



## PUBLIC RELEASE MEMORANDUM

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**Date:** January 28, 2025

**Subject:** Non-Fatal Officer-Involved Incident

**Involved Officers:** Corporal Ryan Ronveaux  
Ontario Police Department

Officer James Hendrickson  
Ontario Police Department

Officer Michael Lucifora  
Ontario Police Department.

**Involved Subject/DOB:** Agustin Martinez (DOB 08/02/1996)  
**Subject's Residence:** Fontana, California

**Incident Date:** July 19, 2019  
**Incident Time:** 11:31 a.m.

**Case Agent:** Detective Simon DeMuri  
San Bernardino County Sheriff's Department

**OPD#:** 190700972  
**SBSO H#:** 2019-062  
**SBSO DR#:** 601900070

**DA STAR #:** 2019-00-0043952

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### TABLE OF CONTENTS

<b>PREAMBLE</b> .....	<b>3</b>
<b>FACTUAL SUMMARY</b> .....	<b>3</b>
<b>STATEMENTS BY POLICE OFFICERS</b>	
Detective Brian Darwin .....	5
Officer Chance Gerber .....	7

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 2

---

Corporal Clayton Carson..... 8  
Corporal Joseph Barron ..... 9  
Officer James Hendrickson ..... 11  
Officer Michael Lucifora..... 15  
Corporal Ryan Ronveaux ..... 17

**STATEMENTS BY FIRE FIGHTER PARAMEDICS ..... 21**

**STATEMENTS BY CIVILIAN WITNESSES..... 22**  
Witness #3 ..... 22  
Witness #4 ..... 22  
Witness #5 ..... 22

**INCIDENT AUDIO AND VIDEO..... 23**  
Police Radio Traffic (Pursuit)..... 23  
Police Radio Traffic (Officer Involved Shooting)..... 24  
Body-Worn Camera..... 24

**CRIME SCENE INVESTIGATION ..... 28**

**INJURED PARTY ..... 31**  
Injuries ..... 31  
Toxicology ..... 31  
Criminal History ..... 31

**APPLICABLE LEGAL PRINCIPLES..... 36**

**ANALYSIS ..... 43**

**CONCLUSION..... 48**

**PREAMBLE**

This was a non-fatal officer involved shooting by three police officers from the Ontario 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, audio recordings, and video recordings from the Ontario Police Department officers' body-worn cameras, submitted by the San Bernardino County Sheriff's Department, DR# 601900070, SBSD H # 2019-062, and Ontario Police Department OPD# 190700972.

**FACTUAL SUMMARY**

The events leading up to the officer involved shooting began the day prior, on July 18, 2019, at approximately 1:15 in the afternoon when Agustin Martinez was involved in a



**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 3

---

pursuit in the city of Ontario with Ontario Police Department officers. During the pursuit, Ontario Police officers conducted a PIT<sup>1</sup> maneuver, but Martinez was able to recover from this maneuver and continue driving. Martinez drove at a high rate of speed, in excess of 100 miles per hour on busy city streets, drove through intersections against red lights, and drove in opposite lanes of traffic. After evading for approximately 3.7 miles, Martinez was able to successfully lose the officers.

After Martinez successfully evaded the officers, Martinez's personal identifying information and his vehicle's identifying information were placed into the felony vehicle database.<sup>2</sup> Ontario Police Department officers then placed a Stop and Hold<sup>3</sup> for Martinez for Vehicle Code 2800.2(a), Evading a Peace Officer With Wanton and Willful Disregard for the Safety of Others, a felony.<sup>4</sup>

During the pursuit, Ontario Multi-Enforcement Team (MET) officers, Corporal James Hendrickson and Corporal Joseph Barron were on duty. They both monitored the radio traffic and heard the details of the pursuit over the radio. Ontario Police K9 officer Corporal Ryan Ronveaux and Career Criminal Unit (CCU) Officer Michael Lucifora were also on duty during the time of the pursuit and both monitored the pursuit. Corporal Ronveaux responded and assisted in the pursuit.

Information regarding the pursuit and the identification of the suspect, Martinez, was disseminated to the Ontario Police Department Multi-Enforcement Team (MET) and Career Criminal Unit (CCU). Both teams were tasked with locating and arresting Martinez. Officer Hendrickson and Corporal Barron attempted to locate Martinez shortly after the patrol officers lost sight of him. Investigation revealed Martinez's current address was a single family residence located at the 9000 block of Lime Avenue in Fontana. Officer Hendrickson and Corporal Barron conducted surveillance at the Lime Avenue address until 9:00 p.m. but were unable to locate Martinez.

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<sup>1</sup> Pursuit Intervention Technique.

<sup>2</sup> After the PIT maneuver turned Martinez's vehicle around and he was facing Ontario Police Department officers, they were able to see his face. Officers were then able to identify Martinez through his DMV photograph after learning he was the registered owner of the vehicle involved in the pursuit.

<sup>3</sup> Ontario Police Department uses the term "Stop and Hold" to describe the action taken when an officer writes a probable cause declaration for an arrest of a suspect who is believed to have committed a felony. This information is input into the Ontario Police Department database and is accessible to other police officers, enabling them to locate and detain a suspect for arrest and questioning.

<sup>4</sup>§ 2800.2. Disregard for safety of persons or property.

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(a) If a person flees or attempts to elude a pursuing peace officer in violation of Section 2800.1 and the pursued vehicle is driven in a willful or wanton disregard for the safety of persons or property, the person driving the vehicle, upon conviction, shall be punished by imprisonment in the state prison, or by confinement in the county jail for not less than six months nor more than one year. The court may also impose a fine of not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), or may impose both that imprisonment or confinement and fine.

(b) For purposes of this section, a willful or wanton disregard for the safety of persons or property includes, but is not limited to, driving while fleeing or attempting to elude a pursuing peace officer during which time either three or more violations that are assigned a traffic violation point count under Section 12810 occur, or damage to property occurs. Cal Veh Code § 2800.2

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 4

---

The following day, July 19, 2019, at approximately 7:00 in the morning, Officer Hendrickson drove his unmarked police unit to the Lime Avenue address. Once there, he saw Martinez's black Mercedes Benz which had been involved in the pursuit the previous day parked in the driveway. Officer Hendrickson ran the license plate on the Mercedes Benz and verified it belonged to Martinez. Officer Hendrickson notified other Ontario Police officers of this and parked his unmarked police vehicle (a Honda Odyssey minivan) on the street nearby so he could maintain surveillance, watching for Martinez to come out of the house.

Police officers from the MET and CCU teams responded to the location to assist, parking their unmarked vehicles in locations around the residence. The teams coordinated and formulated a plan to detain Martinez when he was outside and before he could enter his vehicle and drive away. Two other officers in marked units were called upon to assist: Ontario Police Officer Ryan Ronveaux and his K9 and Ontario Police Officer Clayton Carson. They were instructed to park in the area but out of view and await further instruction.

After several hours, Martinez came outside and began washing the Mercedes Benz in the front yard of the residence. Officers on the team were able to positively identify him as the person who had been involved in the felony evading the day prior. The officers planned to block Martinez's vehicle in the driveway so he would not be able to drive away, hoping to avoid another high-speed pursuit.

As the officers moved into position, Martinez got into the driver's seat of his Mercedes. Corporal Ronveaux pulled his marked K9 unit into the driveway of Martinez's residence and stopped at an angle in the center of the driveway, thus blocking the driveway so Martinez could not drive out of it. At the same time, other officers drove into the area, positioning themselves on the street in front of Martinez's residence.

Just as Corporal Ronveaux began getting out of his patrol unit to make contact with Martinez, Martinez suddenly and quickly backed his Mercedes toward Corporal Ronveaux. Corporal Ronveaux jumped back into his car just prior to being struck by Martinez's vehicle. Martinez's vehicle slammed into the driver's side of Corporal Ronveaux's patrol car. Martinez continued stepping on the accelerator and his vehicle continued moving, sliding down the length of Corporal Ronveaux's patrol unit. Martinez's vehicle then became lodged between a large wooden Southern California Edison utility pole and Corporal Ronveaux's car. Martinez continued to accelerate his vehicle and was able to dislodge it, driving backwards off the curb and onto the street, directly toward the other officers who had positioned themselves on the street nearby.

One of those officers, Corporal Carson, had gotten out of his vehicle and was on foot on Lime Avenue; he was almost struck by Martinez. MET Officer Joseph Barron was still inside his unmarked police van on Lime Avenue. Martinez crashed into Officer Barron's unit. Martinez then continued accelerating backwards toward Officer Hendrickson, who

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 5

---

was on foot on Lime Avenue. Officer Hendrickson was almost struck by Martinez's vehicle. Officer Michael Lucifora, who had parked his unmarked unit just north of Martinez's residence, was also on foot on Lime Avenue. While Martinez was backing and nearly crashing into the officers, Officer Hendrickson, Officer Lucifora, and Corporal Ronveaux fired their weapons at Martinez, striking him. Martinez's vehicle came to a stop after crossing Lime Avenue, but the engine continued racing loudly, as if the accelerator was still held down to the floor. Using a ballistic shield for protection, the officers were able to pull Martinez from the vehicle. Once they did so, they began administering medical aid until medics arrived and transported Martinez to the hospital for treatment.

**WITNESSES AND CORROBORATION TO PURSUIT**

**STATEMENTS BY POLICE OFFICERS<sup>56</sup>**

Ontario Police Department Detective **Brian Darwin** prepared a report detailing the facts surrounding the traffic pursuit involving Agustin Martinez.

On July 18, 2019, Detective Darwin was employed as a police officer for the Ontario Police Department. On this day, Detective Darwin was assigned to investigate property crimes. At approximately 1:15 in the afternoon, Detective Darwin was driving his assigned detective vehicle westbound on Mission Boulevard. Detective Darwin's vehicle was not marked with "Police," but it was equipped with emergency lights, siren, and an air horn.

As Detective Darwin was driving westbound on Mission Boulevard approaching Grand Avenue, he saw a black sedan in his rearview mirror approaching him at a high rate of speed. As Detective Darwin was just east of Grove, the black sedan suddenly moved into the southbound turn lane and then back into the number one westbound lane in front of the detective's vehicle and then came to an abrupt stop. Detective Darwin had to slam on his vehicle's brakes in order to avoid colliding into the rear of the black sedan. Detective Darwin noticed there was only one person in the black sedan.

While Detective Darwin was stopped at the intersection behind the black sedan waiting for a red light to turn green, he noted the vehicle was a Mercedes Benz with California license plate number 8HQS893. As Detective Darwin was running the plate on the Ontario Police Department records, the light turned green. The black Mercedes Benz was still at a complete stop as vehicles in the number two lane were proceeding through

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<sup>5</sup> All referenced officers described here were on duty for the Ontario Police Department, unless otherwise indicated. Herein is a summary only. All reports submitted were reviewed, but not all are referenced here.

<sup>6</sup> It should be noted, Corporal Barron, Officer Hendrickson, Corporal Ronveaux, and Officer Lucifora were all on duty on Jun 18, 2019 and each officer heard and monitored the pursuit involving Martinez over the radio. In addition, Corporal Ronveaux responded to and assisted in the pursuit. Each officer described the facts of the pursuit consistently with each other and with Detective Darwin and Officer Gerber.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 6

---

the intersection. Detective Darwin activated his air horn to get the driver's attention so he could proceed through the intersection. Soon after activating his air horn, Detective Darwin saw the driver (later identified as Agustin Martinez) looking back at him in his rearview mirror. Martinez placed his hands in the air as he looked at Detective Darwin. Martinez then proceeded through the intersection at 10-15 miles per hour.

As Martinez made his way across the intersection, he came to a complete stop in the middle of the street just west of Grove Avenue. Detective Darwin stopped behind Martinez's vehicle and activated his air horn again. Martinez began driving again at approximately 10-15 miles per hour while looking in his rear view mirror back at Detective Darwin.

At this point, Detective Darwin believed Martinez may be under the influence of alcohol or a drug and he could not operate a motor vehicle safely on a public highway. Detective Darwin activated his forward-facing light and air horn in an attempt to stop Martinez. As his lights were activated, Detective Darwin could see the reflection of the forward red light in the rear window of Martinez's car. Martinez then began driving across all lanes of traffic, in the same way a California Highway Patrol officer would drive while performing a traffic break.

Detective Darwin advised dispatch he was behind a possible driver under the influence and requested a patrol unit to assist him. Fearing Martinez might cause an accident and injure himself or others, Detective Darwin activated his emergency lights and siren. Martinez began to yield to the north curb at Mission Boulevard and Hope Avenue but came to a complete stop in the number two lane of traffic. As Detective Darwin got out of his vehicle, he noticed Martinez's driver's window was rolled down. Detective Darwin identified himself as a police officer and yelled for him to pull his vehicle over. Martinez looked back at Detective Darwin but then proceeded westbound on Mission Boulevard.

As Martinez and Detective Darwin approached a red light at the intersection of Mission Boulevard and Euclid Avenue in the number one lane, Detective Darwin saw a marked Ontario Police unit approaching from behind. Detective Darwin moved over to the number two lane so the marked police unit could conduct a traffic stop on Martinez's vehicle.

As the light at the intersection turned green, Martinez drove through the intersection and did not yield for the marked police vehicle even though its emergency lights and siren were activated. Martinez continued westbound on Mission Boulevard at 30-35 miles per hour in the number one lane. Detective Darwin trailed behind the pursuit until the single marked unit had another backing officer with him.

On July 21, 2019, Officer **Chance Gerber** prepared a report detailing the facts surrounding the traffic pursuit involving Agustin Martinez.



**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 7

---

On Thursday, July 18, 2019, Officer Chance Gerber was employed as a police officer for the Ontario Police Department. On this date at approximately 1:22 in the afternoon, Officer Gerber was working as a patrol officer. He was driving a marked Ontario Police car equipped with lights and siren. Officer Gerber assisted fellow Ontario Police officers attempting to stop Martinez as he drove erratically and failed to yield on public streets in the city of Ontario.

