



## PUBLIC RELEASE MEMORANDUM

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Subject: Fatal Officer-Involved Shooting

Involved San Bernardino Police Department Officers:  
Officer Francisco Ayala  
Officer Blaze Stewart  
Officer Jason Saenz  
Sergeant Imran Ahmed

Involved Subject/DOB:  
Darrell Fowler  
12/17/1961

Subject's Residence:  
San Bernardino

Incident Date/Time:  
November 10, 2023, 10:36 p.m.

Incident Location:  
16th Street and Mt. Vernon Avenue  
San Bernardino

Case Agent/Agency:  
Detective C. Lariz  
San Bernardino Police Department

Agency Report Number:  
2023-00127974

DA STAR Number:  
2024-42106

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**PREAMBLE**

This was a fatal officer-involved shooting by officers from the San Bernardino Police Department. The San Bernardino Police Department investigated the shooting. This factual summary is based on a thorough review of all the investigative reports, photographs, video, and audio recordings submitted by the San Bernardino Police Department.

**FACTUAL SUMMARY**

San Bernardino Police Department (SBPD) Officers Francisco Ayala, Blaze Stewart, Jason Saenz, Corporal Andrew Saibene, and Sergeant Imran Ahmed were members of the police department's Multiple Enforcement Team (MET) and Special Weapons and Tactics Team (SWAT). As members of the MET and SWAT teams, the officers developed a strong working relationship through years of extensive collaboration and training.

On November 10, 2023, the team of five officers was assigned to proactive patrol under Project Safe Neighborhood, aimed at reducing violent crimes and weapons offenses in high-crime neighborhoods within the city. The west side of San Bernardino, near 16th Street and Mount Vernon Avenue, was identified by officers as a high-crime district. On the evening of November 10, 2023, the officers patrolled this area in two marked SBPD police vehicles. Officer Saenz drove one of the patrol units with Officers Ayala and Stewart as passengers. Sergeant Ahmed drove the second patrol vehicle. Corporal Saibene rode with Sergeant Ahmed. At approximately 10:30 p.m., Officers Saenz, Ayala, and Stewart traveled northbound on Mount Vernon, near 16th Street. Sergeant Ahmed and Corporal Saibene headed southbound on Mount Vernon near the 1700 block of Mount Vernon Avenue.

Officers Saenz, Ayala, and Stewart observed a black BMW traveling northbound on Mount Vernon, approaching 16th Street. The BMW straddled lanes and was unable to maintain a straight line of travel. Officer Saenz suspected the driver, later identified as Darrell Fowler, might be driving under the influence of alcohol, narcotics, or both.<sup>1</sup> Officer Saenz and his partners observed additional traffic violations. Officer Saenz made a U-turn on Mount Vernon, and Fowler turned eastbound on 16th Street. Officer Saenz turned eastbound on 16th Street and activated his unit's overhead and forward-facing red lights to initiate a traffic stop. Officer Ayala called out the stop over the radio at 10:33:27 p.m.<sup>2</sup> Sergeant Ahmed and Corporal Saibene heard Officer Ayala's radio transmission and headed to the scene to back their partners.

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<sup>1</sup> Subsequent tests of Fowler's blood yielded positive results for amphetamine and methamphetamine. See toxicology section for results. California Vehicle Code section 23152(f), driving under the influence of drugs. It is unlawful for a person who is under the influence of any drug to drive a vehicle

<sup>2</sup> Exact times given are those recorded in the computer-aided dispatch reports.

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Fowler pulled over on the south side of 16th Street, several yards east of Mount Vernon, and rolled down his driver's window. Officer Saenz got out of his unit and approached Fowler's vehicle, a two-door sedan, on the driver's side while his partners, Officers Ayala and Stewart, approached the passenger side. Officer Saenz recognized Fowler from previous contacts, though he did not recall his name. Officer Saenz noticed that Fowler was "very irate already." Fowler yelled, "This is fucking bullshit! Fuck this! You guys always fucking do this to me!" Because Fowler appeared to be aggressive and hostile, Officer Saenz exercised increased caution as he approached the car.

Though Fowler's BMW had dark-tinted windows, the officers saw the silhouettes of two passengers inside, one in the front passenger seat (later identified as Witness #1) and one in the right rear passenger seat (later identified as Witness #2). The officers asked the occupants to roll down the windows, and they complied. While Officer Saenz spoke to Fowler, Officer Ayala stood at the passenger-side A-pillar, and Officer Stewart stood at the passenger door. Officers Ayala and Stewart watched the occupants inside for officer safety.

Officer Saenz introduced himself to Fowler and asked for his driver's license. Fowler responded by yelling profanities at Officer Saenz. Fowler accused Officer Saenz of "racially profiling" him. Officer Saenz again asked Fowler for his driver's license, but Fowler remained hostile. Fowler continued to argue with Officer Saenz but eventually handed him an identification card. Officer Saenz asked Fowler if he had a valid driver's license. Fowler was unable to produce a valid driver's license.

To further his investigation into whether Fowler was driving under the influence and to determine whether another occupant of the car had a valid license to take control of the vehicle, Officer Saenz asked Fowler to step out of the car. Fowler was uncooperative and refused. Officer Saenz told Fowler to let the officers do their job, and if everything checked out, he would not need to go to jail or have his car towed. Fowler still refused to get out of the vehicle. Sergeant Ahmed and Officer Saibene arrived on scene at 10:35:49, while Officer Saenz spoke with Fowler. Sergeant Ahmed parked "catty cornered" to Officer Saenz's patrol unit. Sergeant Ahmed and Officer Saibene saw there was "some type of back and forth" between Officer Saenz and Fowler. Sergeant Ahmed and Officer Saibene heard Officer Saenz tell Fowler that he did not have a driver's license and that he needed to step out of the vehicle; however, Fowler remained seated inside the car.

Officer Saenz opened Fowler's door and asked him to take off his seatbelt. Fowler moved his right hand toward his seatbelt, and Officer Saenz believed Fowler was going to unbuckle and remove it. However, Fowler took an "extended amount of time," and Officer Saenz grew concerned because a typical driver did not take that long to remove a seatbelt. Officer Saenz again asked Fowler to step out of the vehicle, but Fowler did not comply. Fowler placed both of his hands near the seatbelt latch and his right hip, as if attempting to unbuckle his seatbelt, but still failed to remove it. Fowler's actions, combined

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with his open hostility toward Officer Saenz, intensified Officer Saenz's apprehension and led him to believe that Fowler was "buying time for something."

