck to the south of her residence. Witness 2 noticed her neighbor stood by his gate and talked to him about what happened. She believed she saw someone perform cardiopulmonary resuscitation (CPR) on the truck's driver at some point after she went outside. However, she could not remember if it was law enforcement or the fire department personnel who performed CPR or when it was initiated. She had difficulty seeing since it was dark outside, and she was not wearing her glasses at the time. Witness 2 believed an ambulance had arrived, but was not positive, and could not remember the exact time one arrived. She stayed outside and spoke to her neighbor for about 10 minutes before she went inside her residence.

Witness 2 did not hear any talking, yelling, or commands from outside before the gunshots. She did not recognize Valadez or the Silverado. According to her, the Silverado was in the same place as it was when she saw it after the gunshots.

On October 22, 2021, at around 4:31 in the morning, **Witness 3** was interviewed by Detective Mauricio Rivas of the San Bernardino County Sheriff's Department.

On October 22, 2021, at approximately 12:30 in the morning, Witness 3 heard a crash and felt his residence shake. He went outside and saw a vehicle had crashed into the east side of his residence in his front yard. He was half asleep when he went outside, and he did not remember hearing or seeing anything. Witness 3 did not see the incident that led to the LFE or the LFE. However, he was the owner of the surveillance cameras that captured the lethal force encounter between Rialto Police Department officers and Valadez, discussed *post*.

RELEVANT INCIDENT AUDIO/VIDEO

BODY WORN CAMERA FOOTAGE. Investigators obtained Axon body worn camera footage from Officer Aldama and Officer Babineaux. The following is a summary of the footage captured before, during and after this LFE.

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Officer Joseph Aldama

Officer Aldama wore his department issued Axon body camera during the incident under review. The recording is six minutes and six seconds in length.

The video began at time stamp 2021-10-22 07:27:55⁹. There is no sound on the video for approximately 30 seconds. In this initial 30 seconds, Officer Aldama is parked near the intersection of North Eucalyptus Ave. and Rialto Ave. in the City of Rialto. His patrol vehicle faced south on Eucalyptus Ave. This intersection is controlled by stop signs in all four directions. At time stamp 2021-10-22 07:28:14 a vehicle is seen driving west on Rialto Ave. and failed to stop for a stop sign. At time stamp 2021-10-22 07:28:46 Officer Aldama activated his emergency lights.

Approximately eight seconds later a pickup truck driven by Valadez parked on the east side of North Encina Ave. Two seconds later Valadez exited the driver's door of the truck and walked toward North Encina Ave. Valadez can be heard on the recording telling Officer Aldama that he lived at the residence. Officer Aldama ordered Valadez back into his vehicle three times. Valadez did not comply. At time stamp 2021-10-22 07:29:10 Valadez walked into the driveway of North Encina Ave. Officer Aldama attempted to take control of Valadez's left arm with his right hand and placed his left hand on the back of Valadez's left shoulder. Valadez immediately turned his body towards Officer Aldama and pulled away. Valadez told Officer Aldama that he was on his property and his rights were being violated. Officer Aldama then left Valadez's immediate presence and walked to the curb line of the property and broadcast his location as "131 South Encina" and requested a "10-11," or a call for immediate assistance.

At time stamp 2021-10-22 07:29:24 Officer Aldama approached Valadez at the front door of North Encina Ave. Officer Aldama told Valadez to "get on the floor" twice before he attempted to grab Valadez's left arm. Valadez did not comply with the commands. Officer Aldama then attempted to grab Valadez's left arm with his left hand. Valadez pulled his arm away and said, "Don't touch me, sir." Officer Aldama then grabbed Valadez's shirt and ordered him to the ground. Valadez did not comply. Valadez then grabbed Officer Aldama's left hand, and removed it from his shirt, and pushed Officer Aldama away. Officer Aldama again tried to grab Valadez, but Valadez pushed him away and yelled, "Don't touch me, sir" and "I know my rights." This exchange lasted approximately 12 seconds before Officer Aldama pulled Valadez's shirt off of his body.