Officer Gerber was given permission to perform a PIT maneuver as Martinez continued driving westbound on Mission Boulevard at approximately 30 miles per hour.<sup>7</sup> On Mission Boulevard just west of Benson Avenue, Officer Gerber attempted a PIT maneuver. When Officer Gerber pulled up to the rear quarter panel of Martinez's car, Martinez's car came to a complete stop. After a brief second, Martinez took off again. Martinez was travelling at approximately 25 miles per hour when Officer Gerber pulled up to the passenger side rear quarter panel of Martinez's car and made slight contact to his rear quarter panel and then accelerated in an attempt to rotate Martinez's vehicle and temporarily disable it. As Officer Gerber did this, Martinez's vehicle spun out and was facing Officer Gerber. Martinez looked at Officer Gerber and threw his hands in the air as if he was upset. Martinez was able to get his vehicle running again and turned his vehicle around.

Martinez then started driving at a high rate of speed westbound on Mission Boulevard and drove through a solid red light at the intersection of Mission Boulevard and Central Avenue at about 70 miles per hour, in violation of Vehicle Code section 21453 (a), at red signal must stop at limit line. Martinez continued westbound on Mission Boulevard going over 80 miles per hour on city streets, in violation of Vehicle Code section 22350, must not drive faster than is safe. Martinez then went into the turn lane of Carriage Avenue and began driving westbound in the eastbound lanes of traffic, in violation of Vehicle Code section 21651 (b), driving the wrong way on a divided highway. At the intersection of Mission Boulevard and Ramona Avenue, Martinez then drove back into the westbound lanes of travel and began weaving in and out of traffic at a speed of over 100 miles per hour, in violation of Vehicle Code section 22348 (b), excessive speed over 100 miles per hour.

Throughout the pursuit, Martinez was driving with a willful and wanton disregard for the safety of the public. Officer Gerber lost sight of Martinez's vehicle due to the high volume of traffic in the area near the intersection of Mission Boulevard and Pipeline Avenue. A record's check of the registered owner of the vehicle involved in the pursuit came back to Agustin Martinez. Officer Gerber utilized police databases and was able to see Martinez's Department of Motor Vehicles California Driver's License photograph.

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<sup>7</sup> Officer Gerber described a PIT maneuver as a police technique used to end a pursuit. To perform a PIT, the officer aligns the patrol car's front quarter panel bumper parallel to the suspect vehicle's rear quarter panel bumper and then makes slight contact. When the officer makes slight contact with the suspect vehicle, the officer accelerates his vehicle and the suspect's car will then spin out in front of the officer. When the vehicle spins out, it will start driving backwards causing the vehicle to stall. Per Officer Gerber, when this is done properly, it will leave minor to no damage on both the suspect vehicle and the police vehicle and the pursuit will end.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 8

---

Officer Gerber was able to positively identify Martinez as the driver of the vehicle during the pursuit. Officer Gerber placed a Stop and Hold for Martinez for Vehicle Code section 2800.2 (a), evading police with wanton and willful disregard for the safety of others. Per Officer Gerber, Martinez was also in violation of Vehicle Code section 2800.4 (a), evading police while driving on the wrong side of the road.

**WITNESSES AND CORROBORATION TO OFFICER INVOLVED SHOOTING**

**STATEMENTS BY POLICE OFFICERS<sup>8</sup>**

On July 19, 2019, Corporal **Clayton Carson** was employed by the Ontario Police Department as a police officer. Corporal Carson wrote a report detailing his involvement and the facts related to the July 19, 2019 officer involved shooting. On this date, Corporal Carson was wearing his full Class B police uniform and was driving a marked black and white Ontario Police Department Ford Explorer. Corporal Carson was assigned to assist Multi-Enforcement Team (MET) Officers.

On July 19, 2019, MET was looking for a suspect named Agustin Martinez who was believed to be at the 9000 block of Lime Avenue in Fontana. Corporal Carson began to drive to the the 9000 block of Lime Avenue address. Corporal Ryan Ronveaux also drove to the location and was driving behind Corporal Carson. When Corporal Carson and Corporal Ronveaux arrived at the location, Corporal Ronveaux parked in the driveway behind a black Mercedes. Corporal Carson parked in the street south of the driveway and east of the black Mercedes. As Corporal Carson parked his vehicle, he could see Martinez was seated in the driver's seat of the Mercedes.

Corporal Carson got out of his patrol unit and began to order Martinez to put his hands up, but upon seeing law enforcement, Martinez immediately put the Mercedes in reverse and began to drive toward Corporal Ronveaux. As Martinez reversed his vehicle, Corporal Ronveaux had to jump back into his patrol car to avoid being run over as Martinez's Mercedes collided into the driver's side door of the patrol vehicle. Martinez's vehicle then became wedged in between Corporal Ronveaux's vehicle and a telephone pole. Martinez's vehicle was in between Corporal Carson and Corporal Ronveaux, creating a crossfire issue. Because of this, Corporal Carson began to move towards the rear of the Mercedes in an attempt to get a better angle toward the vehicle, while yelling at Martinez to stop the car. Martinez continued to accelerate, forcing the Mercedes through the small gap between the telephone pole and Corporal Ronveaux's patrol car. Once past the pole, Martinez continued to drive backwards toward Corporal Carson. Corporal Carson was able to move out of the way as another officer, Corporal

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**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 9

---

Barron pulled his van up next to the Corporal Carson. Martinez then collided into Corporal Barron's van and continued to accelerate.

As Martinez continued to accelerate, other officers discharged their firearms. Martinez's vehicle continued to roll to the east side of Lime Avenue, where it came to a stop. Corporal Carson moved around to the east side of Corporal Barron's van where he could see Martinez in the Mercedes. Corporal Carson gave multiple orders to Martinez to put his hands up, but he was not responsive to the orders.

A plan was quickly made to approach Martinez's vehicle using a ballistic shield. Officers approached the vehicle and once there, Corporal Carson opened the driver's door and grabbed ahold of Martinez's arm. Corporal Carson pulled Martinez from the Mercedes and placed him on the ground. Once Martinez was lying on the ground, Corporal Carson assisted Corporal Barron with medical treatment to Martinez. The officers packed the bullet wounds with combat gauze and held pressure on the wounds to stop the bleeding. A tourniquet was also applied to Martinez's arm. Corporal Barron continued to treat wounds Martinez's wounds until the paramedics arrived.

On July 21, 2019, at approximately 5:43 the evening, **Corporal Joseph Barron** was interviewed by Detective James Tebbetts of the San Bernardino County Sheriff's Department.

Corporal Barron is employed by the Ontario Police Department as a police officer corporal. On July 18 and July 19, 2019, Corporal Barron was on duty and was assigned to the Multi-Enforcement Team (MET).

On July 18, 2019 while working, Corporal Barron heard and monitored the pursuit involving Martinez over the police radio. After the pursuit was terminated, Corporal Barron was able to locate an address for Martinez, at the 9000 block of Lime Avenue in the unincorporated area of Fontana. MET division officers then set up fixed-point surveillance at the location until about 9:00 in the evening.

The following morning, July 19, 2019, the team had one of their officers spot check the Lime Avenue address while driving into work and he saw the vehicle involved in the pursuit parked in the driveway there. This officer notified the team and they responded to the location to assist with the surveillance.

The plan was to drive two marked units into the driveway, preventing Martinez from "going mobile" based upon his previous reckless endangerment of the public. The team did not want Martinez leaving the location in the vehicle. Corporal Barron was to follow the marked Ontario Police units in his undercover car, a 2019 gray Toyota Sienna, and then his sergeant would follow in his unmarked Tahoe. The plan was formulated and put into action about 3 ½ hours after the initial surveillance began.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 10

---

Corporal Barron followed the marked police vehicles. The first marked police unit was driven by Corporal Carson. Corporal Carson parked along the curb facing northwest on Lime Avenue. The second marked police unit was a police K9 unit driven by Corporal Ronveaux. Corporal Ronveaux pulled into the driveway of the residence. Corporal Barron saw Corporal Ronveaux step out of his marked police unit. Corporal Barron shifted his focus as he pulled up next to Corporal Carson's police unit. As he was pulling up, Corporal Barron saw the black Mercedes back up at a high rate of speed and strike the K9 unit in the driveway. Corporal Barron believed Corporal Ronveaux had been struck. Corporal Barron saw Corporal Carson had gotten out of his marked unit and was walking towards Martinez's vehicle. Corporal Barron watched as other officers began converging on the location.

After the Mercedes hit the marked K9 vehicle, it got stuck between a utility pole and the K9 vehicle. Corporal Barron saw two officers running southbound towards the K9 unit. Corporal Barron could hear Martinez accelerating the Mercedes. As Corporal Barron brought his vehicle to a stop, Martinez's Mercedes quickly accelerated out into the street and hit Corporal Barron's vehicle. Martinez's car accelerated past Corporal Barron's vehicle towards the fence line on the other side of the street. When Martinez's Mercedes passed Corporal Barron's vehicle, he did not see Corporal Ronveaux lying on the ground, but he had no idea where Corporal Ronveaux was.

When his vehicle was getting hit by Martinez's Mercedes, Corporal Barron heard gunshots; it happened very quickly. Corporal Barron was still sitting in the driver's seat of his vehicle and had not yet opened the door. Corporal Barron could not see who was shooting. Corporal Barron got out of his vehicle and went to the back of it. When he got out, he could hear the engine of the Mercedes still revving loudly, as if it was in neutral, but Martinez was still stepping on the gas pedal. Corporal Barron believed Martinez was going to head toward Fontana Avenue. When Corporal Barron got to the back of his unmarked vehicle, he saw Martinez sitting in the driver's seat of his Mercedes looking around. He saw there was blood on Martinez's face, but he was still conscious. Martinez's engine was still revving loudly.

Corporal Barron immediately began giving orders to Martinez, saying, "Show me your hands! Show me your hands!" Other officers were giving the same commands. Martinez did not respond to them by putting his hands up. Corporal Barron heard Martinez's mother yelling in the driveway, so he went over to her and told her to go into the house. Corporal Barron saw Officer Maqueira and Officer Willemstein approaching on foot from Fontana Avenue, so he asked them to get Martinez's mother back because the other officers were still pointing their guns at Martinez. Corporal Barron wanted Martinez's mother back out of harm's way. Corporal Barron wanted two officers to go with Martinez's mother to the house just in case there was any threat coming from the house.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 11

---

Corporal Barron and his team then formulated a plan to safely approach Martinez. Corporal Barron held the shield, protecting the team from any ballistic threat. As the team made their approach, Corporal Barron saw and advised the others that Martinez had nothing in his hands. The officers then pulled Martinez out of the vehicle and began administering medical treatment for his injuries.

Corporal Barron applied a tourniquet to Martinez's right arm and another officer put a tourniquet on Martinez's left arm. Corporal Barron cinched down the tourniquet on Martinez's left arm because he saw bullet wounds to his left arm. Corporal Barron then began treating Martinez's other wounds. Corporal Barron put quick clot into Martinez's gunshot wounds and held pressure on them.<sup>9</sup> Corporal Barron believed the emergency medical personnel arrived on scene about four or five minutes after the shooting, but said he was not sure as he was busy working on treating Martinez's wounds.

On July 21, 2019, at approximately 1:58 in the afternoon, **Officer James Hendrickson** was interviewed by Detective James Tebbetts of the San Bernardino County Sheriff's Department.

Officer Hendrickson was employed by the Ontario Police Department as a police officer. On July 18 and 19, 2019, Officer Hendrickson was on duty and was assigned to the Multi-Enforcement Team. Officer Hendrickson was wearing a blue Ontario Police shirt with a badge and department patches on the shoulders, a tactical vest with his name and badge on the chest, and a body-worn camera.<sup>10</sup> Officer Hendrickson's duty firearm was a Glock 17, loaded with seventeen 9 mm rounds in the magazine plus one in the chamber. Officer Hendrickson was operating an unmarked silver Honda Odyssey minivan equipped with solid red and flashing blue lights.

On July 18, 2020, Officer Hendrickson heard the pursuit involving Martinez come out over the patrol radio. After the pursuit was terminated, Martinez's information was given to members of the MET division. They were given an address on Lime Avenue in Fontana and another in Montclair. The residents at the Montclair address did not know Martinez. Officer Hendrickson then conducted surveillance at the Lime Avenue address for several hours but did not locate Martinez.

On July 19, 2020 Officer Hendrickson went back out to the Lime Avenue address and saw Martinez's Mercedes in the driveway. Officer Hendrickson advised the other members of the team of this. Sergeant Ritchey then sent the rest of the MET team out

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<sup>9</sup> Corporal Barron received combat medic training from the Navy Seals and after a seven month tour in Afghanistan, Corporal Barron gained more experience in combat medicine.

<sup>10</sup> At the time of the incident, Officer Hendrickson's camera was completely powered off and he had to turn on the power to his on his camera before starting the recording. As such, Officer Hendrickson's video only captured what happened after the shooting had occurred.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 12

---

to the location. Officer Hendrickson parked his unmarked minivan across the street from the residence on Lime Avenue to conduct fixed point surveillance. Officer Hendrickson had a clear line of sight from his position to Martinez's vehicle but could not see the front door of the residence. For several hours there was no movement at the house. After 2 ½ to 3 hours, Officer Hendrickson saw an older Hispanic female come out of the house by herself where she watered some plants. Officer Hendrickson believed this was Martinez's mother. She was outside for approximately 30 minutes.

Officer Hendrickson then saw a male come outside wearing a red shirt with cut-off sleeves and blue gym shorts. Initially Officer Hendrickson could not tell if this was Martinez. The male started washing the Mercedes. At one point, while washing the car, the male turned and faced toward Officer Hendrickson. This allowed Officer Hendrickson to positively identify him.

The team sent in two marked units to attempt to contact Martinez. Martinez was sitting in his car with the driver's side door open. Corporal Ronveaux pulled into the driveway, stopping behind Martinez's vehicle, pointing southwest. Corporal Carson then pulled in and parked on the street near the west side curb on Lime Avenue, pointing north. The plan was to have the marked patrol units box Martinez in to prevent him from pulling out of the driveway. The goal was to take Martinez into custody.