Officers Ayala and Stewart were also concerned by Fowler's hostility toward Officer Saenz and grew more ill at ease by Fowler's apparent inability to remove his seatbelt. Based on his training and experience, Officer Stewart knew that argumentative drivers who act with hostility and refuse to exit their vehicles often do so to distract officers from illegal items, to stall for time, or to prepare for a physical confrontation or escape. Officer Ayala was concerned that Fowler was "stalling for something" and feared that Fowler was trying to "pull a weapon" to shoot Officer Saenz.

Officer Ayala moved toward the engine block near the front windshield on the passenger side of Fowler's sedan. Officer Ayala withdrew his handgun from its holster and pointed it at Fowler through the windshield. Officer Ayala used the tactical light on his pistol to better illuminate Fowler in the darkness. Officer Ayala ordered Fowler to stop reaching. Officer Ayala hoped that when Fowler saw Officer Ayala's gun pointed at him, it would act as a deterrent and would make Fowler stop what he was doing. Witness #1, Fowler's right front passenger, turned his upper body toward the passenger door and reached both arms out of the window so the officers could see his hands and know he was unarmed.

Fowler did not comply with Officer Ayala's order to stop reaching. Instead, Fowler began to frantically move both hands around the area of his right hip, near the seatbelt, and reached toward his lower right back. Fowler never looked at Officer Ayala and instead remained focused on Officer Saenz. Officer Ayala ordered Fowler again to stop reaching. Sergeant Ahmed, who was still seated in his patrol unit, heard Officer Ayala order Fowler to stop reaching. Upon hearing this, Sergeant Ahmed and Corporal Saibene got out of their unit to assist.

Officer Stewart walked from the passenger side to the driver's side to help Officer Saenz remove Fowler from the vehicle, if it became necessary. Officer Ayala remained near the front of the car, with his gun pointed through the windshield, illuminating Fowler with the tactical light. Officer Saenz leaned into Fowler's car and tried to remove Fowler's seatbelt. As Officer Stewart neared the driver's side, he saw Officer Saenz reach into the vehicle through the open driver's door. Officer Stewart grabbed the back of Fowler's jacket to assist. Sergeant Ahmed approached Officers Saenz and Stewart while they attempted to pull Fowler out of the vehicle.

Still illuminating Fowler with his gun's tactical light, Officer Ayala watched Officer Saenz reach into the vehicle and over Fowler's body to remove his seatbelt. Officer Ayala saw Fowler move Officer Saenz's hand away from him with his left hand while using his right hand to reach between the seatbelt and his body, manipulating his jacket. Officer Ayala, concerned for his safety and that of his fellow officers, again yelled at Fowler to stop reaching. Still, Fowler continued to move his right hand between his seatbelt and body. Officer Ayala repeated the commands multiple times, but Fowler did not comply. Officer

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Ayala saw Fowler lean forward and reach behind his back. Fowler's elbow pointed upward as he reached behind his back. Officer Ayala recognized this movement was consistent with someone pulling a firearm from behind their back.

As Officer Saenz reached for Fowler's seatbelt latch, Officer Saenz grabbed onto an object that felt like a gun. Officer Saenz quickly looked down and saw Fowler's handgun. At that moment, Officer Ayala saw the metal frame of Fowler's handgun. Officer Ayala saw Fowler grab onto the handgun, grip the handle, and begin to pull it out. Officer Ayala yelled, "Gun! Gun! Gun!" Multiple officers yelled at Fowler to drop the gun, but Fowler continued to pull the handgun from behind his back. Officers Ayala, Saenz, Stewart, and Sergeant Ahmed immediately backed away from Fowler's car and discharged their handguns at Fowler. During the shooting, Witness #1 scrambled out of the passenger window and immediately lay on the ground beside the car to escape the gunfire. Corporal Saibene ran toward the scene but was unable to fire without putting his partner's lives at risk. Fowler was struck by gunfire. Though injured, Fowler was conscious and moving.

Sergeant Ahmed immediately radioed, "Shots fired," at 10:36:06 p.m. Sergeant Ahmed called for additional officers to respond to the scene and requested medical aid to stage nearby because Fowler was still conscious and armed with a gun. The officers stood several feet from the front of Fowler's car, with their handguns pointed at Fowler, and quickly verified that none of them had been struck by gunfire. Fowler's seatbelt was still on, and he was still moving in the driver's seat. Sergeant Ahmed asked his partners where Fowler's gun was. Officer Ayala replied, "It's under his, under his right hip." Still holding lethal coverage on Fowler, the officers instructed Witness #1 to crawl toward them and safely extracted Witness #2 from the vehicle. The officers checked Witness #1 and Witness #2 for injuries and found neither had been struck by gunfire.

Once the passengers were secured, Officer Ayala held lethal coverage on Fowler, so officers could safely pull Fowler from the vehicle to render emergency medical care. Officer Saenz leaned into the car and quickly unbuckled Fowler's seatbelt. During the process, several of the officers suddenly yelled, "Gun, gun, gun! Don't reach, don't reach, drop the gun, drop the gun!" No additional gunshots were fired, and Officer Saenz safely pulled Fowler from the vehicle. Fowler's loaded 1911, .45 caliber handgun fell onto the driver's seat as Officer Saenz pulled him from the car. Additional officers, who had arrived on scene, assisted in laying Fowler on the ground. The officers placed Fowler into handcuffs and searched him for additional weapons. Finding no other weapons, the officers removed the handcuffs and quickly began to administer emergency medical care. Sergeant Ahmed radioed for medical aid to come into the scene. An ambulance arrived and transported Fowler to the hospital. Despite life-saving measures, Fowler succumbed to his injuries the following day at 6:18 p.m.

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**STATEMENTS BY POLICE OFFICERS<sup>3</sup>**

The involved officers were employed by the San Bernardino Police Department. The officers drove marked patrol units and wore uniforms identifying them as police officers. The officers' body-worn cameras were activated during the incident or immediately after the incident under review.<sup>4</sup> Prior to their interviews, Officers Ayala and Stewart and Sergeant Ahmed were given the opportunity to review video of the incident recorded by their body-worn cameras. The department issued firearms used by each officer during the officer-involved shooting and the estimated<sup>5</sup> number of shots fired by each is as follows:

Officer Francisco Ayala	Sig Sauer, P320, 9mm handgun	2 shots
Officer Blaze Stewart	Sig Sauer, P320, 9mm handgun	5 shots
Officer Jason Saenz	Sig Sauer, P226, 9mm handgun	7-9 shots
Sergeant Imran Ahmed	Sig Sauer, P320, 9mm handgun	2 shots

On November 13, 2023, at approximately 11:15 a.m., **Officer Francisco Ayala** was interviewed by Detective C. Lariz of the San Bernardino Police Department.