Officer Aldama retrieved his department issued Taser at time stamp 2021-10-22 07:29:44 and pointed it at Valadez. Officer Aldama told Valadez to get on the ground or he would be Tased. Officer Aldama told Valadez 7 times to comply. Valadez refused. Valadez then kicked off his left shoe and walked north past Officer Aldama towards the driveway. Officer

⁹ The time stamps on Rialto Police Department body cameras represent Zulu time. A time stamp in the 0700-hour Zulu time is in the 0000-hour Pacific Daylight Time. Thus, this LFE began at roughly 0029 hours on October 22, 2021.

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Aldama then re-holstered his Taser and reached for Valadez's left arm with both of his hands. During this encounter Officer Aldama fell to the ground. When he got back up, Valadez then ran to the driver's side door of his vehicle. Officer Aldama chased Valadez to the vehicle.

At time stamp 2021-10-22 07:30:38 Valadez opened the driver's door of his truck and entered. Officer Aldama again tried to grab Valadez's arm and remove him from the vehicle. Valadez pulled his arm away and stated "Fuck you, nigga" multiple times. Approximately four seconds later a struggle is heard between Officer Aldama and Valadez. Audible chimes from the Valadez's truck are heard in the background. Sirens from an emergency vehicle is also heard in the background.

At time stamp 2021-10-22 07:30:55, the truck's engine made a revving noise, and the voice of Officer Babineaux is heard stating, "Back up, back up, back up, get off Aldama." Approximately four seconds later Officer Babineaux removed Officer Aldama from the truck's door area. Officer Aldama unholstered his Taser again and stood on the east side of the street with his camera facing the ground. At time stamp 2022-10-22 07:31:01 Officer Babineaux ordered Valadez to stop his vehicle, or he would be shot. The truck engine then revved and a tire audibly screeched. The video then captures the sound of five gunshots in quick succession. Shortly thereafter a crashing sound is heard.

Officer Aldama is then heard on the video broadcasting on his radio, "shots fired." Officer Aldama then approached Valadez's vehicle from the passenger side. At time stamp 2022-10-22 07:31:32 Officer Babineaux and Officer Aldama pull Valadez out of the truck and onto the grass. Officer Babineaux then handcuffed Valadez to the rear and asked Officer Aldama to retrieve a medical kit.

At time stamp 2021-10-22 07:32:14 two Rialto police officers begin to administer medical aid to Valadez. One officer begins chest compressions. At time stamp 2021-10-22 07:34:02 the video recording ends.

Officer Michael Babineaux

Officer Babineaux wore his department issued Axon body camera during the incident under review. The recording is four minutes and thirty-eight seconds in length.

The video began at time stamp 2021-10-22 07:29:12. There is no sound on the video for approximately the first 30 seconds. At time stamp 2021-10-22 07:29:25 Officer Babineaux activated his emergency lights and made a U-turn on an unknown street. Approximately 17 seconds later, Officer Babineaux's passenger, Witness 1 asked him what was going on. Officer Babineaux told her he did not know what happened but that his partner requested immediate assistance with a stopped vehicle.

At time stamp 2021-10-22 07:30:10, Officer Aldama broadcast "415 verbal" over the radio. At time stamp 2021-10-22 07:30:35 Officer Babineaux informed dispatch he arrived at the

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scene. Approximately 14 seconds later Officer Babineaux parked his patrol vehicle northwest of Officer Aldama's and stated over the radio, "Fighting with officers." Shortly after this broadcast, Officer Aldama appeared in view of the camera in the open driver's door of Valadez's vehicle and appeared to be struggling with Valadez.

Officer Babineaux then exited his patrol vehicle and ran towards Officer Aldama. Approximately one second later the engine of Valadez's truck is audible, and Officer Babineaux is heard yelling at Officer Aldama to back up. At time stamp 2021-10-22 07:30:56 Valadez drove north with Officer Aldama holding onto the driver's side of the truck. Officer Aldama was dragged by the vehicle as he held on. Approximately one second later, Officer Aldama let go of the vehicle and managed to retreat east away from Valadez. Valadez remained in the vehicle with the driver's door open and immediately reversed.