Once the marked patrol units pulled up, Officer Hendrickson was to get out of his minivan and to go assist the officers in the marked units. The marked units came in a lot faster than Officer Hendrickson expected, so he got out of his minivan as soon as Corporal Ronveaux parked behind Martinez. As Officer Hendrickson was getting out, Martinez accelerated in reverse and smashed into the front of Corporal Ronveaux's car.<sup>11</sup> "It sounded like he floored it, 'cause the RPM's on the car were really high. You could hear the engine revving up pretty good." After smashing into Corporal Ronveaux's patrol unit, Martinez was stopped because he "pinched himself in" between the driver's side of Corporal Ronveaux's car and a telephone pole located to the left of the driver's side of Corporal Ronveaux's car. As Martinez was stopped, Corporal Barron pulled up in his minivan and parked in front of the Martinez residence, just south of the Martinez driveway.

Officer Hendrickson believed Martinez would not be able to get out, so he thought it was safe for him to move in. Officer Hendrickson began walking in Martinez's direction. Officer Hendrickson could hear Martinez's vehicle engine revving. Officer Hendrickson could hear what sounded like either the tires screeching or the scratching sound from Martinez's vehicle sliding along Corporal Ronveaux's vehicle. Corporal Barron's van had stopped in the street in front of the house and was pointed toward Corporal Ronveaux's patrol unit. Officer Hendrickson was walking out in the open, in the middle

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<sup>11</sup> Body-camera footage shows that Martinez's vehicle slammed into the driver's side, near the front of Corporal Ronveaux's vehicle.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 13

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of the street by himself when Martinez got his vehicle dislodged. Martinez was able to accelerate and push Corporal Ronveaux's car out of the way and then squeeze out.

Martinez's vehicle backed out onto the street and smashed into the front of Corporal Barron's van. As Martinez backed out onto the street, he turned his car toward Officer Hendrickson. Officer Hendrickson was in Martinez's path and believed Martinez was trying to run him over. Officer Hendrickson moved to try to take cover and get out of the way, but Martinez's car kept turning toward the left and straight toward him. Officer Hendrickson was afraid for his life and for the lives of his partners. As he continued trying to get out of Martinez's path, Officer Hendrickson discharged his firearm. Officer Hendrickson believed he had nowhere to go and he had to immediately stop the threat. While Officer Hendrickson was shooting at Martinez, Martinez was still able to continue moving his vehicle backwards toward Officer Hendrickson. Martinez's car engine was revving loudly. Officer Hendrickson was moving backwards and to his left while he was shooting at Martinez.

As Martinez's vehicle was coming at him, Officer Hendrickson thought he was likely on his own because the other officers had been hit and possibly injured. Officer Hendrickson knew Corporal Ronveaux's car had been hit quite hard. Officer Hendrickson also knew Corporal Barron's van had been hit. Officer Hendrickson did not know whether Corporal Ronveaux or Corporal Barron were hurt. Officer Hendrickson believed Martinez was trying to hit him with his car and Martinez was going to kill him. Officer Hendrickson believed he shot eight or nine rounds in quick succession. Initially, he believed he had shot four rounds, but upon replaying the incident in his mind, he believed it was more like eight or nine. Officer Hendrickson believed he shot in a westward direction. Officer Hendrickson heard other shots being fired but did not know who was shooting.

Martinez's car then sounded like it had gotten shifted into neutral because it lost a lot momentum and just began rolling while the engine was revving loudly. Officer Hendrickson was able to move out of the way and he stopped shooting. As the vehicle rolled past Officer Hendrickson, he could see Martinez had blood on his face. Martinez's car continued rolling backwards, slowly before coming to a stop on the east side of Lime Avenue. Officer Hendrickson and the other officers began giving Martinez commands to show them his hands, but he was not complying. The engine of the Mercedes was still revving loudly. Martinez had obvious wounds because blood was coming out of his mouth. Officer Hendrickson knew they needed to get Martinez out of the vehicle to keep him from driving off and to try to get him medical treatment.

Corporal Barron, Detective Shaffer, Corporal Carson, and Officer Hendrickson set up behind Corporal Barron's van. The group got a shield for protection because they did not know if Martinez was armed. They approached Martinez's vehicle, opened his driver's side door, and were able to get him out of the car. They put Martinez on the ground, handcuffed him, and started providing medical treatment until the fire



**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 14

---

department got there and relieved them. Martinez was transported to the hospital by AMR.

**Note-**

To aid the reader, please see the following photograph. It shows the direction of travel of Martinez's vehicle. On the right side of the photograph is Corporal Barron's unmarked van, pointing primarily north. The back left of the photograph shows Martinez's vehicle as it sat after it came to a stop. In the foreground, tire tracks can be seen on the sidewalk. These tracks were made by Martinez's vehicle. The photograph was taken from an east facing direction, across Lime Street, from the Martinez driveway.



**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 15

---

On July 21, 2019, at approximately 4:05 in the afternoon, **Officer Michael Lucifora** was interviewed by Detective Simon DeMuri of the San Bernardino County Sheriff's Department.

Officer Lucifora was employed by the Ontario Police Department as a police officer. On July 18 and 19, 2019, Officer Lucifora was on duty and was assigned to the Career Criminal Division. Officer Lucifora was wearing blue jeans, a t-shirt and a tactical police vest adorned with patches identifying him as a police officer and a body-worn camera.<sup>12</sup> Officer Lucifora's duty firearm was a Glock 17, loaded with seventeen 9 mm rounds in the magazine plus one in the chamber. Officer Lucifora was operating an undercover car, an unmarked white Honda Accord equipped with solid red and flashing blue lights.

On July 18, 2019 Officer Lucifora heard the pursuit involving Martinez as it was broadcast over the police radio. Officer Lucifora did not participate or take any action with regard to the pursuit on this day.

The following day, Officer Lucifora assisted MET officers who had located Martinez's vehicle at an address in Fontana. The plan was once Officer Hendrickson was parked in front of the house in his unmarked vehicle, then Officer Lucifora would drive by the house to get a visual to see exactly where Martinez's Mercedes was parked. Once Martinez came out of the house, the officers would box his car in with marked police units so he could not drive out from the driveway. Officer Lucifora's assignment changed and he was told to cover a north containment spot on Lime Avenue in case Martinez tried to run northbound.

Officer Hendrickson informed the other officers Martinez was out of the house and had begun washing his car. Officer Lucifora knew Officer Hendrickson was able to positively identify Hernandez at this point. As Martinez was drying off his car, the officers knew this was a good opportunity for them to come in and box in his car so he couldn't leave in order to take him into custody. Their goal was to take him into custody while he was outside of his car, in the "safest and easiest way so everyone would get to go home safely."

Officer Lucifora was facing southbound on Lime Avenue, parked in front of a residence just one house north of Martinez's house and saw Corporal Ronveaux's marked patrol unit driving down Fontana Avenue and then onto Lime Avenue. Officer Lucifora was just starting to get out of his vehicle when Corporal Ronveaux pulled into Martinez's driveway<sup>13</sup>. Officer Lucifora saw Martinez get into his vehicle as Corporal Ronveaux was pulling up. Corporal Ronveaux pulled into the driveway right behind Martinez's

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<sup>12</sup> Officer Lucifora activated his body worn camera right after the shooting. Officer Lucifora believed the entire incident would have been recorded because the cameras capture the 30 seconds before the camera's record button is pushed.

<sup>13</sup> Officer Lucifora could not remember if Corporal Ronveaux had activated his lights or sirens.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 16

---

vehicle. Officer Lucifora then heard what sounded like Martinez's car starting or revving loudly. Officer Lucifora saw Martinez's vehicle quickly accelerate backwards just as Officer Ronveaux was stepping out of the driver's seat of his patrol unit. Officer Lucifora heard the collision as Martinez crashed his vehicle right into where Corporal Ronveaux had been standing. Officer Lucifora did not see Corporal Ronveaux anymore and believed he had gotten run over or hit.

Officer Lucifora then saw the Mercedes briefly stop, but he could hear its engine still revving. Officer Lucifora believed Martinez's vehicle got stuck on Corporal Ronveaux's patrol vehicle and Corporal Ronveaux was dead underneath Martinez's car. Martinez's vehicle then broke loose from Corporal Ronveaux's car and continued reversing backwards quickly, past where Officer Lucifora was standing, heading straight for Officer Hendrickson who was right behind the Mercedes. Officer Lucifora also saw Corporal Barron had stopped his van behind the Mercedes, just south of its direction of travel. He saw and heard Martinez hit Corporal Barron's van and then turn his wheel slightly as he headed straight for Officer Hendrickson. Officer Lucifora thought Martinez was going to run over Officer Hendrickson.

Officer Lucifora moved south and was on foot at the front of Martinez's car at this point. He saw Martinez looking straight at him through the windshield. Officer Lucifora was out in the open, with no cover or concealment. Officer Lucifora knew they had the vehicle surrounded and Martinez's options were to either stop, which he wasn't doing, or to drive straight and run over Officer Lucifora or to turn and run over other officers who were south of him. Officer Lucifora believed Martinez had already run over Corporal Ronveaux. He knew they had to stop Martinez. Officer Lucifora could hear Martinez's vehicle revving loudly and rolling backwards slowly. He could see Martinez moving his arm like he was trying to manipulate the gear shift. Officer Lucifora had no doubt in his mind Martinez was either going to come straight at him or drive into another officer. Officer Lucifora fired his gun through the front windshield of Martinez's vehicle. Officer Lucifora was directly in front of the passenger side front of Martinez's vehicle, just slightly north of it on Lime Avenue. The distance between Officer Lucifora and Martinez's vehicle was approximately 15-20 feet. When Officer Lucifora shot, he believed he was "not going to go home to his family"; he was going to die. Officer Lucifora believed "other officers were not going to be able to go home that day" either, because they would have been killed if they didn't stop Martinez. He knew they had to stop Martinez as quickly as possible. Officer Lucifora also thought if they didn't stop Martinez and he was able to run them over, then he would be loose and able to hit an innocent bystander out in the public, based on his erratic driving the day prior during the pursuit and how he was driving now.

Officer Lucifora heard other shots being fired right before he started shooting but did not know who was shooting. Officer Lucifora stopped firing when Martinez's car stopped moving because the threat had ended. When he stopped firing, Officer Lucifora could hear Martinez's vehicle still revving loudly. Martinez's vehicle had stopped on the east

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 17

---

side of Lime Avenue on the dirt shoulder. Officer Lucifora could see Martinez had blood on him.

Officer Lucifora and another officer, Officer Willemstein, took cover behind the back of a police vehicle and met up with other officers just south of Martinez's car. Officer Lucifora could see Martinez had been struck by gunfire. Corporal Barron was giving Martinez commands to get out of the vehicle. Martinez was not complying, but Officer Lucifora didn't believe Martinez was capable of complying. The officers set up a team and then went up to Martinez's vehicle and safely pulled him out of his car. Officer Lucifora could not remember which officer pulled Martinez out of the vehicle. They put tourniquets on Martinez's arms and applied combat gauze to some of Martinez's wounds to try to save his life. Officer Lucifora assisted with packing one of Martinez's wounds and then applied pressure while the other officers put handcuffs on Martinez. The paramedics arrived and took over medical aid.

Officer Lucifora did not consider any other force options and explained Martinez's vehicle was a deadly weapon when he used it to run into the police officers and a taser, baton, or bean bag gun would have been ineffective. When asked if it would have been feasible for him to have gotten his rifle out of his vehicle, Officer Lucifora said there was not enough time due to the rapidly evolving situation. He would not have had time to go to his trunk to get the weapon.

Officer Lucifora believed he had fired about four rounds. He later learned he had actually fired 10 rounds when the Sheriff's Department took possession of his firearm and they counted the rounds left in the weapon.

On July 21, 2019, at approximately 10:35 in the morning, **Corporal Ryan Ronveaux** was interviewed by Detective Simon DeMuri of the San Bernardino County Sheriff's Department.

Corporal Ronveaux was employed by the Ontario Police Department as a police officer. On July 18 and 19, 2019, Corporal Ronveaux was on duty and was assigned to the K9 Unit. Corporal Ronveaux was wearing a blue Ontario Police shirt with a badge and Ontario Police Department patches on the shoulders, a tactical vest with a police badge on the left side of the chest and his name on the right side of the chest, and a body-worn camera. Corporal Ronveaux's duty firearm was a Glock 21, loaded with 13 .45 caliber rounds in the magazine plus one in the chamber. Corporal Ronveaux was driving a marked Ontario Police Department Ford Explorer, equipped with solid red and flashing blue lights. Kerel, Corporal Ronveaux's K9 partner, was with him.

On July 18, 2019, Corporal Ronveaux heard the pursuit involving Martinez as it came out over the police radio. Corporal Ronveaux also responded to the location of the pursuit and assisted fellow officers.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 18

---

The following day, July 19, 2019, Corporal Ronveaux started his shift at about 7:15 in the morning. He got a message on his phone that Martinez's car had been located at a residence on Lime Street in Fontana. Corporal Ronveaux was called out to assist in making the arrest of Martinez. Once there, Corporal Ronveaux parked and waited nearby, just northeast of the Lime Avenue address.

Officer Hendrickson and Sergeant Ritchey were the tactical leaders for the operation. Corporal Ronveaux communicated with Officer Hendrickson and learned what the tactical plan was.<sup>14</sup> They were not going to attempt a traffic stop on Martinez because of the pursuit from the day prior. The plan was to contact Martinez in the driveway if he came outside and to arrest him there. If Martinez were to drive off, then they would have undercover cars follow him and then as soon as he parked and got out of his vehicle, they would arrest him. Corporal Carson, an officer in a marked patrol unit, was also called in to assist the team should any type of enforcement be needed. Other officers from the Career Criminal Division were called in to assist as well. Several officers sat on surveillance in various spots around the house. At least one officer watched the house for anyone going inside or outside.

The team was there for approximately four hours before someone said on the radio that if someone comes out of the house, they would drive up to talk to them and let them know the car had been involved in a crime and then try to recover the car. Shortly after that, Officer Hendrickson announced over the radio that a Hispanic male wearing a red shirt and blue shorts was walking out of the house. Officer Hendrickson then advised the team members that the male was Martinez and that he was washing the Mercedes. Air support was then asked to come out to assist in the event they needed to follow Martinez should he drive away from the location. While waiting for air support to arrive, they saw Martinez was drying off his car. One of the officers said Martinez was starting to roll down a window and that it looked like he may be leaving. The team members did not want to have a pursuit happen so the decision was made to go ahead and send in the two marked patrol units. The goal was to take action while he was outside the car still drying it. Corporal Ronveaux anticipated that Martinez might try to run based upon the pursuit from the day prior. If Martinez did try to run, Corporal Ronveaux was confident he would be able to use his dog to apprehend him and take him into custody.