Officer Ayala was employed by the San Bernardino Police Department (SBPD) and had been a police officer for six years. On November 10, 2023, Officer Ayala was on duty, assigned to patrol as a member of the Multiple Enforcement Team (MET) and the Special Weapons and Tactics Team (SWAT)<sup>6</sup>.

Officer Ayala rode as the front seat passenger in a marked patrol unit, number 97, with Officers Jason Saenz and Blaze Stewart. Officer Saenz was the driver; Officer Stewart rode in the back seat. The officers were patrolling in the area of Mount Vernon and 16th Street, which was known for significant gang activity, including West Side Verdugo, Crazy Ones, Little Counts, 7th Streeters, California Gardens, Five Time Crips, and Projects. Officer Ayala had personally patrolled the area many times, including before he was assigned to the MET team. Officer Ayala knew that just north of the location, officers had arrested "countless" people for narcotics, guns, and weapons violations. Additionally, Officer Ayala knew that officers had been involved in several vehicle and foot pursuits in the area.

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<sup>3</sup> Herein is a summary only. All reports submitted were reviewed, but not all are referenced here.

<sup>4</sup> Officer Jason Saenz's body-worn camera lost battery charge and did not record the incident.

<sup>5</sup> During their interviews, each officer provided estimates of the number of shots he fired.

<sup>6</sup> The MET and SWAT teams are units within the San Bernardino Police Department. The MET unit is tasked with conducting proactive patrol under Project Safe Neighborhood within crime-saturated areas. SWAT team members are officers who are specially trained and equipped to respond to critical incidents including, but not limited to hostage taking, barricaded suspects, snipers, and other high-risk incidents. Each of the involved officers herein was a member of the MET and SWAT teams.

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At approximately 10:30 p.m., the officers in unit 97 headed northbound on Mount Vernon, approaching the intersection at 16th Street, in San Bernardino. Officer Ayala saw the light at the intersection was red and noticed a black two-door BMW with tinted windows had stopped past the limit line. When the light turned green, the officers proceeded straight through the intersection. It appeared to Officer Ayala that the BMW would proceed straight through the intersection. Officer Ayala saw three people inside the BMW.

When the officers were about 20 to 30 yards north of the intersection, Officer Saenz made a U-turn. Officer Ayala believed they would conduct a traffic stop on the BMW. When they made the U-turn, Officer Ayala saw the BMW was still stopped at the intersection, "almost like they were watching us." Once the officers completed the U-turn, the BMW made an abrupt left turn onto 16th Street. Officer Saenz drove behind the BMW to conduct the traffic stop. Officer Ayala called out the traffic stop over the radio. The BMW yielded to the south curb on 16th Street, about 20 yards east of the intersection of Mount Vernon and 16th Street.

Officers Saenz, Stewart, and Ayala got out of the patrol unit and approached the BMW. Officer Saenz walked to the driver's door, Officer Ayala and Officer Stewart walked toward the passenger side. As they approached the BMW, Officer Ayala noticed the passenger side window was rolled up. The windows were tinted, but Officer Ayala could see the silhouettes of the passengers seated in the front passenger seat and the rear passenger side seat. The officers asked the occupants to roll down the windows and they complied. Officer Ayala stood at the passenger side A-pillar of the BMW to allow Officer Stewart to stand near the passenger door where he could see into the vehicle more clearly for officer safety.

Officer Ayala heard Officer Saenz speaking with the driver, Darrell Fowler.<sup>7</sup> Officer Saenz asked Fowler for his driver's license. The officers determined that Fowler was driving without any "identification."<sup>8</sup> Officer Saenz and Fowler were "having a back and forth." Officer Saenz asked Fowler to step out of the car. Fowler was argumentative and did not get out of the car. The front passenger (Witness #1) shifted in the seat and placed both of his arms outside of the vehicle without being asked. Officer Ayala believed Witness #1 did this because he realized the tone of the conversation between Officer Saenz and Fowler "was shifting." Witness #1 looked at Officer Ayala with an expression that Officer Ayala interpreted as conveying that he did not want to be involved with the driver. Because of this, Officer Ayala moved further from the A-pillar toward the engine block of the BMW to have a better view into the vehicle.

Officer Saenz asked Fowler to step out of the vehicle multiple times, but Fowler refused. Officer Ayala saw Fowler put his hand on his waistband area, beneath the seatbelt, and

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<sup>7</sup> None of the officers were aware of or mentioned Darrell Fowler's name until the investigation brought it to light. All references to him by name are provided here for clarity.

<sup>8</sup> Fowler handed Officer Saenz his identification card but was unable to produce a driver's license. Subsequent investigation revealed Fowler's driver's license was suspended.

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did not make any effort to click the button to release the latch on the seatbelt. At one point, Fowler had both hands over the seatbelt area which would have made it "incredibly easy" to take off his seatbelt, but Fowler was not doing so. To Officer Ayala, it appeared Fowler was "stalling for something," and he feared that Fowler was trying to "pull a weapon" to shoot Officer Saenz who was positioned closest to Fowler. Officer Ayala had his flashlight in his hand. Upon seeing Fowler pull both of his hands to his side, Officer Ayala pulled his pistol from its holster, pointed it at Fowler through the windshield, and used the tactical light on his pistol to maintain observation of Fowler. Officer Ayala hoped that when Fowler saw his gun pointed at him, it would act as a deterrent and would cause Fowler to stop what he was doing. However, Fowler was fixated on Officer Saenz and never looked at Officer Ayala. This was an additional factor that increased Officer Ayala's fear that Fowler was intent on harming Officer Saenz.