At time stamp 2021-10-22 07:30:58 Officer Babineaux pointed his firearm at Valadez and told him three times to stop the vehicle. On the third occasion, Officer Babineaux told Valadez that he would be shot if he did not comply. The video then showed Valadez looking directly at Officer Babineaux as he maneuvered the vehicle. Valadez appeared to be turning the steering wheel to the right. Approximately one second later Valadez reversed his vehicle with the front tire turned to the right. The vehicle appeared to move in the direction of Officer Babineaux as it reversed.

At time stamp 2021-10-22 07:31:00 Valadez appeared to put the truck in the drive position and straightened the front tire. At this moment Officer Babineaux began firing at Valadez. He fired a total of five shots. The video captured the last shot at time stamp 2021-10-22 07:31:01. Approximately one second later Valadez's vehicle continued forward and drove through a chain-link fence and collided with the side of the residence at Address 1 North Encina Avenue

Over the next minute, Officer Babineaux and Officer Aldama approached Valadez's vehicle. Officer Babineaux broadcasted "Shots fired" over the radio and then attempted to retrieve Valadez from his vehicle. Officer Babineaux attempted to open the driver's door but was unsuccessful. He eventually got into the car through the driver's window and opened the door. He then pulled Valadez out of the car and handcuffed him. At time stamp 2021-10-22 07:31:54 Officer Babineaux told Officer Aldama to grab a medical kit.

Several officers from the Rialto Police Department then arrived on scene and began providing medical aid to Valadez. At time stamp 2021-10-22 07:32:46 a Rialto Police Officer began chest compressions on Valadez. At time stamp 2021-10-22 07:33:50 the recording ends.

CIVILIAN CAMERA FOOTAGE. Investigators obtained surveillance camera footage of this LFE from two nearby residences.

Address 1 North Encina Avenue

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The resident at Address 1 North Encina Avenue had several video cameras around the home. The camera attached to the east garage wall faced directly into the street on North Encina Ave. and captured this LFE. The camera recorded in black and white until enough light enters the camera to record in color. The video was not equipped to record sound. This video is approximately thirty-one minutes and four seconds long. The time stamp on the video displays the correct date but is approximately 13 hours ahead of actual time. The video begins at approximately 13:19:57 hours which corresponds to approximately 0019 hours on October 22, 2021.

At time stamp 13:28:51 a pickup truck driven by Valadez entered the field of view. Officer Aldama's patrol vehicle is parked right behind the truck with the emergency lights illuminated. Approximately seven seconds later Valadez exited the driver's side of the vehicle and walked toward Officer Aldama. Valadez then walked between the rear of his truck and Officer Aldama's patrol vehicle toward the driveway of a residence on North Encina Ave.

At time stamp 13:29:10 Officer Aldama exited his patrol vehicle and ran toward Valadez on the driveway. Valadez continued to walk toward the front of the residence away from Officer Aldama. Officer Aldama appeared to grab Valadez's arm, but Valadez pulled away. Officer Aldama then walked back toward his patrol vehicle and then ran up the driveway. Both men were then out of view of the camera for approximately one minute.

At time stamp 13:30:26 Officer Aldama appeared to point some type of light source on Valadez. Valadez then walked away from Officer Aldama and out of view of the camera caused by the obstruction of some trees. Approximately 13 seconds later the camera captured Valadez running back toward his truck and Officer Aldama chasing after him. Valadez then opened the door to his vehicle. Valadez turned and faced Officer Aldama, who attempted to grab Valadez's arms. Valadez slapped Officer Aldama's hands away and entered the vehicle.

The headlights of Valadez's vehicle illuminated at time stamp 13:30:43. Officer Aldama stood in the street between the driver's door of the truck and the frame of the vehicle. Officer Aldama appeared to grab Valadez's body in an attempt to remove him from the vehicle. Officer Aldama then punched Valadez three times. Valadez blocked the punches by slapping them with his left arm. At time stamp 13:30:50 Officer Aldama attempted to pull Valadez out of the truck. The truck then moved in reverse as Officer Aldama held onto Valadez's body. The truck appeared to reverse a few feet just as Officer Babineaux's patrol vehicle entered the camera view.