Corporal Ronveaux and Corporal Carson communicated and decided Corporal Carson would lead them into the location. Corporal Ronveaux knew from looking at the satellite images that there was a lot of vegetation on the south side of the residence and that this would put them at a bit of a disadvantage. He also knew that as soon as they made a right onto Fontana from Poplar, that they'd come to the first street (Lime Avenue) and

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<sup>14</sup> The MET division and assisting officers communicated via the MET channel which enabled all officers on the team to communicate directly with each other without the need for dispatch. To Corporal Ronveaux's knowledge, this channel is monitored by dispatch in the event of a critical incident, but it is not a channel dispatch uses to communicate with officers. Communications on this channel are not recorded.



**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 19

---

take a right and Martinez's house would be literally straight ahead. The plan was to come in wide along Lime Avenue and to pull into the driveway to try to pinch Martinez in and not give him any avenue for exiting in the vehicle.

As Corporal Ronveaux drove to the address, he activated his body worn camera. At this point, Martinez was still outside the car. Corporal Carson was driving in front and he took the turn at Lime Avenue a little too quickly. Corporal Ronveaux heard Corporal Carson's tires or brakes screeching. Corporal Ronveaux realized Corporal Carson would probably not be able to make it into the driveway at Martinez's residence so when he turned onto Lime Avenue, he hugged the east side of the street to give himself enough room to make a wide turn into the driveway of Martinez's residence. Corporal Ronveaux could not see Martinez's vehicle until he pulled into the driveway because there were bushes along the curb. Martinez's vehicle was parked at an awkward angle and in order to prevent him from exiting, Corporal Ronveaux had to turn his car in a southwest direction when stopping in the driveway. As Corporal Ronveaux was pulling up in the driveway,<sup>15</sup> he saw Martinez was sitting in the driver's seat with the driver's door open. Corporal Ronveaux could see Martinez was wearing a red shirt and blue shorts. Corporal Ronveaux saw Martinez looking off to his left and looking around. Corporal Ronveaux thought to himself, "Okay, he probably knows the police are here." Corporal Ronveaux was certain that Martinez heard the loud noise of Corporal Carson's car when it came around the corner too quickly.

When Corporal Ronveaux pulled up behind Martinez, he was confident there was not enough room for Martinez to back his car out of the driveway. Corporal Ronveaux put his patrol car in park and immediately started opening his door to get out. As his left foot hit the ground, he saw Martinez's car coming in reverse straight at his patrol car. Corporal Ronveaux believed Martinez was going to hit the front bumper of his car, but then Martinez turned his wheel to the left and the back end of his car started coming straight at Corporal Ronveaux. Corporal Ronveaux thought he was completely out of his vehicle at that point but knew for sure that he had at least one foot on the ground. Corporal Ronveaux jumped back into his car.<sup>16</sup> When Martinez backed his car into him, Corporal Ronveaux thought, "This guy's gonna run me over and kill me." Corporal Ronveaux believed Martinez was trying to kill him. As Corporal Ronveaux was getting out of his car and put his foot on the ground, he realized one of two things, "If I jump more out of this car, he is going to strike me with the back right area of his car and he's gonna drag me and I'm gonna die, or he's gonna pin me up against this wheel and I'm gonna have some... serious injuries that I'll, I'll probably never recover from." Corporal Ronveaux jumped back into his car. He does not remember if he shut his driver's side door or if it was still slightly open. Corporal Ronveaux remembers hearing Martinez's car engine revving very loudly and he had no doubt Martinez had his foot on the pedal and was going as fast as he could. "It was really loud. Um, based on how fast this car

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<sup>15</sup> Corporal Ronveaux did not activate his patrol car's overhead, forward facing lights.

<sup>16</sup> Corporal Ronveaux said he's only had one other instance in his life when he thought he was going to die. Eleven years earlier he got hit by a drunk driver while sitting in his car, his arm snapped in half and broke, and his car fully engulfed in flames. At this point in the interview, Corporal Ronveaux was obviously distressed; this can be heard in his voice as he spoke.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 20

---

approached me, I have no doubt, I mean he was foot full pedal to the metal. I mean, [...] he wasn't messing around."

Martinez sped backwards and crashed into the driver's side of Corporal Ronveaux's patrol car. Martinez also hit a telephone pole that was to the left side of the patrol car. Corporal Ronveaux thought there was no way Martinez would fit through. He estimated his patrol car was approximately four feet from the telephone pole and that distance is not the width of a car. Corporal Ronveaux thought he was lucky because had metal around him but then he worried because he had "all these other officers that are showing up and now they have to encounter this guy."

Corporal Ronveaux looked to his left and could see Martinez's car sliding along the driver's side of his patrol unit. Corporal Ronveaux also saw Corporal Carson on foot just south, within three to five feet of Martinez's car, near the driver's side. Everything happened so fast. Corporal Ronveaux anticipated Corporal Carson might start shooting so he ducked, losing sight of Corporal Carson. As soon as Martinez got his car free, Corporal Ronveaux opened his door and heard a second collision. He didn't see Corporal Carson anymore. Corporal Ronveaux believed Martinez had run over Corporal Carson. Corporal Ronveaux thought, "that guy's got him underneath the tires and he's dragging him."<sup>17</sup>

Corporal Ronveaux had his gun in his hand as he got out of his car and headed towards the back of his patrol unit, near Corporal Barron's van. Martinez's vehicle engine continued revving as it rolled in reverse. Corporal Ronveaux pointed his gun at Martinez. There was an officer to the left and another, he believed it was Officer Hendrickson, to the right. It sounded like Martinez's transmission had gotten shifted into neutral, but Corporal Ronveaux could see Martinez moving his right arm near the center console area and he could hear that Martinez still had his foot on the gas and the engine was revving loudly.

Corporal Ronveaux knew if Martinez got his vehicle into drive, Martinez would intentionally run him over. Corporal Ronveaux also feared that if Martinez got his car back in gear, he would try to run over one of the other officers who were standing on the street nearby, surrounding Martinez. Corporal Ronveaux said, "I have no doubt that if he got that [car] in drive he wouldn't have hesitated to run somebody else over too." Corporal Ronveaux shot Martinez through the front driver's side windshield to stop the threat. Corporal Ronveaux had "no doubt in [his] mind, based on him uh, revving this engine that we had to stop him right now. If we didn't, someone was gonna have to be going to some officer's wife's household and tell 'em [sic] hey this officer got ran over." It was obvious that Martinez was going "to do whatever he could to try to get away. Whether that was to try to kill an officer, to try to crash into an officer. He was intent on doing whatever it took, in my mind."

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<sup>17</sup> Corporal Ronveaux did not see Corporal Carson was alive and well until after the officer involved shooting, after Martinez's vehicle came to a stop.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 21

---

Corporal Ronveaux initially thought he fired two rounds, but later learned he had fired closer to five rounds. Corporal Ronveaux shot in a primarily eastward direction. After firing, Martinez's car came to a rest. Corporal Ronveaux took cover behind the driver's side front of Corporal Barron's van and began ordering Martinez to put his hands up. Corporal Ronveaux could see bullet holes in Martinez's windshield and it appeared Martinez had been shot. Other officers were giving Martinez commands to put his hands up, but Martinez did not comply. Corporal Ronveaux did not know if he was refusing to comply or if he was just unable. Martinez's vehicle engine was still revving. All the other officers had their guns pointed at the car and it looked like they were forming a team to approach and arrest Martinez.

While the other officers were maintaining lethal coverage on Martinez, Corporal Ronveaux went to his patrol unit and retrieved his K9<sup>18</sup> to assist the other officers as they approached Martinez. At this point, he could see Martinez was bleeding. The arrest team approached Martinez's vehicle under the protection of a shield, and they were able to pull Martinez out of his car. They placed Martinez in handcuffs and immediately began giving him medical treatment. Corporal Ronveaux saw them apply tourniquets and medical gauze. Corporal Ronveaux then put his K9 back inside the patrol car.

When asked if he or any other officers gave any commands to Martinez before shots were fired, Corporal Ronveaux said that he was going to give commands once he got out of his patrol car, but as soon as his foot hit the ground, Martinez began reversing his vehicle and "now it was a matter of saving my life." Corporal Ronveaux did not know if any other officers gave any commands but said it was possible. When he was back inside his car, his windows were rolled up and Martinez's vehicle was revving loudly, so if anything was said, it would have been hard for him to hear it. Corporal Ronveaux did not consider any other force options because he didn't have an opportunity to do so. In addition, Corporal Ronveaux did not believe there was any other force option that would have been viable to stop Martinez from running over officers with his vehicle.

Corporal Ronveaux was scared during the incident and compared it to another incident when he almost died after being hit by a drunk driver. Corporal Ronveaux believed that had he not fired his gun Martinez would have killed him or his partners.

**STATEMENTS BY FIREFIGHTER PARAMEDICS**

On July 19, 2019, at about 10:40 in the evening **Witness #1 and Witness #2** were interviewed by San Bernardino Sheriff's Detective James Tebbetts.

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<sup>18</sup> Corporal Ronveaux explained anytime they are taking someone into custody, regardless of the situation, Corporal Ronveaux always has his dog out on the leash in case he is needed.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 22

---

Both Witness #1 and Witness #2 are firefighter paramedics for San Bernardino County Fire Department. They were both assigned to Medic Engine 72 on July 19, 2019. On this day at approximately 11:20 in the morning, Witness #1 and Witness #2 responded to the intersection of Lime Avenue and Fontana Avenue in the unincorporated area of Fontana.

When Witness #1 and Witness #2 arrived on scene, they saw Ontario Police Department officers rendering medical aid to a Hispanic adult, later identified as Agustin Martinez. Witness #1 and Witness #2 saw the injuries to Martinez. They described the injuries as a gunshot wound to the right side of Martinez's neck, a gunshot wound to Martinez's upper right arm, and two exit wounds to Martinez's neck. Witness #1 and Witness #2 saw that there was a tourniquet around Martinez's right upper arm and that Quikclot medical combat gauze had been inserted into Martinez's gunshot wounds.

Shortly after Witness #1 and Witness #2 arrived, personnel from American Medical Response (AMR) arrived on scene. Martinez was then transported by AMR ambulance to Kaiser Hospital in Fontana. While en route to the hospital, Witness #1 and Witness #2 continued rendering medical treatment to Martinez. Once they arrived at the hospital, emergency medical care was transferred to the hospital medical staff.

**STATEMENTS BY CIVILIAN WITNESSES<sup>19</sup>**

On July 19, 2019, **Witness #3** was interviewed by Detective Brant Devey of the Ontario Police Department.

Witness #3 lives at 9000 block of Fontana Avenue in Fontana. Witness #3 was in the kitchen inside the house when she heard what she initially thought were fireworks. Witness #3 said she heard a lot of gunshots. She said she heard just one or two at first and then a lot more followed. Witness #3 said she did not see or hear anything else related to the shooting.

On July 19, 2019, at approximately 6:50 in the evening, **Witness #4** was interviewed by Detective James Tebbetts.

On July 19, 2019 at approximately 11:30 in the morning Witness #4 was inside his mother's residence at the 9000 block of Fontana Avenue in Fontana when he heard several gunshots. His mother's residence is located southeast of the intersection of Lime Avenue and Fontana Avenue. Witness #4 heard his family members yelling, "Duck down." Witness #4 instructed his children to get on the floor and he looked out the front window of the residence. Witness #4 saw several police officers and a K9 handler near the intersection of Lime Avenue and Fontana Avenue. Witness #4 heard police officers order the occupant of a dark colored sedan out of the vehicle.

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<sup>19</sup> All reports of civilian statements made were reviewed, though not all are summarized here.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 23

---

Witness #4 watched multiple police officers approach the sedan and remove the driver. Witness #4 believed the police officers administered medical treatment to the driver until a fire truck and ambulance arrived, treated the driver, and then left with the driver.

On July 19, 2019, at approximately 11:37 in the morning, **Witness #5** was interviewed by Ontario Police Officer Ermes Maqueira. The interview was conducted in Spanish.

Witness #5 is Agustin Martinez's mother. Witness #5 resides at the 9000 block of Lime Avenue in Fontana with Martinez. Witness #5 said that earlier today her son, Agustin Martinez, had been washing his Mercedes in the driveway of the residence. While he was washing his car, she walked out and gave him the Mercedes keys, his social security card, and \$10 cash for fuel.

As Witness #5 was standing outside her front door, she saw a marked police unit quickly park in the driveway behind the Mercedes. Witness #5 believed the police vehicle was attempting to block the driveway to keep Martinez from leaving in the Mercedes. Witness #5 saw Martinez back up the Mercedes at a high rate of speed and then hit the police car on the driver side. Witness #5 then heard several gunshots. Witness #5 tried to run toward the Mercedes to check on Martinez, but was stopped by officers, including Officer Maqueira.

Witness #5 said that Martinez had been depressed ever since he was arrested for domestic violence. This arrest had occurred less than a year ago. Witness #5 said that Martinez is on probation and was attending domestic violence classes on Saturdays as part of his probation. Martinez's wife and children used to live at the residence on 9582 Lime Street but had moved out after the domestic violence incident. During this same time frame, Martinez had also lost his job and had been depressed ever since. On the day of the domestic violence incident, Martinez had made suicidal statements to Witness #5, saying that he did not want to live anymore.

While speaking with Witness #5, Officer Maqueira noticed there were two broken windows at the residence. Witness #5 said that Martinez would burst into violent episodes, throwing items inside the home and breaking windows in his bedroom. Martinez seemed especially paranoid after missing his domestic violence class the past Saturday and told Witness #5 that he thought the police were coming to get him.

Witness #5 said that Martinez would habitually go days without sleeping and then would sleep for several days. Witness #5 believes Martinez might be bi-polar, but he is not formally diagnosed with any mental health disorder and he does not take any medication. Witness #5 said that Martinez appeared normal today and that he had not made any suicidal statements since the domestic violence incident.