Officer Saenz reached over Fowler to remove his seatbelt because Fowler was not removing it. Fowler used his left hand to move Officer Saenz's hand away. At that moment, Officer Ayala saw Fowler's right hand reach between the seatbelt and his body and manipulate his jacket. Officer Ayala yelled at Fowler to stop reaching. Officer Ayala repeated the command multiple times, but Fowler did not comply. Fowler remained fixated on Officer Saenz and never even looked in Officer Ayala's direction. Instead of following Officer Ayala's commands, Fowler leaned forward and reached behind his back. There was a slight tilt to Fowler's body and then Fowler's right elbow pointed upward as he reached behind his back. Based on his training and experience, Officer Ayala recognized the movement was consistent with someone pulling a firearm from behind their back. As Fowler reached behind his back, Officer Ayala saw the metal frame of a gun. Fowler grabbed onto the gun, gripping the handle, and pulled it out. The gun appeared to be a 1911 .45 caliber handgun.<sup>9</sup>

Officer Ayala yelled to his partners, "Gun, gun, gun!" Fowler's focus remained on Officer Saenz as Fowler pulled out the gun. Officer Saenz was in close proximity to Fowler because he was standing right at the driver's door. Officer Ayala knew it would only take a split second for Fowler to shoot Officer Saenz in the face. Officer Ayala also knew that Fowler could quickly point the gun in Officer Ayala's direction and shoot him through the windshield.

Fearing that Fowler was going to shoot Officer Saenz, Officer Ayala immediately brought his left hand up to his handgun to provide a stable platform, adjusted his angle of fire in relation to the windshield, and fired two times at Fowler. Officer Ayala knew he needed to be perpendicular to the windshield to avoid any deflection of the bullet, which would have been hazardous to his partners. Officer Ayala's intent when he fired was to prevent Fowler from shooting Officer Saenz and Officer Ayala. Officer Ayala aimed for Fowler's mid-section. While firing the two shots at Fowler, Officer Ayala maneuvered backward to get a better position because he knew his partners were on the driver's side of the car. Officer

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<sup>9</sup> Officer Ayala was a firearms instructor and was familiar with handguns and rifles. Further, Officer Ayala owned a 1911 .45 caliber handgun and recognized that Fowler's gun appeared to be that make and model.

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Ayala saw one of his partners moving away from the back of Fowler's vehicle. Officer Ayala saw Fowler's head come up and heard gunshots as his partners fired at Fowler. Officer Ayala did not want to put his partners at risk, so he did not fire any additional rounds. Officer Ayala estimated that only 30 seconds had elapsed from the time the officers got out of the patrol unit for the traffic stop until the shooting occurred.

During the shooting, Witness #1 jumped out of the open passenger window and "pronked-out on the ground on his own," just south of the vehicle, on the sidewalk. After the shooting, Officer Ayala and his partners formed a line in front of the car. The officers maintained observation and coverage on Fowler. The rear seat passenger (Witness #2) was still inside the car, and the officers were concerned that she may have been injured. She was not. The officers asked her to get out of the car. Officer Ayala was not sure who detained Witness #2. Officer Ayala had Witness #1 crawl toward him and then detained him. Once the passengers were secured, the officers maneuvered to the driver's side of the vehicle.

Officer Ayala maintained lethal coverage on Fowler through the windshield while Officers Saenz and Stewart removed Fowler from the car. Fowler was still alive and had the gun in his hand. Officer Ayala did not know if the officers pushed the gun away from Fowler's hand, but the gun remained in the car after Fowler was removed from the vehicle. The gun was in the driver's seat and was the same gun that Officer Ayala saw Fowler pull from behind his back.

Fowler was placed on the ground just north of the BMW and handcuffed. Sergeant Ahmed called for medical aid seconds after the shooting. Officer Ayala grabbed the trauma kit from the patrol unit and assisted his partners as they administered medical aid to Fowler. When the officers removed Fowler's jacket, Officer Ayala saw Fowler wore what appeared to be a holster with nylon shoulder straps.<sup>10</sup> Fowler had gunshot wounds to his chest, abdomen, and arm. Officer Ayala placed two chest seals over the bullet wounds on Fowler's chest. Shortly after that, paramedics arrived and took over Fowler's care.

On November 13, 2023, at 10:13 a.m., Officer **Blaze Stewart** was interviewed by Detective C. Lariz of the San Bernardino Police Department.

Officer Stewart was employed as a police officer by the San Bernardino Police Department. On November 10, 2023, Officer Stewart was on duty, assigned to proactive patrol as a member of the Multiple Enforcement Team (MET) and the Special Weapons and Tactics Team (SWAT).

Officer Stewart was the rear seat passenger in a marked patrol unit driven by Officer Saenz. Officer Ayala was in the front passenger seat. At approximately 10:30 p.m., the officers headed northbound on Mount Vernon, approaching the intersection of 16th Street, in the western district of San Bernardino. Officer Stewart was "very familiar" with

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<sup>10</sup> The shoulder holster worn by Fowler was removed with Fowler's clothing and was subsequently booked into evidence.

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the area because he had personally responded to multiple gang related crimes, including shootings, stabbings, and homicides. There were "multiple criminal street gangs in that exact area as well as their surrounding rival gangs." Officer Stewart had conducted multiple traffic stops there and had encountered drivers who fled from vehicles while armed with weapons. Because it was a high-crime area, Officer Stewart exercised increased caution when conducting traffic stops there.

Officer Stewart observed a black vehicle driving southbound on 16th Street, approaching the intersection with Mount Vernon. The black vehicle appeared to straddle and drive back and forth over the double yellow line, a violation of Vehicle Code section 22107, unsafe lane change. Officer Stewart suspected the driver was under the influence of narcotics or alcohol. Officer Stewart had previously responded to multiple traffic fatalities in the western district and had found many of them had been caused by intoxicated drivers.

The black vehicle continued southbound on Mount Vernon and stopped for the red light at the intersection of Mount Vernon and 16th Street. Officer Saenz drove northbound past the black vehicle. Officer Stewart saw that the black vehicle had stopped past the limit line. Officer Stewart also saw the vehicle had something affixed to the rearview mirror, obstructing the driver's view. Officer Saenz positioned the patrol unit behind the black vehicle, and the vehicle made a left turn onto 16th Street, heading eastbound. Officer Saenz activated the patrol unit's overhead lights and the black vehicle yielded for the traffic stop just east of the intersection of 16th Street and Mount Vernon. Officer Stewart recognized that "this could be a very dangerous traffic stop, any traffic stop could be, but especially more so in that area." Officer Stewart was "a lot more alert and cautious of how the occupants behave" and the actions they take inside the vehicle.