At time stamp 13:30:55 Officer Aldama continued to hold onto Valadez's body as the truck moved forward. The truck then moved left to avoid another vehicle parked directly in front of it. As the truck moved, Officer Aldama was thrown off of Valadez. Officer Babineaux then ran forward and pulled Officer Aldama away from the truck. Valadez then continued

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moving the truck forward toward the west curb line of North Encina Ave., nearly striking both Officer Aldama and Officer Babineaux.

At time stamp 13:30:59 Valadez drove the truck in reverse and turned the front wheels to the right. The truck then continued in reverse with the front end of the vehicle moving in the direction of Officer Aldama and Officer Babineaux. As the vehicle swung toward him, Officer Babineaux jumped backward to avoid being struck. Approximately two seconds later, Valadez reversed the truck and collided with the vehicle parked behind him. At this point in the video, the wheels of Valadez's truck were straightened out and facing forward. Officer Babineaux appeared to be in front of the truck, just to the left of the front bumper.

Officer Babineaux appeared to fire his first shot at time stamp 13:31:01. At time stamp 13:31:02 Valadez drove his vehicle forward in the direction of Officer Babineaux, who continued to fire his weapon. The video captured Valadez's vehicle colliding with the chain-link fence in the yard of Address 1 North Encina Avenue and crashing into the side of the residence.

Approximately 10 seconds later, both Officer Aldama and Officer Babineaux approach Valadez from the driver's side of his vehicle. The next several moments captured other Rialto Police Officers and medical personnel arrive on scene. At time stamp 13:48:34 medical personnel placed Valadez on a gurney and transported him away in an ambulance. At time stamp 13:50:58, the recording ends.

Address 2 North Encina Avenue

The resident at Address 2 North Encina Avenue recorded this LFE with his cellphone video camera. The recording is 35 seconds in length and captured both video and sound.

At time stamp 00:00 the recording started. Valadez approached his truck and opened the driver's door. Officer Aldama then arrived immediately thereafter and appeared to attempt to grab Valadez as he entered the vehicle. The recording captured Officer Aldama physically struggling with Valadez in the driver's door of the truck.

At time stamp 00:17 the truck reversed abruptly then began to move forward with Officer Aldama still inside the driver's door area of the vehicle. Officer Aldama held onto Valadez as the car drove forward. Approximately one second later Officer Babineaux arrived on scene and attempted to pull Officer Aldama from the truck. The video captured Officer Babineaux stating, "back up, back up." At time stamp 00:19 Valadez stopped his truck on the west curb line of North Encina Avenue.

Valadez reversed the truck and drove backwards at time stamp 00:21. Officer Babineaux is captured on the video stating, "Stop, stop, stop you're gonna get shot." At time stamp 00:23 Valadez straightened the tires of the truck, and the truck faced the direction of Officer Babineaux. Officer Babineaux then fired one round at Valadez, who then drove the truck forward. Officer Babineaux continued firing at Valadez who then crashed

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through a fence and into the side of a residence. Officer Babineaux was out of this camera's view during the shooting.

At time stamp 00:32 Officer Babineaux and Officer Aldama approached the truck. At time stamp 00:35 the recording ends.

OFFICER ALDAMA UNIFORM PROCESSING

On October 22, 2021, Detective Cory Drost of the San Bernardino County Sheriff's Department inventoried and photographed Officer Aldama, including the boots he wore during this LFE. Detective Drost observed that Officer Aldama's left boot had debris and scuffs and gouges. Detective Drost concluded that the scuffs and gouges appeared to be new and a result of Officer Aldama's altercation with Valadez.

DECEDENT

IDENTIFICATION. The decedent was identified as Christopher Valadez, a Hispanic male adult with a date of birth of May 12, 1998.

AUTOPSY. Dr. Diana Geil, Forensic Pathologist for the Coroner Division of the San Bernardino County Sheriff's Department conducted the autopsy of Christopher Valadez on November 8, 2021.

Gunshot Wound Number One¹⁰:

Located on the left side of the head two inches below the top of the head and six inches to the left of the anterior midline. The bullet entered the left scalp, parietal bone, and brain, traversing the left parietal lobe, right parietal lobe, and right occipital lobe. The bullet terminated in the posterior cranial base fossa. The path of the projectile was front to back, left to right and downwards.