**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 24

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**INCIDENT AUDIO AND VIDEO**

**July 18, 2019 Pursuit**

The dispatch recording for the pursuit involving Martinez is 22 minutes long. Detective Brian Darwin first encountered Martinez at approximately 1:22 in the afternoon on July 18, 2019. The failure to yield began at approximately 1:24 p.m. The PIT maneuver was conducted at approximately 1:33 p.m. and at 1:34, the dispatch log shows it was noted Martinez was going 100 miles per hour when he took off. The pursuit was terminated shortly thereafter, at approximately 1:35 p.m.

**July 19, 2019 Officer Involved Shooting**

The dispatch recording for the officer involved shooting incident on July 19, 2019 begins with officers reporting shots fired at the 9000 block of Lime Avenue in Fontana at 11:31 a.m. The recording is 18 minutes, 38 seconds long. The entire dispatch recording was reviewed; however, because it only contains information exchanged after the officer involved shooting and does not shed any light on the circumstances surrounding the officer involved shooting, it will not be further summarized here.

**BODY-WORN CAMERA VIDEO SUMMARIES<sup>20</sup>**

**Corporal Clayton Carson's Body Worn Camera Video**

Corporal Carson's body-worn camera video begins while he is driving his car. Corporal Carson parks his vehicle along the west side curb of Lime Avenue in front of Martinez's house, with the front of his vehicle pointing north. Corporal Carson gets out of his marked patrol unit. Corporal Ronveaux's marked patrol unit can be seen pulling into the entry of Martinez's driveway and stopping. Corporal Ronveaux's vehicle is partially obstructed from view by plants in the landscaping; the front end of his vehicle cannot be seen. Martinez's car can be seen in the driveway, partially blocked from view by assorted plants. Martinez's car immediately and quickly starts backing up; light smoke or dust can be seen above the hood area of Martinez's car as it moves backwards. Corporal Ronveaux's driver's side door is partially open. The words, "Police Dog Keep Away" can be seen on the back driver's side door of Corporal Ronveaux's patrol unit. As Corporal Carson is approaching quickly on foot (from the movement of the body-worn camera, it appears he is running), Martinez's car continues backing. Corporal Ronveaux's driver's side door is open and he is seen starting to get out of his patrol unit. Martinez's car continues backing but then can be seen stopped very briefly,

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<sup>20</sup> The officers herein were equipped with Axon Body-Worn cameras. The camera system turns on when the operator activates the camera. When the camera is activated, the previous 30 seconds of video are included but without any audio. The body-worn camera recordings were reviewed in their entirety. The summaries of the body worn camera recordings will only cover the events from the beginning of the recordings through the point immediately after the incident under review.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 25

---

apparently stuck between Corporal Ronveaux's unit and a utility pole located at the front of the property. From Corporal Carson's position on the sidewalk, the body-camera's perspective does not show what caused Martinez's car to stop. Additionally, there is no audio at this point in the video. Martinez's car is side by side with Corporal Ronveaux's car, both vehicles are facing west. The utility pole is on the southern side of Martinez's vehicle, Corporal Ronveaux's patrol car is on the northern side.

Officer Hendrickson can be seen exiting a silver Honda minivan that is parked on the east side of Lime Avenue, across the street from and slightly north of Martinez's residence. Officer Lucifora's white Honda Accord is parked on the west curb of Lime Avenue, north of Martinez's residence and Corporal Ronveaux's unit, and slightly north of Officer Hendrickson's van.

Martinez's car then backs out, off the curb, and onto Lime Avenue as Officer Hendrickson is out of his van and is running toward the scene. Officer Hendrickson points his gun at Martinez's car. The front of Corporal Barron's Toyota minivan can now be seen approaching from the southeast, driving toward the rear of Martinez's moving car. Officer Lucifora can be seen getting out of his car. Corporal Barron's minivan stops behind Martinez's backing car. Corporal Carson is at the left front of Corporal Barron's van. Officer Lucifora is out of his Honda. The shadow of Corporal Carson's arms, pointing a gun, can be seen on the pavement very close to Corporal Barron's van and Martinez's car.

As Martinez's car continues to drive backwards, the back driver's side window is either rolled all the way down or missing. Scratches can be seen on the left rear quarter panel of Martinez's car. Officer Hendrickson appears to be firing his gun. Martinez crashes into Corporal Barron's van and continues backing toward Officer Hendrickson. As Martinez's car continues backing, significant damage can be seen on the driver's side front quarter panel and front driver's door of his vehicle. The back half of Martinez's car is blocked from view by Corporal Barron's van. Martinez's car's wheel is kicking up dirt and sand.

Corporal Carson follows Corporal Barron who is quickly walking south and taking cover behind his Toyota van. Corporal Carson and Corporal Barron then start walking north on the passenger side of the van. The video shows that Martinez's car is now on the east side of Lime Avenue, stopped on the dirt shoulder. So far, 30 seconds have elapsed and now the video contains sounds. Officers can be heard yelling, "Put your hands up!" multiple times. Also heard are the words, "Shots fired," "Let me see your hands," "Hands up." The camera view is of Martinez's car.

The engine of Martinez's car can be heard racing loudly, as if the gas pedal is floored; however, his vehicle is not moving. The entire driver's side of Martinez's vehicle is scratched. Martinez is sitting in the driver's seat and his head is moving. Commands of, "Get out of your car," "Let me see your hands," and "Keep your hands where I can see them," can be heard. While all of these commands are being given, the camera is still capturing Martinez sitting in his car. There is a chain link fence behind his car, and

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 26

---

a house beyond the chain link fence. Someone can be heard saying, "Hands up, we can help you if you put your hands up," followed by more commands for him to put his hands up and, "We need to see your hands." These commands are repeated several times. The command, "Go inside," is then heard. More commands are given, "Get out of the car; keep your hands where I can see them." This is repeated several times. Martinez can be seen moving his head. Corporal Carson then backs up several feet and the direction of the camera shifts slightly to the right. The officers continue giving the same commands to Martinez. Other voices can be heard, although, it is not clear what is being said. Then, "Agustin, can you hear me?" and "Come out of the car," are also heard. Several officers can be heard discussing the plan to approach Martinez's car. Corporal Carson turns to his right and Corporal Ronveaux can be seen with his K9. To Corporal Ronveaux's right is a black Honda van with the driver's side door open. Corporal Carson then turns back to his left and several other police officers can be seen grouped together and standing behind Corporal Barron's van. More commands are given to Martinez to get out of the car. The officers can be heard discussing who will do what as they approach Martinez's car.

The group of officers and Corporal Carson approach Martinez's car. As they get closer, the engine of his car is revving very loudly. Martinez is still sitting in the driver's seat and appears to be gasping for air with his mouth open. Blood can be seen on his face. The officers are still giving Martinez commands as they approach. They are saying, "Let me see your hands," and "Show me your hands." The driver's side window of Martinez's car is broken, shattered remnants remain in the door's window frame. Corporal Carson opens the driver's side door and attempts to pull Martinez out of his car. There is obvious difficulty in doing so, and it takes two officers to get him out of his vehicle. An officer is heard saying, "His foot is on the gas pedal," and "You gotta get this knee out of there, man." As Martinez is pulled out, blood can be seen on his arm, his hands, and the back of his shirt. As soon as Martinez is out of the vehicle, the vehicle's engine quiets. The remainder of the video shows the officers tending to Martinez's wounds until paramedics arrived.

**Corporal Ryan Ronveaux's Body Worn Camera Video**

When Corporal Ronveaux's body worn camera video starts, he is inside his patrol unit and driving to the scene. Upon arriving, Corporal Ronveaux stops his patrol car and begins to open his door. A bell sound is heard as he does this. All that can be seen is the patrol unit's steering wheel and Corporal Ronveaux's arms and hands. Corporal Ronveaux then puts his car in park, begins to get out of his patrol car, but then immediately gets back inside. As he does so, someone in the distance is heard yelling, "No, no!" This is immediately followed by the sound of very loud crashing. Corporal Ronveaux has his gun in his right hand and then the camera is blocked by something, possibly as Corporal Ronveaux ducks down. Crashing sounds are still heard, followed by the sounds of gunshots.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 27

---

Corporal Ronveaux begins getting out of his vehicle. His gun is in his right hand. Gunshots can still be heard in the background. One second later, Corporal Ronveaux is out of his patrol car, quickly moving toward the back of his car, east in the direction of Martinez's car. Corporal Barron and Corporal Carson can be seen briefly as Corporal Ronveaux gets out and quickly turns to face Martinez's vehicle. Corporal Barron is getting out of his unmarked van and Corporal Carson is on foot near the passenger side of Corporal Barron's van. They appear to be heading toward the back of the van. Martinez's car is backing east across the street, past the front end of Corporal Barron's van. There is dust in the air, low to the ground. Corporal Barron's van is stopped in the middle of Lime Avenue facing north. Officer Hendrickson is on foot on the other side of Corporal Barron's van pointing his gun north at Martinez's vehicle. Gunshots can be heard. Damage can be seen on the front end of Corporal Barron's van. Corporal Ronveaux continues moving east into the street, near the front end of Corporal Barron's van. Corporal Ronveaux raises his arms and points his gun east at the front windshield of Martinez's car and begins shooting at 57 seconds. Multiple gunshots from other guns can be heard as well. Dust can be seen coming from Martinez's windshield. The sound of the gunshots stops at 58 seconds. Corporal Ronveaux is taking cover behind Corporal Barron's van near the driver's side front door. The driver's door of Corporal Barron's van is open. At the 59 second mark, the engine of Martinez's car is loudly racing, but his car is no longer in motion. There is yelling and a dog barking in the background. Someone says, "Shots fired." Corporal Ronveaux yells, "Hey, back up, back up, back up, back up!" Officer Lucifora and another officer in plain clothes can be seen just north of Corporal Ronveaux, they are both in front of Officer Lucifora's white Honda Accord and are pointing guns eastward at Martinez's car. Both officers are standing in the roadway in front of Martinez's car. Corporal Ronveaux again says, "Back up," while motioning to the two officers. Both officers back up slightly. Corporal Ronveaux yells, "Put your hands up!"

Corporal Ronveaux yells, "Put your hands up!" Multiple orders are given by various officers, "Put your hands up," "Let me see your hands." At one minute, 32 seconds, Martinez's car engine is still racing loudly. Corporal Ronveaux is resting his hands, holding his gun, on the side rear view mirror of the van.

Corporal Ronveaux then starts heading toward the back end of Corporal Barron's van but then he turns around and says, "Let me get this dog." As Corporal Barron is walking to his patrol unit (to get his K9), the damage along the entire driver's side of his patrol unit can be seen. Corporal Ronveaux's patrol unit driver's door is still open. Corporal Ronveaux opens the back driver's side door and gets his K9 out of the unit.

Corporal Ronveaux then turns to his left and starts to walk south on the west sidewalk of Lime Avenue. Corporal Ronveaux walks, with his K9 around the back of Corporal Barron's van to the passenger side and raises his gun toward Martinez, who is still sitting in the driver's seat of his car. Officers are yelling commands at Martinez to "get out of the car, keep your hands where I can see them." Martinez's car engine is still

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 28

---

racing loudly. Officer Hendrickson and a uniformed officer<sup>21</sup> are standing next to the front passenger side of Corporal Barron's van pointing their guns northeast at Martinez who is still in his car. These two officers are standing in front of and northwest of Corporal Ronveaux. Officers are heard saying, "Put your hands where I can see them." Corporal Ronveaux walks closer to the two officers and re-holsters his gun. Several officers can be seen standing behind Corporal Barron's van and they appear to be talking. More commands are given to Martinez to come out of the car.

The remainder of the video shows the officers as they approach Martinez's car with the ballistic shield, remove Martinez from the vehicle, and begin administering first aid to him.

**CRIME SCENE INVESTIGATION<sup>22</sup>**

The officer involved shooting occurred in the roadway in front of the Martinez residence located at the 9000 block of Lime Avenue in the unincorporated area of Fontana. The crime scene included the driveway at the 9000 block of Lime Avenue and the roadway in front of the the 9000 block of Lime Avenue residence. Lime Avenue runs north and south. The driveway runs primarily east and west but is angled slightly southwest toward the residence.

Below is a photograph of the crime scene, taken from the south. In the foreground and center of the street is Corporal Barron's unmarked van. To the far left, Corporal Ronveaux's marked patrol unit can be seen parked in the Martinez driveway. In the background, center is Officer Lucifora's unmarked white Honda. To the right is Martinez's Mercedes.

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<sup>21</sup> This uniformed officer appears to be Corporal Carson, but it is not entirely clear as his back is to the camera.

<sup>22</sup> The entire crime scene investigation report was reviewed; however, not all distances and locations are listed in this summary.



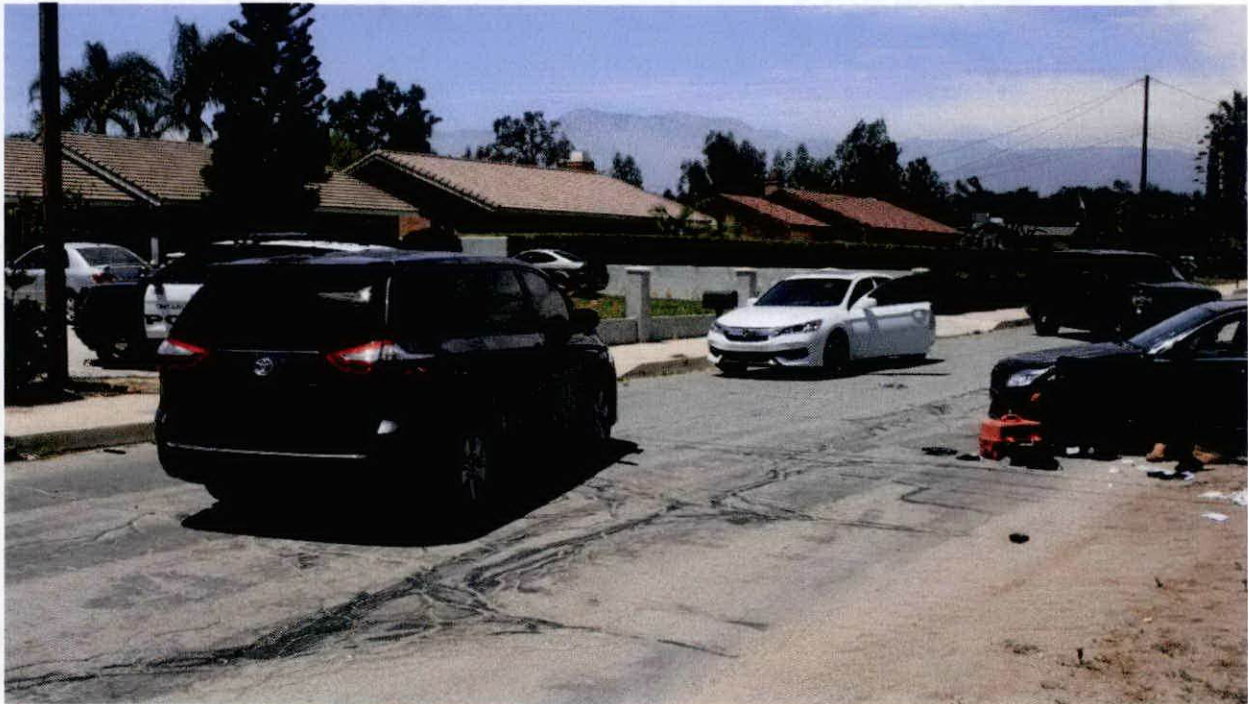
**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 29



The crime scene investigation was completed by San Bernardino County Sheriff's Detective Gerard Laing. All evidence located within the crime scene was labeled using photographic identification placards and was photographed in place prior to being measured and collected as evidence. All measurements were approximate.