Officer Stewart had worked extensively with Officers Saenz and Ayala and had conducted hundreds of traffic stops. Officer Stewart knew how his partners worked and how they worked together. The three officers got out of the patrol unit. Officer Saenz approached the driver (Fowler) and contacted him. Officer Ayala contacted the right front passenger, Witness #1. Officer Stewart stood behind Officer Ayala near the right portion of the vehicle. A female passenger (Witness #2) was in the right rear seat. It was nighttime and the vehicle had tinted windows which made it difficult for Officer Stewart to see inside. For officer safety, Officer Stewart illuminated the vehicle's interior with his flashlight. Officer Stewart's priority was to confirm that Witness #2 was unarmed and not attempting to retrieve a weapon. Officer Stewart conducted a visual sweep for any weapons or illegal items that were in plain view from his position outside Fowler's vehicle.

Officer Stewart heard Officer Saenz give Fowler commands to exit the vehicle after he learned that Fowler did not have a valid driver's license. Fowler became very argumentative with Officer Saenz. Fowler's tone of voice and demeanor sounded to Officer Stewart like Fowler was "almost being aggressive towards Officer Saenz." Officer Stewart did not recall exactly what Fowler said, but it was clear that Fowler did not want

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to get out of the car. Fowler refused to get out of the car despite Officer Saenz's commands.

Based on Officer Stewart's training and experience, argumentative drivers who act with hostility and refuse to exit their vehicles often do so to distract officers from illegal items, to stall for time, or to prepare for a physical confrontation or escape. To assist Officer Saenz with removing Fowler if it became necessary, Officer Stewart walked around the rear of the car toward Officer Saenz who was at the open driver's door. As Officer Stewart approached, he saw that Officer Saenz was trying to remove Fowler from the vehicle. Officer Stewart placed his hands on the back of Fowler's clothing to assist Officer Saenz with removing Fowler from the vehicle.

Officer Ayala stood at the front of Fowler's vehicle and "had a light shined towards" Fowler. Officer Ayala appeared to have a clear view of what Fowler was doing. While Officer Stewart tried to assist Officer Saenz, Fowler "began reaching toward his right side area, as if he was panicking to retrieve an item." Officer Ayala gave Fowler multiple commands to "stop reaching" and then yelled, "Gun!" several times. Fowler had been given multiple chances to follow the officers' commands to stop reaching for the gun. Officer Stewart believed "any rational person would not reach in the area the firearm was located." Fowler "had multiple chances to place his hands outside the window to show he was not a threat anymore." Instead of complying, Fowler refused to stop reaching and pulled a gun.

Officer Stewart quickly pushed away from the side of the vehicle and unholstered his handgun. Officer Stewart headed toward the front of Fowler's car to face Fowler. Officer Stewart angled himself to ensure that only Fowler was in his line of sight so that if he had to discharge his firearm, Witness #2 would not be struck by gunfire. Officer Stewart and his partners were in a dangerous position because none of them had any cover or concealment. Fowler's driver's door was open, and the officers were in close proximity, making them easy targets. Officer Stewart heard his partners yell commands to Fowler to drop the gun, but Fowler refused to comply.

Fowler continued to reach into his right waistband area, near his right side, where Officer Ayala had seen Fowler with a gun. Fowler then "abruptly and aggressively lifted his right hand above his chest level." Fowler's chest appeared to be facing toward the officers "as if he was going to take a seated shooting platform." Officer Stewart saw an object in Fowler's right hand, which he recognized to be a gun. "It was in the shape of a firearm and the color of a firearm" and was "black with brown tips." Despite multiple commands to drop the gun, Fowler "pointed it at an angle toward officers."

Based on the "imminent deadly threat the suspect (Fowler) posed by angling that firearm towards our direction, I was afraid for my life and safety and also my partners' life and safety." The fact that the officers were in a bad position and had no cover or concealment only served to heighten Officer Stewart's fear. Officer Stewart's fears extended to Witness

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#2's safety. Officer Stewart pointed his handgun at Fowler, aimed for his chest, and fired approximately five shots. Officer Stewart paused to reassess the situation and to reposition himself if necessary. Officer Stewart did not fire any additional rounds.

It was not clear what Fowler was doing at that point, so Officer Stewart moved to the passenger side of the vehicle to observe Fowler and determine whether he still had the firearm. Officer Stewart saw Fowler's gun at his right side in the driver's seat. Officer Stewart and Corporal Saibene maintained watch on Fowler and safely extracted Witness #2 from the car. Witness #2 was not injured. Once Witness #2 was removed from the vehicle, another officer removed Fowler from the driver's seat. Officer Stewart saw the gun still on the driver's seat after Fowler was removed. Officer Stewart believed it was a 1911 model handgun with tan grips. This was further confirmation that Fowler "was in fact armed and it was a handgun."

The officers removed Fowler's handcuffs to render medical aid. Officer Stewart began to remove Fowler's clothing and Officer Ayala placed several chest seals on Fowler's chest where they saw he had injuries. Medical personnel arrived and took over Fowler's medical treatment.

On November 13, 2023, at 12:18 p.m., **Officer Jason Saenz** was interviewed by Detective C. Lariz of the San Bernardino Police Department.

Officer Saenz was employed as a police officer by the San Bernardino Police Department. On November 10, 2023, Officer Saenz was on duty, assigned to proactive patrol as a member of the Multiple Enforcement Team (MET) and the Special Weapons and Tactics Team (SWAT).

Officer Saenz drove a marked patrol unit with Officers Ayala and Stewart as passengers. As members of the MET unit, the officers' duties were to conduct proactive patrol under Project Safe Neighborhood, which focused on crime saturated areas. The neighborhood surrounding 16th Street and Mount Vernon in San Bernardino was "gang-infested" and a "hub for violent crime," including shootings, stabbings, prostitution, kidnapping, and weapons violations. The intersection of 16th Street and Mount Vernon was a main thoroughfare for gang members and others who conduct illegal activity, so the officers patrolled that area on the evening of November 10, 2023.

At approximately 10:30 p.m., Officer Saenz and his partners drove northbound on Mount Vernon, approaching 16th Street. Officer Saenz observed a black BMW driving southbound on Mount Vernon, approaching 16th Street. The BMW straddled lanes and was unable to maintain a straight line of travel. Officer Saenz suspected that the driver of the BMW was under the influence. Officer Saenz knew there had been many traffic related fatalities directly related to driving under the influence or alcohol, narcotics, or both in the area. As Officer Saenz passed the intersection of Mount Vernon and 16th Street, he saw

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the BMW had stopped in the crosswalk at the intersection. Officer Saenz also saw the BMW had a “rearview mirror obstruction hanging from the rearview mirror.”