Gunshot Wound Number Two:

Located on the right anterior shoulder eleven inches below the top of the head and 6 inches to the right of the anterior midline. The bullet injured the skin and tissue of the right

¹⁰ The numbering of the gunshot wounds is for reference only and not meant to indicate the order in which the gunshot wounds occurred.

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anterior shoulder. The path of the projectile was front to back, with no significant right/left or upward/downward deviation.

Gunshot Wound Number Three:

Located on the medial aspect of the right proximal thigh, thirty-two inches from the bottom of the right heel. The bullet injured the skin and soft tissue of the right thigh. The direction of the projectile was front to back, left to right and upwards.

Gunshot Wound Number Four:

Located on the dorsomedial aspect of the left hand. The bullet injured the skin and tissue of the left hand and left, second metacarpal bone before partially exiting the body through the first dorsal webspace of the left hand. The path of the projectile was right to left with no other significant directional deviation.

CAUSE AND MANNER OF DEATH. Dr. Geli determined the cause of death to be a gunshot wound of the head, occurring within hours and the manner of death to be homicide.

TOXICOLOGY RESULTS. Blood samples were collected from Valadez during his treatment at the hospital.

Toxicology results for the **Blood** sample were listed as follows:

- Ethanol – 96 mg/dL
- Blood Alcohol Concentration (BAC) – 0.096 g/100mL
- Benzoylecgonine (Cocaine) – 530 ng/mL
- 11-Hydroxy Delta-9 THC – 1.5 ng/mL
- Delta-9 Carboxy THC – 21 ng/mL
- Delta-9 THC – 3.5 ng/mL

CRIMINAL HISTORY

2018, PC § 459.5, Shoplifting. San Bernardino County case number MWV18007745, a misdemeanor.

2018, PC § 242, Battery. San Bernardino County case number MWV18007745, a misdemeanor.

2020, PC § 245(a)(4), Assault by Means of Force Likely to Inflict Great Bodily Injury. San Bernardino County case number FWV20000850, a felony.

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2021, VC § 23152(a)-(b), Driving Under the Influence. San Bernardino County case number MWV20022023, misdemeanors.

2021, VC § 23152(a)-(b), Driving Under the Influence. San Bernardino County case number MWV21000806, misdemeanors.

DE-ESCALATION

Immediately upon Valadez's exit from his vehicle, Officer Aldama attempted to de-escalate this situation. He ordered Valadez to re-enter his vehicle. When Valadez refused, Officer Aldama gave him multiple commands to get on the ground. When Valadez refused, Officer Aldama attempted to physically control him. Valadez responded with violent resistance. Eventually Officer Aldama drew his Taser and pointed it at Valadez, who continued to ignore commands. In an attempt to get Valadez to comply, Officer Aldama even re-holstered his Taser. At this point, Valadez continued to ignore commands and ran to his vehicle.

Once Officer Babineaux arrived on scene, Officer Aldama was already being dragged by Valadez's vehicle. Immediately before shooting, Officer Babineaux repeatedly told Valadez to stop his vehicle, even warning him he would be shot if he continued to drive his vehicle toward officers. The situation here escalated very quickly. Officer Aldama gave Valadez numerous commands and opportunities to comply and Officer Babineaux also gave Valadez an opportunity to comply before firing. Valadez verbally and physically fought with Officer Aldama, dragged him with his vehicle, then drove that same vehicle at both Officer Aldama and Officer Babineaux. Valadez never complied with any orders given by the officers.

APPLICABLE LEGAL PRINCIPLES

A peace officer may use objectively reasonable force to effect an arrest if he believes that the person to be arrested has committed a public offense. (Calif. Penal C. § 835a(b).)¹¹ Should an arresting officer encounter resistance, actual or threatened, he need not retreat from his effort and maintains his right to self-defense. (Penal C. § 835a(d).) An officer may use objectively reasonable force to effect an arrest, prevent escape or overcome resistance. (Penal C. § 835a(d).)