The reference point for all measurements was the Southern California Edison (SCE) utility pole located on the easement in front of the 9582 Lime Street property. The utility pole was wooden and had damage to the bottom from Martinez's vehicle. North of the utility pole was the start of tire impressions from the driver's side of Martinez's vehicle. The tire impressions started on the edge of the sidewalk/driveway of the 9000 block of Lime Avenue and continued east into the roadway. The tire impressions started 1'5" north and 2'5" east of the utility pole. The tire impressions ended 3'9" north and 2'5" east of the utility pole.

The impressions from the passenger side of Martinez's car began west of the driver's side tire impressions and continued east to where the tire impressions deviated. These tire tracks continued east on the driveway through the dirt and across the sidewalk. These tire tracks ended at the west gutter of Lime Avenue. These passenger side tire impressions started 17'10" south and 22' west of the utility pole. The deviation of the passenger side tire impressions were 4'8" north and 6' west of the utility pole. The end of the passenger side tire impressions were 7'11" north and 9'2" east of the utility pole.

Corporal Ronveaux's marked patrol unit was located on the driveway apron of the 9000 block of Lime Avenue. The unit faced west on the driveway toward the residence. The



**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 30

unit had damage along the bottom of the driver's side from Martinez's vehicle. The photographs of Corporal Ronveaux's patrol unit reveal a significant mark to the driver's side front tire. It appears that Martinez's vehicle initially struck this tire before sliding along and scraping the side of the patrol unit. The distance from Corporal Ronveaux's patrol car to the utility pole is 1'5" east, 11' north.

See below for photograph of Corporal Ronveaux's patrol unit as it was located during the crime scene investigation. The SCE utility pole, Corporal Barron's unmarked gray van, Martinez's vehicle, and Officer Hendrickson's unmarked silver van are also seen in this photograph.



Corporal Barron's unmarked gray Toyota Sienna van was located on the west side of Lime Avenue facing north. The van had damage to the front end caused by Martinez's vehicle. The van was located 5'10" south and 19'16" east of the utility pole.

Officer Lucifora's unmarked white Honda Accord sedan was located on Lime Avenue, north of 9574 Lime Avenue. The sedan was parked on the west side of Lime Avenue facing south. The vehicle had no damage from the incident. The sedan was 35'8" north and 14'5" east of the utility pole.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 31

---

Martinez's black Mercedes sedan was located on the east dirt roadway edge of Lime Avenue facing west. The rear end of the vehicle faced west toward the residence of 9580 Lime Avenue. The front end of the vehicle faced the Martinez residence located at the 9000 block of Lime Avenue. The front windshield and hood had holes consistent with gunshots. Martinez's vehicle was 15'11" north and 37'2" east of the utility pole.

A rectangular shaped black license plate bracket was located in the roadway of Lime Avenue. This license plate bracket was hit and pulled from Corporal Barron's unmarked van. The crime scene investigation report does not specifically state that the license plate bracket was hit and pulled from the van by Martinez's vehicle; however, there are photographs of the license plate bracket and the front end of Corporal Barron's van showing collision damage, including damage to the location where the bracket had once been, including a piece of the bracket dangling by a screw attached to the front bumper. The license plate bracket was 9'9" north and 29'7" east of the utility pole.

Detective Laing marked the location of all expended shell casings found at the scene. There were a total of 25 expended shell casings found at the scene, as follows:

Twelve expended shell casings with the headstamp of "FC 9 mm Luger" located in the driveway apron of 9574 Lime Avenue. These casings were located 19'6" north and 7'4" east of the utility pole.

Five expended shell casings with the headstamp of "Federal 45 Auto +P" found on the west roadway edge of Lime Avenue. These casings were located 12'3" south and 15'3' east of the utility pole.

Eight expended shell casings with the headstamp of "FC 9mm Luger" in the roadway of Lime Avenue. They were noted as follows:

One expended shell casing in the northbound lane of Lime Avenue. Two expended shell casings in the roadway of Lime Avenue; one under the passenger side of Corporal Barron's unmarked van; the second was located east of the van in the roadway. North of this expended shell casing were three more shell casings. Northeast of the three shell casings were two more expended shell casings.

**INJURED PARTY/DECEDENT**

**INJURIES:** Martinez received gunshot wounds to the following areas:

Right and left cheek  
Right upper arm  
Right arm above the elbow  
Right flank

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 32

---

Right shoulder  
Upper back near neck  
Right forearm  
Right chest

**TOXICOLOGY:** There are no toxicology results in this case as Martinez was given an emergency blood transfusion upon his arrival to the hospital. No blood was drawn for toxicology analysis because detectives believed the results would have been unreliable.

**CRIMINAL HISTORY**

**Agustin Martinez** has a prior criminal history that includes the following convictions:

2019, 415 (1) of the Penal Code, Fighting in a Public Place, San Bernardino County case number MWV19007395, a misdemeanor.

2019, 243 (e)(1) of the Penal Code, Battery to Spouse or Cohabitant, San Bernardino County case number MWV19004180, a misdemeanor.

2019, 148 (a)(1) of the Penal Code, Obstruct or Delay a Peace Officer, San Bernardino County case number MWV19004180, a misdemeanor.

**Crimes Upon Peace Officers**

**California Penal Code section 664/187** (summarized in pertinent part)

Every person who attempts to commit any crime, but fails, or is prevented or intercepted in its perpetration, shall be punished where no provision is made by law for the punishment of those attempts, as follows:

(a) If the crime attempted is punishable by imprisonment in the state prison, or by imprisonment pursuant to subdivision (h) of Section 1170, the person guilty of the attempt shall be punished by imprisonment in the state prison or in a county jail, respectively, for one-half the term of imprisonment prescribed upon a conviction of the offense attempted. However, if the crime attempted is willful, deliberate, and premeditated murder, as defined in Section 189, the person guilty of that attempt shall be punished by imprisonment in the state prison for life with the possibility of parole. If the crime attempted is any other one in which the maximum sentence is life imprisonment or death, the person guilty of the attempt shall be punished by imprisonment in the state prison for five, seven, or nine years. The additional term provided in this section for attempted willful, deliberate, and premeditated murder shall not be imposed unless the fact that the attempted murder was willful, deliberate, and

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 33

---

premeditated is charged in the accusatory pleading and admitted or found to be true by the trier of fact...

(e) Notwithstanding subdivision (a), if attempted murder is committed upon a peace officer or firefighter, as those terms are defined in paragraphs (7) and (9) of subdivision 9a) of Section 190.2, a custodial officer, as that term is defined in subdivision (a) of Section 831 or subdivision (a) of Section 831.5, a custody assistant, as that term is defined in subdivision (a) of Section 831.7, or a nonsworn uniformed employee of a sheriff's department whose job entails the care or control of inmates in a detention facility, as defined in subdivision (c) of Section 289.6, and the person who commits the offense knows or reasonably should know that the victim is a peace officer, firefighter, custodial officer, custody assistant, or nonsworn uniformed employee of a sheriff's department engaged in the performance of his or her duties, the person guilty of the attempt shall be punished by imprisonment in the state prison for life with the possibility of parole.

This subdivision shall apply if it is proven that a direct but ineffectual act was committed by one person toward killing another human being and the person committing the act harbored express malice aforethought, namely, a specific intent to unlawfully kill another human being. The Legislature finds and declares that this paragraph is declaratory of existing law.

(f) Notwithstanding subdivision (a), if the elements of subdivision (e) are proven in an attempted murder and it is also charged and admitted or found to be true by the trier of fact that the attempted murder was willful, deliberate, and premeditated, the person guilty of the attempt shall be punished by imprisonment in the state prison for 15 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce this minimum term of 15 years in state prison, and the person shall not be released prior to serving 15 years' confinement.

**California Penal Code section 245(c)** (Summarized in pertinent part)

Any person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a peace officer, and who knows or reasonably should know that the victim is a peace officer engaged in the performance of his or her duties, when the peace officer is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years.

### Other Crimes

#### **California Penal Code section 245(a)(1)**

Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

#### **California Penal Code section 245(a)(4)**

Any person who commits an assault upon the person of another by any means of force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

### Assault With A Deadly Weapon

Like other types of assault, the crime of assault with a deadly weapon in violation of Penal Code section 245, subdivision (a)(1) (section 245(a)(1)) requires only "the general intent to willfully commit an act the direct, natural and probable consequences of which if successfully completed would be the injury of another." (*People v. Rocha* (1971) 3 Cal.3d 893, 899; similarly, see *People v. Colantuono* (1994) 7 Cal.4th 206, 214.)

**[W]e hold that *assault does not require a specific intent to cause injury or a subjective awareness of the risk that an injury might occur. Rather, assault only requires an intentional act and actual knowledge of those facts sufficient to establish that the act by its nature will probably and directly result in the application of physical force against another.***

(*People v. Williams* (2001) 26 Cal.4th 779, 790, emphasis added; see also *People v. Golde* (2008) 163 Cal.App.4th 101, 108.) "This defines the mental state as a species of negligent conduct, a negligent assault. Where the negligent conduct involves the use of a deadly weapon ... the offense is assault with a deadly weapon." (*People v. Wright* (2002) 100 Cal.App.4th 703, 706.)

As to the "deadly weapon" theory of Penal Code section 245(a)(1), some objects, such as dirks and blackjacks, are deadly weapons as a matter of law. (*In re D.T.* (2015) 237 Cal.App.4th 693, 698; *People v. Brown* (2012) 210 Cal.App.4th 1, 6.) But any object can be a deadly weapon when used in a manner capable of producing death or great bodily injury. (*People v. Aguilar* (1997) 16 Cal.4th 1023, 1028-1029; *People v. Brown, supra*, 210 Cal.App.4th at pp. 7, 11; *In re Brandon T.* (2011) 191 Cal.App.4th 1491, 1496.) In determining whether an object not inherently deadly becomes so, the trier of fact may

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 35

---

look at the nature of the weapon, the manner of its use, and all other factors that are relevant to the issue. (*In re D.T.*, *supra*, 237 Cal.App.4th at p. 699; *In re Jose R.* (1982) 137 Cal.App.3d 269, 276-276.) The question is essentially one for the trier of fact. (*Id.* at p. 277; cf. *People v. Page* (2004) 123 Cal.App.4th 1466, 1473 [sharp pencil held up to neck]; *People v. Henderson* (1999) 76 Cal.App.4th 453, 467-470 [pit bull can be a deadly weapon under Pen. Code, § 417.8]; *People v. Simons* (1996) 42 Cal.App.4th 1100, 1106-1108 [screwdriver can be a deadly weapon under Pen. Code, § 417.8]; but see *In re Brandon T.*, *supra*, 191 Cal.App.4th at pp. 1496-1498 [small rounded butter knife not deadly weapon].)

Assault with a deadly weapon does not require that the defendant actually try to use the weapon on the victim's person. The test is whether the defendant demonstrates the "present ability" to complete the attack. The present ability element is satisfied when a defendant has attained the means and location to strike immediately, which means that the defendant must have the ability to inflict injury on the present occasion although the defendant need not have the ability to inflict injury instantaneously. (*People v. Chance* (2008) 44 Cal.4th 1164.) "Numerous California cases establish that an assault may be committed even if the defendant is several steps away from actually inflicting injury, or if the victim is in a protected position so that injury would not be "immediate," in the strictest sense of that term." (*Id.* at p. 1168.)

As this court explained more than a century ago, "Holding up a fist in a menacing manner, drawing a sword, or bayonet, presenting a gun at a person who is within its range, have been held to constitute an assault. So, any other similar act, accompanied by such circumstances as denote an intention existing at the time, coupled with a present ability of using actual violence against the person of another, will be considered an assault." [Citations.]

(*People v. Colantuono* (1994) 7 Cal.4th 206, 219.)

The defendant in *People v. Chance*, *supra*, 44 Cal.4th 1164 was held to have the "present ability" to inflict injury, as required for the crime of assault on police officer, even though there was no round in the firing chamber of his gun and he did not point gun at officer. The defendant hid behind a trailer and pointed the loaded gun at a place where he believed Officer Murdoch would appear. The officer instead approached defendant from behind thwarting the defendant's plan.

Defendant contends he lacked the present ability to inflict injury not only because he was aiming in the opposite direction from Murdoch, but also because Murdoch had him covered and would have shot him first. However, this argument cannot be squared with cases demonstrating that an assault may occur even when the infliction of injury is prevented by environmental conditions or by steps taken by victims to protect themselves.



**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 36

---

(*Id.* at p. 1173.)

Here, defendant's loaded weapon and concealment behind the trailer gave him the means and the location to strike "immediately" at Sergeant Murdoch, as that term applies in the context of assault. Murdoch's evasive maneuver, which permitted him to approach defendant from behind, did not deprive defendant of the "present ability" required by section 240. Defendant insists that ... he never pointed his weapon in Murdoch's direction. That degree of immediacy is not necessary ... .