Officer Saenz made a U-turn to initiate a traffic stop on the BMW. In general, when conducting a traffic stop, officers are not able to get a clear, visible look inside the car. Because it was dark, the lighting conditions concerned Officer Saenz. The BMW turned eastbound on 16th Street from Mount Vernon. Officer Saenz activated the patrol unit’s overhead and forward facing red light to initiate a traffic stop on the BMW. The BMW stopped. Officer Saenz recognized the driver, Fowler, from previous encounters, but was not familiar with his name or when he had last encountered him. Officer Saenz observed that Fowler was “very irate already,” and yelled, “This is fucking bullshit! Fuck this! You guys always fucking do this to me!” Noting that Fowler appeared to be “very aggressive and hostile,” Officer Saenz exercised increased caution when he approached the vehicle.

Officer Saenz introduced himself to Fowler and explained he was with the San Bernardino Police Department. Officer Saenz asked Fowler for his driver’s license. In response, Fowler yelled profanities at Officer Saenz. Fowler was very hostile toward Officer Saenz and accused him of “racially profiling” him. Officer Saenz again asked Fowler, “Hey, can you give me your driver’s license?” Fowler remained hostile toward Officer Saenz. Officer Saenz told Fowler, “Hey, you’re going to dictate how this interaction goes. If you’re going to be respectful, then we can be respectful right back.” Officer Saenz told Fowler the officers were not there to be the “petty police; we’re just here to do our job.” Officer Saenz explained to Fowler that all he asked was for him to be respectful. Fowler argued but eventually handed Officer Saenz an identification card. Officer Saenz asked Fowler if he had a valid driver’s license and Fowler “kind of ignored” him.

To further his investigation into whether Fowler was intoxicated and whether another occupant of Fowler’s car had a valid license who could take control of the car, Officer Saenz asked Fowler to step out of the vehicle. Fowler was uncooperative and would not get out of the car. Officer Saenz told Fowler to let the officers do their job and if everything checked out, he would not need to go to jail or get his car towed. Officer Saenz’s goal was for Fowler to understand that the officers were not just “messing with him.” Fowler still refused to get out of the car.

Fowler’s seatbelt was on. Officer Saenz opened the driver’s door and asked Fowler to take off his seatbelt. Fowler moved his right hand toward his seatbelt and Officer Saenz believed he was trying to take it off. Fowler took an “extended period of time” trying to remove his seatbelt. This raised Officer Saenz’s “concern because the average person, a normal person who is not up to any sort of criminal activity, doesn’t take five to six seconds to take off a seatbelt.” Officer Ayala, who stood near the front passenger side of the vehicle, also appeared to be concerned because he drew his firearm and turned on his gun’s tactical light to illuminate Fowler in the driver’s compartment.

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Officer Saenz again asked Fowler to step out of the vehicle, but Fowler did not comply. Fowler still reached toward his seatbelt and continued to take an extended period of time there. Fowler's hostility and demeanor added to Officer Saenz's concern. Officer Saenz heard Officer Ayala yell at Fowler, "Stop reaching! Stop reaching!" Fowler seemed to be "buying time for something," so Officer Saenz reached in to try to take off Fowler's seatbelt. When Officer Saenz tried to take off Fowler's seatbelt, Officer Saenz grabbed what felt like a firearm. Officer Saenz looked down and saw the gun. At the same moment, Officer Ayala yelled, "Gun, gun, gun, gun!" Officer Saenz quickly tried to remove the gun from Fowler's right hand, but Fowler moved his right arm to "contradict" Officer Saenz's movement. Fowler pulled the gun away from Officer Saenz's grip. This caused Officer Saenz great fear because it conveyed to him that Fowler's intent was to finish drawing the firearm and potentially use it to kill Officer Saenz and his partners. Multiple officers yelled, "Stop reaching," and "Drop the gun!"

Officer Saenz pushed away from Fowler to create distance from him. There was no cover or concealment between Officer Saenz and Fowler. Officer Saenz and Officer Ayala yelled, "Drop the gun! Drop the gun!" Fowler continued to move his right arm up in a manner "consistent with drawing a firearm from his right side." Officer Saenz drew his handgun with his right hand, took a two-handed grip on the gun, and pointed it at Fowler's center of mass. Officer Saenz "reassessed the situation" and positioned his shooting platform so that none of the other occupants in Fowler's vehicle were in his backdrop. Fowler "continued to move his arm up in a manner that was indicative of him drawing a firearm." Officer Saenz feared for his life. Officer Saenz fired three to five rounds at Fowler's center of mass, but Fowler "continued to pull out his gun and oriented his body towards officers, which gave him a stable shooting platform," and pointed the gun at officers.<sup>11</sup> Officer Saenz was terrified. Officer Saenz fired an additional three to five rounds at Fowler's center of mass. Officer Saenz stopped firing when he saw Fowler was no longer a threat because he had stopped moving.

Sergeant Ahmed called out, "Shots fired" on the radio. The officers formed a plan to safely get medical aid to the driver and to ensure the passengers inside Fowler's vehicle were uninjured. The front seat passenger (Witness #1) had exited the vehicle during the shooting, and the officers called him to them. The passenger in the rear seat (Witness #2) was safely removed from the vehicle and was uninjured. The officers then approached Fowler. When the officers tried to remove Fowler from the car, the "firearm was still in his hand, and his finger was on the trigger." The officers removed the gun from Fowler's hand and put it on the seat. Fowler was removed from the car, placed into handcuffs, and searched for additional weapons on his person. Finding no other weapons, the officers removed Fowler's handcuffs and rendered medical care until medical aid arrived.

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<sup>11</sup> Officer Saenz was not asked to specify the officers at whom Fowler pointed the gun; however, body-worn camera video showed Fowler's right arm quickly moved across his chest, at a 90-degree angle, and he appeared to point a gun toward Officer Saenz, Officer Stewart, and Sergeant Ahmed. These three officers were near the front driver's door of Fowler's car.

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On November 13, 2023, at 1:51 p.m., **Sergeant Imran Ahmed** was interviewed by Detective C. Lariz of the San Bernardino Police Department.

Sergeant Ahmed was employed as a police sergeant by the San Bernardino Police Department. On November 10, 2023, Sergeant Ahmed was on duty, assigned to the MET and SWAT teams. Sergeant Ahmed drove a marked patrol unit with Corporal Saibene as his passenger. Sergeant Ahmed and Corporal Saibene were assigned to proactive patrol under Project Safe Neighborhood, aimed at reducing violent crimes and weapons offenses in high-crime neighborhoods within the city.