An arrestee has a duty to refrain from using force or any weapon to resist arrest, if he knows or should know that he is being arrested. (Penal C. § 834a.) This duty remains even if the arrest is determined to have been unlawful. (*People v. Coffey* (1967) 67 Cal.2d 204, 221.) In the interest of orderly resolution of disputes between citizens and the government, a *detainee* also has a duty to refrain from using force to resist detention or search. (*Evans v. City of Bakersfield* (1994) 22 Cal.App.4th 321, 332-333.) An arrestee or detainee may be kept in an officer's presence by physical restraint, threat of force, or

¹¹ All references to code sections here pertain to the California Penal Code.

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assertion of the officer's authority. (*In re Gregory S.* (1980) 112 Cal. App. 3d 764, 778, *citing, In re Tony C.* (1978) 21 Cal.3d 888, 895.) The force used by the officer to effectuate the arrest or detention can be justified if it satisfies the Constitutional test in *Graham v. Connor* (1989) 490 U.S. 386, 395. (*People v. Perry* (2019) 36 Cal. App. 5th 444, 469-470.)

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

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

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

(Penal C. § 835a(c)(1).) Discharge of a firearm is "deadly force." (Penal C. §835a(e)(1).) The "[t]otality of the circumstances" means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force." (Penal C. § 835a(e)(3).) A peace officer need not retreat or desist from efforts to arrest a resistant arrestee. (Penal C. § 834a(d).) A peace officer is neither deemed the aggressor in this instance, nor does he lose the right of self-defense by the use of objectively reasonable force to effect the arrest, prevent escape or overcome resistance. (*Id.*)

While the appearance of these principals was new to section 835a in 2020,¹² the courts have been defining the constitutional parameters of use of deadly force for many years. In 1985, the United States Supreme Court held that when a police officer has probable cause to believe that the suspect he is attempting to apprehend "has committed a crime involving the infliction or threatened infliction of serious physical harm" to the officer or others, using deadly force to prevent escape is not constitutionally unreasonable. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11-12.) California courts have held that when a

¹² Assem. Bill No. 392 (2019-2020 Reg. Sess.) approved by the Governor, August 19, 2019. [Hereinafter "AB-392"]

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police officer's actions are reasonable under the Fourth Amendment of our national Constitution, that the requirements of Penal Code § 196 are also satisfied. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 349; *Brown v. Grinder* (E.D. Cal., Jan. 22, 2019) 2019 WL 280296, at *25.) There is also a vast body of case law that has demonstrated *how* to undertake the analysis of what is a reasonable use of force under the totality of the circumstances. (See *Reasonableness* discussion, *infra*.) As such, our pre-2020 state caselaw, developed upon the former iteration of § 196, is still instructive.

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

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

- (1) that the use of force should be exercised judiciously and with respect for human rights and dignity; that every person has a right to be free from excessive uses of force;
- (2) that use of force should be used only when necessary to defend human life and peace officers shall use de-escalation techniques if it is reasonable, safe and feasible to do so;
- (3) that use of force incidents should be evaluated thoroughly with consideration of gravity and consequence, lawfulness and consistency with agency policies;¹³

¹³ Penal C. §835a (a)(3) conflates a demand for thorough evaluation of a use of force incident with a dictate that it be done “in order to ensure that officers use force consistent with law and agency policies.” On its face, the section is clumsily worded. Nothing included in AB-392 plainly requires that a use of force also be in compliance with agency policies. A provision in the companion bill to AB-392—Senate Bill No. 230 [(2019-2020 Reg. Sess.) approved by the Governor, September 12, 2019] (Hereinafter “SB-230”), does explicitly state that “[a law enforcement agency’s use of force policies and training] may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably, but shall not be considered as imposing a legal duty on the officer to act in accordance with such policies and training.”

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

(Penal C. § 835a(a).)

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

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

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

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

IMMINENCE. “Imminence is a critical component” of self-defense. (*People v. Humphrey* (1996) 13 Cal.4th 1073, 1094.) A person may resort to the use of deadly force in self-defense, or in defense of another, where there is a reasonable need to protect oneself or someone else from an apparent, *imminent* threat of death or great bodily injury. “An imminent peril is one that, from appearances, must be instantly dealt with.” (*In re Christian S.* (1994) 7 Cal.4th 768, 783.) The primary inquiry is whether action was instantly required to avoid death or great bodily injury. (*Humphrey, supra*, 13 Cal.4th at 1088.) What a

(Sen. Bill No. 230 (2019-2020 Reg. Sess.) §1.) It is noteworthy, however, that this portion of SB-230 is uncodified, unlike the aforementioned portion of Penal C. §835a (a)(3).