(*Id.* at pp. 1175-1176.)

Other case examples also illustrate when a defendant's behavior is sufficient to complete the crime of assault with a deadly weapon. In *People v. Nguyen* (2017) 12 Cal.App.5th 44, the appellate court upheld the defendant's conviction for aggravated assault on a police officer when he wielded a large knife and stepped toward the officer, rejecting the argument that being 10 to 15 feet away deprived the defendant of the present ability to inflict injury. In *People v. Escobar* (1992) 11 Cal.App.4th 502, the appellate court upheld a conviction when the victim heard the defendant cock a loaded firearm, even though the gun was concealed in a leather purse, and the defendant never pointed the weapon. In *People v. Orr* (1974) 43 Cal.App.3d 666, the defendant pointed a loaded rifle at the victim, backed him into a ditch, then fled. The defendant's conviction of assault with a deadly weapon was upheld. In *People v. Thompson* (1949) 93 Cal.App.2d 780, the defendant pointed a loaded pistol towards police officers and said he would not submit to arrest. Again, the conviction of assault with a deadly weapon was affirmed. (Similarly, see *People v. Schwartz* (1992) 2 Cal.App.4th 1319, 1326.)

A car driven in an unreasonable manner is a deadly weapon likely to produce death or great bodily injury. (*People v. Wright* (2002) 100 Cal.App.4th 703, 706; *People v. Claborn* (1964) 224 Cal.App.2d 38; *People v. Mortensen* (1962) 210 Cal.App.2d 575, 582.) The appellate courts have found violations of Penal Code section 245, subdivision (a)(1), for driving an automobile into the victim. (See, e.g., *People v. Golde* (2008) 163 Cal.App.4th 101, 109; *People v. Finney* (1980) 110 Cal.App.3d 705, 716; *People v. Dewson* (1957) 150 Cal.App.2d 119, 132-133.) This offense can also be committed by driving a vehicle so as to throw the victim from it. (See, e.g., *People v. Fox* (1947) 82 Cal.App.2d 913, 916.) In addition, pushing a person in front of a moving vehicle has been found to be using the vehicle as a deadly weapon. (*People v. Russell* (2005) 129 Cal.App.4th 776.) Finally, "a driver who deliberately races through a red light at a busy intersection and collides with another vehicle, causing injury to another, can be convicted of assault with a deadly weapon." (*People v. Aznavoleh* (2012) 210 Cal.App.4th 1181, 1183.)

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 37

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**APPLICABLE LEGAL PRINCIPLES**

A peace officer may use reasonable force to effect an arrest if he believes that the person to be arrested has committed a public offense. (Calif. Penal C. §835a)<sup>23</sup> Should the arresting officer encounter resistance, actual or threatened, he need not retreat from his effort and maintains his right to self-defense or to use reasonable force to effect that arrest. (*Id.*) An arrestee has a duty to refrain from using force or any weapon to resist lawful arrest, if he knows or should know that he is being arrested. (Penal C. §834a.)

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, lawful or not. (*Evans v. City of Bakersfield* (1994) 22 Cal.App.4th 321, 332-333.)

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 use of deadly force by a public officer is justifiable when necessarily used in arresting persons who are charged with a felony and who are fleeing from justice or resisting said arrest. Application of the section is broader than on its face; formal written charges are not required. (*People v. Kilvington* (1894) 104 Cal. 86, 92.) 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.)

No variation of the word “reasonable” appears in Penal Code §196, but the principle as applied necessarily requires that an officer’s conduct be reasonable. A homicide is justifiable under Penal Code §196 when the circumstances reasonably created a fear of death or serious bodily harm to the officer or to another. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 349.) This standard under Penal Code § 196 is consistent with the Supreme Court standard for reasonable force as stated in *Garner*, *supra*, 471 U.S. at 11-12. Whether police actions are reasonable under Penal Code

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<sup>23</sup> All references to code sections here pertain to the California Penal Code, as they existed at the time of the incident. Significant modifications were made to sections 196 and 835a pursuant to Assembly Bill 392. (Assem. Bill No. 392 (2018-2019 Reg. Sess.) as Chaptered August 19, 2019.) However, those modifications do not apply retroactively. Even if they did, the conclusion of the analysis would be the same.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 38.

---

section 196 depends on the facts and circumstances known to the peace officer at the time of the arrest. This rule applies even if subsequent investigation reveals the suspect was not guilty of the suspected felony. (*Kilvington, supra*, 104 Cal. at 93.) Similarly, when a police officer reasonably believes a suspect may be armed, it does not change the analysis even if subsequent investigation reveals the suspect was unarmed. (*Reese v. Anderson* (5th Cir. 1991) 926 F.2d 494, 501; *Anderson v. Russell* (4th Cir. 2001) 247 F.3d 125, 129, 131.) California courts have held that when a police officer's actions are reasonable under the Fourth Amendment, the requirements of Penal Code § 196 are satisfied. (*Martinez v. County of Los Angeles, supra*, at 349; *Brown v. Grinder* (E.D. Cal., Jan. 22, 2019) 2019 WL 280296, at \*25.)

**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.

"Imminence is a critical component of both prongs 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 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* (9th Cir. 1994) 39 F. 3d 912, 915.)

There is no requirement that a person (including a police officer) retreat even if safety could have been achieved by retreating. (*Id.*, see also CALCRIM 505.) In addition, police officers are not constitutionally required to use all feasible alternatives to avoid a situation where the use of deadly force is reasonable and justified. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 348.) The court in *Scott* explained:

Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment...Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves.

(*Scott v. Henrich, supra*, 39 F.3d at 915.)

**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,

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 39

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stop or seizure, deadly or otherwise, must be analyzed under the Fourth Amendment's "reasonableness" standard. (*Graham v. Conner* (1989) 490 U.S. 386, 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 of 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.)

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 consider what a reasonable person in a similar situation with similar knowledge would have believed. (CALCRIM 505.) When considered 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.) 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

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 40

---

officer's use of deadly force. (*Reynolds v. County of San Diego* (9<sup>th</sup> 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.)

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

(*Martinez v. County of Los Angeles, supra*, 47 Cal.App.4<sup>th</sup> at 343, citing *Smith v. Freland* (6<sup>th</sup> 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. (*Reese v. Anderson* (5<sup>th</sup> Cir. 1991) 926 F.2d 494, 501; *Anderson v. Russell* (4<sup>th</sup> Cir. 2001) 247 F.3d 125, 129, 131.)

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.4<sup>th</sup> at 343-344, citing *Roy v. Inhabitants of City of Lewiston* (1<sup>st</sup> 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.4<sup>th</sup> 1077, 1109, citing *Graham v. Connor, [supra]* 490 U.S. 386, 396.)

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 41

---

**CAL CRIM 3470 (REVISED 2012)  
RIGHT TO SELF-DEFENSE OR DEFENSE OF ANOTHER**

Self-defense is a defense to the unlawful killing of a human being. A person is not guilty of that/those crimes if he/she used force against the other person in lawful self-defense or defense of another. A person acts in lawful self-defense or defense of another if:

1. The person reasonably believed that he/she or someone else was in imminent danger of suffering bodily injury or was in imminent danger of being touched unlawfully;
2. The person reasonably believed that the immediate use of force was necessary to defend against that danger; AND
3. The person used no more force than was reasonably necessary to defend against that danger.

When deciding whether a person's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the person and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the person's beliefs were reasonable, the danger does not need to have actually existed.

The person's belief that he/she or someone else was threatened may be reasonable even if he/she relied on information that was not true. However, the person must actually and reasonably have believed that the information was true.

A person is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger of death/bodily injury has passed. This is so even if safety could have been achieved by retreating.

**USE OF DEADLY FORCE BY A PEACE OFFICER**

Authorization of the use of deadly force is analyzed under the Fourth Amendment's "objective reasonableness" standard. (*Brosseau v. Haugen* (2004) 543 U.S.194, 197.) This question is governed by the principles enunciated in *Tennessee v. Garner* (1985) 471 U.S. 1 and *Graham v. Connor* (1989) 490 U.S. 386.

In these decisions, the US Supreme Court explained "it is unreasonable for an officer to 'seize an unarmed, non-dangerous suspect by shooting him dead..... However, where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others, it is not constitutionally unreasonable to prevent escape by using deadly force." (*Tennessee v. Garner, supra*, 471 U.S. at p. 11.)

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 42

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Reasonableness is an objective analysis and must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. (*Graham v. Connor, supra*, 490 U.S. at p. 396.) It is also highly deferential to the police officer's need to protect himself and others. 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. (*Id.* at p. 396-397.) The question is whether the officer's actions are "objectively reasonable" considering the facts and circumstances confronting them, without regard to their underlying intent or motivation. (*Id.* at p. 397.)

The US Supreme Court in *Graham* set forth factors that should be considered in determining reasonableness: (1) the severity of the crime at issue, (2) whether the suspect poses an immediate threat to the safety of the officers or others, and (3) whether he is actively resisting arrest or attempting to evade arrest by flight. (*Graham v. Connor, supra*, 490 U.S. at p. 396.) The question is whether the totality of the circumstances justifies a particular sort of ... seizure. (*Tennessee v. Garner* (1985) 471 U.S. at p. 8-9. The most important of these factors is the threat posed by the suspect. (*Smith v. City of Hemet* (2005) 394 F.3d 689,702.)

Thus, under *Graham*, the high court advised 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 facing a possible assailant than to someone analyzing the question at leisure." (*Smith v. Freland* (1992) 954 F.2d 343, 347.)

**Reasonableness: The Two Prongs**

Penal Code section 197, subdivision (3) requires that one who employs lethal force have a "reasonable ground to apprehend" a design to commit a felony or to do some great bodily injury. Further, Penal Code section 198 requires that such fear be "sufficient to excite the fears of a reasonable person." This is clearly an objective standard. In shorthand, perfect self-defense requires both subjective honesty and objective reasonableness. (*People v. Humphrey* (1996) 13 Cal.4th 1073, 1093.)

When specific conduct is examined under the analytical standard of reasonableness the concepts of apparent necessity and mistake are invariably, and necessarily, discussed, for they are part of the same equation. "Reasonableness," after all, implies potential human fallibility. The law recognizes, as to self-defense, that what is being put to the test is human reaction to emotionally charged, highly stressful events, not mathematical axioms, scientifically provable and capable of exact duplication.



**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 43

---

While the test, as mandated by section 198, is objective, reasonableness is determined from the point of view of a reasonable person in the position of one acting in self-defense. (*People v. Minifie* (1996) 13 Cal.4th 1055, 1065.) We must take into consideration all the facts and circumstances that might be expected to operate in the person's mind. (*Ibid.*) Reasonableness is judged by how the situation appeared to the *person claiming self-defense*, not the person who was injured or killed as a result.

**Imminence of Perceived Danger**

"Imminence is a critical component of both prongs of self-defense." (*People v. Humphrey, supra*, 13 Cal.4th at p. 1094.) Response with deadly force must be predicated on a danger that portends imminent death or great bodily injury. Reasonableness and immediacy of threat are intertwined. Self-defense is based on the reasonable appearance of imminent peril of death, or serious bodily injury to the party assailed.

In *People v. Aris* the trial court clarified that imminent peril means that the peril must have existed, or appeared to the person to have existed, at the very time the shot was fired. (*People v. Aris* (1989) 215 Cal.App.3d 1178, 1188 disapproved on another ground in *People v. Humphrey* (1996) 13 Cal.4th 1073.) This was later cited with approval by the California Supreme Court: "An imminent peril is one that, from appearances, must be instantly dealt with." (*In re Christian S.* (1994) 7 Cal. 4th 768,783 quoting *People v. Aris, supra*, 215 Cal.App.3d at p. 1187.)

The question is whether action was instantly required to avoid death or great bodily injury. In this regard, there is no duty to wait until an injury has been inflicted to be sure that deadly force is indeed appropriate.

**Retreat and Avoidance**

Under California law one who is faced with an assault that conveys death or great bodily injury may stand his ground and employ lethal force in self-defense. There is no duty to retreat even if safety could have been achieved by retreating. (CALCRIM No. 3470.) Indeed, in California the retreat rule has been expanded to encompass a reasonably perceived necessity to pursue an assailant to secure oneself from danger. (See *People v. Holt* (1944) 25 Cal.2d 59, 63; *People v. Collins* (1961) 189 Cal. App.2d 575, 588.)

**Nature and Level of Force**

The right of self-defense is limited to the use of such force as is reasonable under the circumstances. (See *People v. Gleghorn* (1987) 193 Cal.App.3d 196, 200; *People v. Minifie, supra*, 13 Cal.4th at p. 1065; *People v. Moody* (1943) 62 Cal.App.2d 18,22.)

Case law does not impose a duty to use less lethal options. "Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 44

---

the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." (*People v. Collins, supra*, 189 Cal.App.2d at p. 578.)

The rationale for vesting the police officer with such discretion was explained:

Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment. In the heat of battle with lives potentially in the balance, an officer would not be able to rely on training and common sense to decide what would best accomplish his mission. Instead, he would need to ascertain the *least* intrusive alternative (an inherently subjective determination) and choose that option and that option only. Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves. It would also entangle the courts in endless second-guessing of police decisions made under stress and subject to the exigencies of the moment.

*Scott v. Henrich* (1994) 39 F.3d 912, 915.

In summary, an honest and objectively reasonable belief that lethal force is necessary to avoid what appears to be an imminent threat of death or great bodily injury will justify the use of deadly force. This is true even if the person acting in self-defense could have safely withdrawn or had available to him a less lethal means of defense.

**ANALYSIS**

On July 18, 2019, Officers from the Ontario Police Department attempted to make a lawful arrest of Martinez for felony evading after the vehicle Martinez had driven during the pursuit the previous day was located at his residence in Fontana. Members of the Ontario Police Department MET and CCU teams formulated a tactical plan to arrest Martinez for felony evading. Because Martinez's vehicle was parked in the driveway of the residence, the officers reasonably believed Martinez was inside. Over the course of several hours, Officer Hendrickson sat on fixed-point surveillance, watching the Martinez residence while the teams waited for Martinez to come outside.