At approximately 10:30 p.m., Sergeant Ahmed and Corporal Saibene were on the west side of San Bernardino near 16th Street and Mount Vernon. This was a well-known high-crime area. Sergeant Ahmed had personally investigated homicides and arrested gang members in possession of firearms and controlled substances for sales in the immediate area. Sergeant Ahmed drove northbound on Mount Vernon, near the 1700 block, when he heard "his officers" call out a traffic enforcement stop at 16th Street and Mount Vernon.<sup>12</sup> It was common practice for officers to be present in the immediate area to support their partners during traffic stops in high-crime areas.

Sergeant Ahmed and Corporal Saibene headed to the traffic stop to make sure the officers were okay. When Sergeant Ahmed turned left on 16th Street from Mount Vernon, he saw Officers Ayala, Stewart, and Saenz were engaged in a traffic enforcement stop just east of the intersection. Sergeant Ahmed stopped his patrol unit "catty cornered to theirs" to see if the officers were "Code 4."<sup>13</sup> It was common practice for the officers to signal they were Code 4, so when the officers did not give the signal, Sergeant Ahmed and Corporal Saibene remained at the scene.

Officer Saenz spoke to the driver (Fowler). Sergeant Ahmed heard Officer Saenz tell Fowler, "You don't have a driver's license. Step out of the vehicle." There was "some type of back and forth between the two," but Sergeant Ahmed could not hear exactly what Fowler said from his position inside the patrol unit. Fowler did not get out of the vehicle. Sergeant Ahmed heard Officer Saenz again tell Fowler to step out of the vehicle and then heard Officer Ayala, who was on the passenger side of Fowler's vehicle, say, "Stop reaching around." At this point, Sergeant Ahmed decided to get out of his patrol car.

Officer Saenz and Officer Stewart appeared to be attempting to pull Fowler out of the vehicle by grabbing his left arm and encouraging him to step out of the car. Officer Ayala moved from the passenger side of the car to the front windshield near the passenger side. Officer Ayala appeared to have his firearm out with his tactical light illuminated. Sergeant Ahmed looked at Officer Ayala's face and saw he was "attracted to something inside the vehicle and very focused."

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<sup>12</sup> The officers were Officers Ayala, Stewart and Saenz in Unit 97.

<sup>13</sup> No assistance needed.

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When Sergeant Ahmed exited his patrol unit, he heard Officer Ayala again yell, "Stop reaching," and then, "Gun, gun! Drop the gun!" or "Don't reach for the gun!" Sergeant Ahmed unholstered his handgun. Sergeant Ahmed heard two gunshots from Officer Ayala's direction. Sergeant Ahmed immediately ran to the "driver's area" of Fowler's vehicle.<sup>14</sup> Sergeant Ahmed saw a female (Witness #2) in the back seat of the car and a male (Witness #1) in the front passenger seat. Witness #1 appeared to be trying to get out on the passenger side with his hands up.

As Sergeant Ahmed came around to where Officers Saenz and Stewart were, he saw that Fowler appeared to be holding a gun. Sergeant Ahmed's view was unobstructed because the driver's door was open. Fowler's arm was at a 90-degree angle at chest level. Fowler turned his upper body toward Sergeant Ahmed and Officers Saenz and Stewart. It appeared that Fowler was preparing to shoot him, Officer Saenz, and Officer Stewart. Officer Ayala had already confirmed that Fowler had a gun and based on everything Sergeant Ahmed saw and heard, it was clear that Fowler's intention was to shoot the officers.

The officers had no cover or concealment. It happened "extremely fast." Sergeant Ahmed exited his vehicle and was immediately confronted with a deadly force situation.<sup>15</sup> Sergeant Ahmed feared for his life, his partners' lives, and the lives of the passengers inside Fowler's car. Sergeant Ahmed fired two rounds at Fowler, aiming for his chest. Sergeant Ahmed stopped firing to reassess and moved to the front of Fowler's vehicle. Sergeant Ahmed saw Fowler's gun and arm drop down. Sergeant Ahmed could no longer see Fowler's gun. Sergeant Ahmed did not fire any additional rounds because there no longer appeared to be an "imminent threat of great bodily injury or death." Sergeant Ahmed confirmed that the other officers were okay and were uninjured. Sergeant Ahmed radioed for additional resources and medical aid to respond to the scene.

Witness #1 was out of the vehicle and "already kind of proned-out on his own on the sidewalk." The officers called Witness #1 to move toward them and confirmed he had not been hit by any bullets. The officers then moved up to the vehicle to get Witness #2 out of the vehicle to make sure she was okay. The officers held lethal coverage on Fowler as they moved toward the vehicle. Sergeant Ahmed could not see the gun and Fowler did not appear to be pointing it at them anymore. Witness #2 was safely removed from the vehicle and was uninjured. Sergeant Ahmed asked Officer Ayala where the gun was, and he said it was by and underneath Fowler's right hand.

Fowler had clearly been injured by the gunfire. Sergeant Ahmed directed officers to pull Fowler out of the vehicle while maintaining lethal coverage so they could start rendering emergency aid to him. As the officers pulled Fowler from the vehicle, Sergeant Ahmed

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<sup>14</sup> Body-worn camera video showed Sergeant Ahmed run toward Fowler's car on the driver's side, directly past the open driver's door.

<sup>15</sup> Corporal Saibene also exited the patrol unit to assist his partners; however, due to his position, Corporal Saibene told detectives that he was unable to safely fire without risking harm to his partners who were downrange.

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saw Fowler's gun "kind of fall onto the driver's seat." Sergeant Ahmed immediately recognized it was a 1911-style handgun with wooden grips. Officers placed Fowler into handcuffs and searched him for additional weapons. When the officers found no additional weapons, they removed the handcuffs and immediately started life saving measures.

**STATEMENTS BY CIVILIAN WITNESSES<sup>16</sup>**

On November 11, 2023, at approximately 4:42 a.m., **Witness #1** was interviewed by Detective W.R. Flesher of the San Bernardino Police Department.

Sometime during the evening of November 10, 2023, Witness #1 was walking home in the area of Mount Vernon Avenue and Goodlett Street. Witness #1 was unsure of the time but said it was dark. Witness #1's cousin, Darrell Fowler, who drove a black BMW, stopped and offered to give Witness #1 a ride home. Fowler's girlfriend, who Witness #1 knew only as Cat (Witness #2), moved from the front passenger seat to the rear passenger seat so Witness #1 could sit up front.