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person knows and his actual awareness of the risks posed against him are relevant to determine if a reasonable person would believe in the need to defend. (*Id.* at 1083.) In this regard, there is no duty to wait until an injury has been inflicted to be sure that deadly force is indeed appropriate. (*Scott v. Henrich, supra*, 39 F. 3d at 915.)

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

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

(Penal C. § 835a(e)(2).)

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

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

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

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

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When deciding whether a person's beliefs were reasonable, a jury is instructed to consider the circumstances as they were known to and appeared to the person and considers what a reasonable person in a similar situation with similar knowledge would have believed. (CALCRIM 505.) It was previously held that in the context of an officer-involved incident, this standard does not morph into a "reasonable police officer" standard. (*People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147.)¹⁴ To be clear, the officer's conduct should be evaluated as "the conduct of a reasonable person functioning as a police officer in a stressful situation." (*Id.*)

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

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

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

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

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

¹⁴ The legislative findings included in Penal C. section 835a(a)(4) suggest to the contrary that "the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation". As such, if the officer using force was acting in an effort to *effect arrest*, as is governed by section 835a, then it appears the more generous standard included there would apply.

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facing a possible assailant than to someone analyzing the question at leisure.

(*Martinez v. County of Los Angeles*, *supra*, 47 Cal.App.4th at 343, citing *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.)

Specifically, when a police officer reasonably believes a suspect may be armed or arming himself, it does not change the analysis even if subsequent investigation reveals the suspect was unarmed. (*Baldrige v. City of Santa Rosa* (9th Cir. 1999) 1999 U.S. Dist. LEXIS 1414 *1, 27-28.)

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

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

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

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

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

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lethal force definition set forth in *Smith*. (*Thompson v. County of Los Angeles* (2006) 142 Cal.App.4th 154, 165-169.)

Beyond the traditional *Graham* factors, and particularly in the use of non-lethal force, the failure of officers to give a warning and the subject's mental infirmity can also be considered when assessing the totality of the circumstances. (*Bryan v. MacPherson*, *supra*, 630 F.3d at 831; *Deorle v. Rutherford*, *supra*, 270 F.3d at 1283-84.)

Failure to pass-muster under *Graham* can deem the use of non-lethal force as "excessive" and therefore violate the Fourth Amendment. (*Id.*) On the other hand, active resistance could justify multiple applications of non-lethal force to gain compliance and would not be deemed "excessive" nor violate the Fourth Amendment. (*Sanders v. City of Fresno* (9th Cir. 2008) 551 F.Supp.2d 1149, 1182 [not excessive to use physical force and tase an unarmed but actively resisting subject with 14 taser cycles where such was needed to gain physical control of him].)

ANALYSIS

Here, Officer Babineaux had an honest and objectively reasonable belief that he and/or Officer Aldama would suffer imminent death or great bodily injury. Prior to arrival Officer Babineaux received a dispatch asking for a "10-11," police code for an officer in need of immediate assistance. After rushing to the scene, Officer Babineaux arrived to see his partner officer, Officer Aldama, engaged in a physical altercation with a subject in a large vehicle. Video evidence demonstrates that before Officer Babineaux could exit his patrol vehicle, the subject vehicle began moving with Officer Aldama hanging on. Officer Babineaux then watched as the vehicle abruptly moved forward, placing Officer Aldama in grave danger of being injured or killed. Physical evidence, in the form of Officer Aldama's boots, corroborates that he was in fact, dragged by Valadez's vehicle.

After making a quick attempt to physically pull his partner to safety, Officer Babineaux faced a situation wherein a subject just assaulted an officer with his hands and a vehicle. Officer Babineaux stood in the street in close proximity to Valadez's large vehicle and in tight quarters. As Officer Babineaux ordered Valadez to stop his vehicle, Valadez abruptly and aggressively turned his vehicle in the direction of Officer Babineaux. Valadez's aggressive maneuver with his vehicle constituted an assault on Officer Babineaux with a deadly weapon, to wit, a motor vehicle, a violation of Penal Code §§ 245(a)(1) and 69, respectively. Video evidence demonstrates that but for jumping backwards, Officer Babineaux would have been struck by Valadez's vehicle.