When Martinez came outside and began washing his vehicle, Officer Hendrickson was able to successfully identify Martinez. Officer Hendrickson notified the other team members and the plan was put into play. The plan was that Corporal Ronveaux and Corporal Carson would first approach Martinez in their distinctively marked patrol units and Officer Hendrickson would approach immediately thereafter. Martinez would then be contacted while he stood outside his car and thereafter arrested. This plan was

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 45

---

reasonable and factored in the officers' stated goal of avoiding another vehicle pursuit with Martinez. Because Martinez had shown a proclivity to evading the police in his car, the officers wanted to ensure he was unable to drive away and thereby initiate another pursuit. In furtherance of this goal, Corporal Ronveaux pulled into the driveway in such a way as to block Martinez from driving out onto the street.

As Corporal Ronveaux pulled into the driveway, Martinez got into his Mercedes. As Corporal Ronveaux began stepping out of his patrol car, Martinez quickly reversed his car and slammed it into the driver's side of Corporal Ronveaux's vehicle. Just before Martinez crashed into Corporal Ronveaux's vehicle, someone could be heard yelling in the background, "No, no, no!" Fortunately, Corporal Ronveaux was able to get back into his vehicle before being struck. However, he only did so by the skin of his teeth. Corporal Ronveaux saw Corporal Carson was on foot on the street nearby, only three to five feet south from the driver's side of Martinez's vehicle. In anticipation of Corporal Carson's gunshots, Corporal Ronveaux ducked as Martinez continued reversing his car, crashing and scraping along the entire driver's side of Corporal Ronveaux's patrol unit.

**Corporal Ronveaux's Use of Deadly Force**

Once Martinez's car broke free of Corporal Ronveaux's vehicle, Corporal Ronveaux opened his door and immediately heard a second collision.<sup>24</sup> Corporal Ronveaux could no longer see Corporal Carson and believed Martinez had hit him. Corporal Ronveaux thought Corporal Carson was being drug underneath Martinez's car. This belief was both subjectively and objectively reasonable given the close proximity of Corporal Carson to Martinez's vehicle when Martinez quickly backed off the curb and into the street. When Corporal Ronveaux heard the second collision and could no longer see Corporal Carson, it was reasonable for him to believe Martinez had crashed into Corporal Carson. In addition, Martinez had already demonstrated his willingness to crash into a police officer when he attempted to crash into Corporal Ronveaux as he was getting out of his patrol unit. Any reasonable person would have believed Martinez had struck Corporal Carson under these circumstances.

After Martinez crashed into Corporal Ronveaux's patrol car and was backing into the street, Corporal Ronveaux quickly got out of his vehicle. As soon as he got out, he turned and ran in the direction of Martinez's car and saw other officers on the street near Martinez's vehicle. Martinez's vehicle was rolling backwards across the street, away from Corporal Ronveaux, and toward Officer Hendrickson. Corporal Ronveaux was right in front of Martinez's vehicle and he saw Martinez moving his right arm near the center console where Corporal Ronveaux believed the gear shift was located. Corporal Ronveaux heard Martinez revving his engine loudly while his vehicle continued

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<sup>24</sup> The second collision Corporal Ronveaux heard, but did not see, was actually Martinez crashing his vehicle into Corporal Barron's vehicle. It was the sound from this collision that led Corporal Ronveaux to believe that Martinez had crashed his car into and was dragging Corporal Carson beneath.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 46

---

rolling backwards as if out of gear, and he saw Martinez trying to get his vehicle back into gear.

Corporal Ronveaux feared Martinez was trying to get his car back into gear so that he could crash into him a second time and kill him. The threat posed by Martinez to Corporal Ronveaux was imminent. In addition to fear for his own life, Corporal Ronveaux was justifiably afraid that Martinez would crash into one of the other officers who were standing on the street nearby, attempting to surround Martinez. Corporal Ronveaux's fear for his own life and the lives of the other officers was reasonable. Corporal Ronveaux knew Martinez had already crashed into him once, he also believed Martinez had run over Corporal Carson and was dragging him underneath his car. The series of events caused by Martinez's actions had all unfolded unexpectedly and the situation caused by Martinez continued to evolve rapidly. Martinez's actions clearly demonstrated that Martinez was willing to do whatever it took to escape arrest. It was therefore reasonable for Corporal Ronveaux to believe Martinez would crash into him again or that he would crash into the other officers on the street. Under these circumstances, any reasonable person would have believed Martinez posed an immediate threat to the safety of each of the surrounding officers. Corporal Ronveaux said he had no doubt Martinez "wouldn't have hesitated to run somebody else over too." Corporal Ronveaux knew he had to stop Martinez and so he shot Martinez through the front driver's side windshield to stop the threat.

When Corporal Ronveaux fired his gun at Martinez, he had an honest and objectively reasonable belief that Martinez posed an imminent threat of serious bodily injury or death to Corporal Ronveaux and to the other surrounding officers. Corporal Ronveaux's actions were reasonable and were justified under these circumstances.

**Officer Lucifora's Use of Deadly Force**

Officer Lucifora was parked at the curb in front of the house right next door to the Martinez residence. From this close proximity, he saw Corporal Ronveaux pull into the driveway and begin getting out of his patrol unit when Martinez's car quickly accelerated backwards. Officer Lucifora heard the collision as Martinez crashed right into the spot where Corporal Ronveaux had been standing. The body-worn camera videos from each of the officers at the scene corroborate the fact that Martinez quickly accelerated backwards. The body-worn camera videos also reveal that when Martinez crashed into Corporal Ronveaux's vehicle, the crash was very hard and very loud, and that Martinez hit the vehicle with a significant amount of force.

Officer Lucifora thought Corporal Ronveaux had been hit and was dead underneath Martinez's car. When Martinez slammed his car into Corporal Ronveaux's vehicle, Officer Lucifora was still inside his patrol car which was parked just north of the Martinez residence. From this position, Officer Lucifora would not have been able to see that Corporal Ronveaux had made it back into his vehicle and was ducking down inside in

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 47

---

anticipation of gunfire. Upon witnessing this crash, any reasonable person in Officer Lucifora's position would believe Corporal Ronveaux had been hit by Martinez's car. In addition, the force with which Martinez's car struck Corporal Ronveaux's vehicle would have either killed or caused great bodily injury to Corporal Ronveaux had he not been able to jump back inside his patrol unit in time. Officer Lucifora's belief was both subjectively and objectively reasonable.

After this initial collision, Officer Lucifora saw Martinez's car briefly stop, apparently stuck on Corporal Ronveaux's vehicle. Officer Lucifora then saw Martinez was able to break his vehicle free from Corporal Ronveaux's patrol unit. As Martinez continued quickly reversing his vehicle off the curb, Officer Lucifora was getting out of his car. Officer Lucifora saw Martinez's car quickly pass by him on the street as it continued reversing backwards. On foot now in the street, Officer Lucifora saw Martinez crash into Corporal Barron's van and then turn his wheel slightly as he headed straight for Officer Hendrickson. Officer Lucifora believed Martinez was going to hit Officer Hendrickson who also was on foot in the street, directly in Martinez's path. Officer Lucifora was standing in front of and on the north side of Martinez's vehicle when he saw Martinez was looking straight at him through his windshield. Officer Lucifora realized he was out in the open, on foot with no cover or concealment, directly in front of Martinez's car. Martinez's vehicle engine was revving loudly as the car rolled backwards. Officer Lucifora saw Martinez moving his arm as if to manipulate the gear shift and feared Martinez was either going to come straight at him or another officer. Officer Lucifora fired his gun through the front windshield of Martinez's vehicle to stop the threat.

Officer Lucifora's fear was objectively reasonable. Officer Lucifora had already seen Martinez quickly accelerate his car backwards just as Corporal Ronveaux was stepping out his patrol unit. Officer Lucifora then saw Martinez crash into Corporal Barron's van. Martinez's actions demonstrated to Officer Lucifora that Martinez was willing to do whatever it took to prevent his arrest, even if that meant running over and killing the police officers. Officer Lucifora was only 15-20 feet away from Martinez and was in imminent danger as he stood out in the open in front of Martinez's car. When Officer Lucifora saw Martinez moving his right arm as if he was trying to move the gear shift, Officer Lucifora reasonably feared Martinez was going to drive straight at him or at the other officers nearby. Martinez's vehicle engine was revving loudly and Officer Lucifora knew they had to stop Martinez before he killed them or an innocent bystander if he got away. It was literally a race between Martinez and Officer Lucifora. Had Martinez been able to get his car into drive before Officer Lucifora fired his gun, Martinez could have easily driven forward and crashed into and run over Officer Lucifora.

When Officer Lucifora fired his gun at Martinez, he had an objectively reasonable belief that Martinez posed an imminent threat of serious bodily injury or death to Officer Lucifora and to the other surrounding officers. Officer Lucifora's actions were reasonable and were justified under these circumstances.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 48

---

**Officer Hendrickson's Use of Deadly Force**

Officer Hendrickson was just north of and across the street from the Martinez residence when Corporal Ronveaux pulled into the Martinez driveway. Officer Hendrickson saw Martinez's vehicle crash into Corporal Ronveaux's patrol unit. From this position, Officer Hendrickson was able to see that Corporal Ronveaux had made it back inside his patrol unit before Martinez crashed into him. When Officer Hendrickson then saw Martinez's vehicle briefly stopped, he believed the vehicle was stuck between Corporal Ronveaux's patrol unit and a utility pole on the edge of the property.

Officer Hendrickson began approaching on foot because he believed it was safe to do so. Officer Hendrickson didn't think Martinez's vehicle would be able to break loose. However, as Officer Hendrickson approached, Martinez continued stepping on the gas, trying to break free until he was able to successfully dislodge his vehicle. Martinez then continued backing out onto the street at a high rate of speed and crashed into the front end of Corporal Barron's vehicle. Martinez then turned his car slightly and continued quickly backing his vehicle straight toward Officer Hendrickson who was on foot in street, without any protection.

Officer Hendrickson was directly in Martinez's path. As Martinez continued backing his car straight at him, Officer Hendrickson believed Martinez was going to hit him. Officer Hendrickson was directly behind Martinez's vehicle as Martinez continued reversing toward him. Officer Hendrickson was out in the open in the street and there was nothing between him and Martinez's car. Officer Hendrickson began quickly moving south to try to save himself as he began firing his gun at Martinez.

It was reasonable for Officer Hendrickson to believe Martinez was trying to crash his vehicle into him. Martinez's actions demonstrated that he was willing to do whatever it took to prevent his arrest. Martinez had quickly accelerated his vehicle backwards toward Corporal Ronveaux's patrol unit just as Corporal Ronveaux began stepping out of it. Martinez then crashed into Corporal Barron's vehicle. Officer Hendrickson witnessed both of these collisions first-hand and saw that Martinez was willing to do whatever it took to escape arrest. Officer Hendrickson did not know if Corporals Ronveaux or Barron were injured, but he thought he was on his own<sup>25</sup> and Martinez was trying to kill him by hitting him with his car.

When Martinez continued backing into the street and turned his vehicle directly toward Officer Hendrickson, it was reasonable for him to believe Martinez was doing so deliberately in an attempt to run him over. Officer Hendrickson's life was in imminent

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<sup>25</sup> While Officer Lucifora was also on the street near Martinez's car, it is likely Officer Hendrickson did not see Officer Lucifora because he was intently focused on Martinez's vehicle as it was coming straight at him. In addition, Officer Lucifora was on the other side of Martinez's vehicle, and it is possible Officer Hendrickson could not see Officer Lucifora because he was blocked from view by Martinez's car.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 49

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danger as Martinez quickly reversed his vehicle toward him. But for Officer Hendrickson's quick reactions in moving and firing his weapon, Martinez would have crashed into and run over Officer Hendrickson.

When Officer Hendrickson fired his gun at Martinez, he had an honest and objectively reasonable belief that Martinez posed an imminent threat of serious bodily injury or death to him. Officer Hendrickson's actions were reasonable and were justified under these circumstances.

**DE-ESCALATION**

Upon arriving at the Martinez residence, Corporal Carson got out of his patrol unit and began to order Martinez to put his hands up, but upon seeing law enforcement, Martinez immediately began to reverse his car quickly toward Corporal Ronveaux. Corporal Ronveaux barely stepped out of his patrol unit when the events began to unfold. The officers had no time to attempt de-escalation. One officer was heard yelling, "No, no, no, no," as Martinez began backing, but Martinez ignored the officer and continued quickly backing into Corporal Ronveaux and thereafter, the officers only had time to defend themselves.

**SUMMATION**

This incident began as soon as the marked patrol units arrived on scene and within 30 seconds, the incident was over. In this short span of time, Martinez used his vehicle as a deadly weapon against multiple police officers. The officers were forced to react quickly to the unexpected deadly threat posed by Martinez. Each of the officers knew their own lives and the lives of their fellow officers were in grave danger when Martinez used his car as a deadly weapon against the officers.

The officers were in close proximity to Martinez while he used his vehicle as a deadly weapon to either kill them or to escape. It was obvious Martinez was either trying to injure or kill the officers or that he did not care if he injured or killed the officers. Martinez was willing to do whatever it took to evade arrest, even if that meant killing or causing great bodily injury to the officers. Martinez placed each of the officers' lives in imminent danger. Under these circumstances, it was objectively reasonable for Officer Hendrickson, Officer Lucifora, and Corporal Ronveaux to believe Martinez posed an imminent threat of serious bodily injury or death. Thus, the decision by Officer Hendrickson, Officer Lucifora, and Corporal Ronveaux to use deadly force was justified.

When they fired their weapons at Martinez, Officer Hendrickson, Officer Lucifora, and Corporal Ronveaux each had an honest and objectively reasonable belief Martinez posed an imminent threat of serious bodily injury or death to them.

**PUBLIC RELEASE MEMORANDUM**

Non-Fatal Officer-Involved Incident

DA STAR # 2019-00-0043952

January 28, 2025

Page 50

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**CONCLUSION**

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

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

Based on the facts presented in the reports and the applicable law, Corporal Ronveaux's use of deadly force was a proper exercise of Corporal Ronveaux's right of self-defense and defense of others and therefore his actions were legally justified.

**Submitted By:**  
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**303 West Third Street**  
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**Date: January 28, 2025**