Furthermore, shortly after backing up, Valadez straightened out his tires placing his vehicle in a position to run over Officer Babineaux, who appeared to stand in the path of the vehicle. It appears from the video evidence that Valadez's intended means of escape was in the direction of Officer Babineaux. Of note, Officer Babineaux told investigators that before pulling the trigger on his weapon, Valadez made direct eye contact with him, and had an aggressive look on his face, facts corroborated by body camera footage.

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Finally, after the shooting began, Valadez drove his vehicle forward in the direction of Officer Babineaux. Based on the foregoing, Officer Babineaux had mere seconds to react and decide about his safety, the safety of Officer Aldama and the public at large, all while being assaulted by a motor vehicle.

Of note, Officer Aldama also stated that he feared for his life and the life of Officer Babineaux immediately before shots were fired. These beliefs were inherently reasonable given Officer Aldama's interactions with Valadez before Officer Babineaux arrived on scene. Valadez repeatedly failed to comply with commands, and physically assaulted Officer Aldama both with his hands and by dragging Officer Aldama along the roadway with his vehicle. Officer Babineaux witnessed his partner physically struggling with a non-compliant subject which then escalated to a more dangerous assault in the form of being dragged by a vehicle.

A civilian witness on scene, Witness 1 also told investigators that she believed Valadez would do "anything" to escape the situation. She told investigators that she believed Officer Aldama was going to be run over by Valadez's truck. Witness 1 told investigators that it appeared to her Valadez would not comply. Witness 1 also stated that the situation evolved very quickly, and she believed the officers acted appropriately based on the situation confronting them. She believed that no amount of reasoning with Valadez would have stopped him from escaping in his vehicle.

The following facts highlight the reasonableness of Officer Babineaux's actions when viewed objectively and support the opinions of Officer Aldama and Witness 1. First, Valadez was on felony probation for assault. Thus, it can be inferred that he had a significant motive to avoid law enforcement contact and arrest. Secondly, Valadez tested positive for alcohol, with a concentration of 0.09%, above the legal limit to drive. He also tested positive for cocaine and marijuana. The drugs in his system, along with his status on felony probation shed significant light on his behavior, and motivations on the night of this incident. Therefore, when Witness 1 concluded that it appeared Valadez would not comply with officers under any circumstances, such conclusion appears to be objectively reasonable. If Valadez would not comply with officers under any circumstances, then it was reasonable for Officer Babineaux to conclude that Valadez intended to run him over to escape.

It is implausible that Valadez did not believe or understand he was confronted with police officers during this incident. Officer Babineaux wore a distinctly marked uniform, and drove a black and white, marked Rialto Police vehicle. It should be noted that prior to Officer Babineaux's arrival, Officer Aldama spent several minutes with Valadez. Valadez clearly recognized Officer Aldama as a police officer and referred to him as "officer" on at least one occasion, even asking for a "supervisor," and claiming he "[knew] his rights." These facts, coupled with the fact that both officers' vehicles illuminated their red and blue emergency lights demonstrate both Officer Aldama and Officer Babineaux identified themselves as police officers prior to the LFE.

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In sum, Officer Babineaux was confronted with a very quickly evolving and escalating situation. A physically violent subject, on felony probation, and under the influence of alcohol and other drugs fought with a partner officer and dragged that officer along the ground with a vehicle. That same subject assaulted Officer Babineaux with the same vehicle, before aggressively maneuvering the vehicle in a position to run over Officer Babineaux and Officer Aldama. Officer Babineaux was not required to wait to determine whether Valadez had any further intention to harm him or his partner before he decided to shoot. Officer Babineaux's belief that Valadez imminently intended to kill, or at minimum, grievously injure him and his partner was honest and objectively reasonable under the circumstances. Therefore, the decision by Officer Babineaux to use deadly force was justified.

CONCLUSION

Based on the facts presented in the reports and the applicable law, Officer Babineaux's use of lethal force was a proper exercise of his right of defense and his right of defense of others and therefore, his actions were legally justified.

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