Fowler drove southbound on Mount Vernon. As Fowler began to turn left onto 16th Street, Witness #1 saw two marked police units traveling in the opposite direction (northbound) toward them on Mount Vernon. The police units shined their spotlight into Fowler's car as if they were looking for someone. After the patrol units passed by them, Fowler turned left onto 16th Street and headed east. The police immediately made a U-turn on Mount Vernon, just north of 16th Street. The police turned east onto 16th Street with their emergency lights activated and pulled over Fowler's car. While Fowler pulled over, he rolled down his window and commented that he believed the police were stopping him because his car had dark tinted windows.

Witness #1 saw one of the police cars stop directly behind them. The officers exited their vehicle and approached on foot along both sides of Fowler's car. One of the officers told them to roll their windows down. Witness #1 rolled down the passenger side window. The driver's window was already down. The officer asked Fowler for his driver's license as he approached the car. Fowler asked the officer, "Why you pull me over? Are you racially profiling us?" The officer told Fowler, "No, don't go there with that." Fowler and the officer went back and forth for a bit. The officer again asked for Fowler's driver's license. Fowler handed the officer his driver's license or identification. The officer asked, "Oh, you're a Fowler?" Witness #1 explained, "That was when I felt the tension came." Fowler and the officer started arguing. Fowler again asked the officer, "Are you racially profiling us? Why you pull me over?" The officer responded to Fowler's questions, "Don't go there with that shit. There's nothing about that."

When Witness #1 looked back at the officer who was talking to Fowler, he saw that the officer had his gun drawn. Witness #1 heard the officer say, "I'm tired of you. Get out of the fuckin' car." Witness #1 explained, "Fowler was trying to take his seatbelt off, he was

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<sup>16</sup> All reports of civilian witness statements were reviewed, though not all are summarized here.

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complying." Witness #1 looked up and saw the officers had their guns pointed at Fowler. Witness #1 put his hands out of the window so the officers could see his hands. Witness #1 was trying to get out of the car when he heard the officer on Fowler's side yell, "Gun!" Witness #1 immediately heard gunfire as he leapt out of the window. Witness #1 did not look back at Fowler when he heard the officer yell, "Gun," and he just climbed out of the window.

Witness #1 said Fowler must have had a gun on him. Witness #1 did not know whether Fowler had a gun and had never seen him in possession of a gun. Witness #1 was only in the car for a couple of minutes and knew nothing about a gun being in the car. Witness #1 had not seen Fowler for a long time and was unaware of what Fowler was involved in.

One of the officers asked Witness #1 if he had a gun and Witness #1 replied, "I don't have nothing." The officer told Witness #1 to crawl over to him, and he complied. After the gunfire, the officers requested medical aid to respond. The ambulance arrived, but Witness #1 did not see them put Fowler inside it because an officer stood in front of him and blocked his view.

On November 11, 2023, at approximately 4:30 a.m., **Witness #2** was interviewed by Detective C. Lariz of the San Bernardino Police Department.

Witness #2 was seated in the right rear passenger seat during the traffic stop. Witness #2's statement was largely consistent with that given by Witness #1. However, Witness #2 made no claim that Officer Saenz said, "Oh, you're a Fowler?" when Fowler handed over his identification card. Nor did Witness #2 claim that Officer Saenz used inappropriate language when he spoke to Fowler. Witness #2 explained that Fowler was upset as soon as the officers pulled him over because he had just gotten his car out of impound after it had recently been towed. According to Witness #2, Fowler told the police officer that his driver's license was in the mail. Witness #2 believed that Fowler tried to take off his seatbelt to get out of the car as directed, but the seatbelt jammed.<sup>17</sup> Witness #2 did not see Fowler with a gun that evening and had never before seen him with a gun other than a BB gun.

**INCIDENT VIDEO<sup>18</sup>**

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<sup>17</sup> A VIN search at [BMWUSA.com/safety-and-emission-recalls.html](http://BMWUSA.com/safety-and-emission-recalls.html), for the 2012 BMW 328i driven by Fowler, showed no recalls were issued for the vehicle's seatbelts or seatbelt buckles as of October 15, 2025.

<sup>18</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 without audio. The summaries will cover the events from the beginning through the point immediately after the incident under review. Times noted are from the video timestamp. Multiple video recordings were submitted for review. All video recordings were reviewed in their entirety, though not all are summarized here. The summaries are limited to the relevant portions that captured the events immediately before, during, and immediately after the officer involved shooting. Each of the involved officers appeared to have activated their body-worn camera immediately after the officer-involved shooting. The first 30 seconds of the video contained no audio but captured the shooting incident.

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**Officer Ayala's Body-Worn Camera Video**

22:34:35 The video began. Officer Ayala stood near the front, passenger side quarter panel of Fowler's car. Officer Stewart stood beside the front passenger door and Officer Saenz stood beside the driver's door. Officer Saenz spoke to Fowler, but because there was no audio until 30 seconds into the recording, his words were not recorded on the video. Officer Stewart pointed his flashlight with his left hand into the front passenger compartment of Fowler's car. A patrol unit with its emergency lights activated was stopped directly behind Fowler's vehicle. A second patrol unit, without its emergency lights activated was stopped on the road next to the first unit on the north side.

22:34:38 Officer Saenz opened Fowler's driver's door, spoke (but with no audio, his words were not captured). Officer Saenz gestured with his left, then right hand in a quick upward motion, as if to indicate, "Come on out." Officer Saenz had nothing in his hands. Officer Saenz's right hand reached toward his lapel microphone, and he appeared to speak into his radio. The front seat passenger (Witness #1) wore a red sweatshirt, Witness #1 turned his upper body toward the passenger side window and rested both arms on the open passenger window frame, placing his hands in clear view. Officer Saenz appeared to put an item on top of Fowler's car.

22:34:50 Officer Stewart walked around the back of Fowler's car toward the driver's side. Officer Saenz continued speaking to Fowler as he stood right outside the driver's door. Officer Saenz leaned forward and looked into Fowler's vehicle. Officer Ayala held his handgun with his right hand and pointed the handgun with its tactical light activated at the windshield, illuminating the front interior of Fowler's car. The light beam focused on Fowler's hands and upper body. Fowler wore black, fingerless gloves, a tan jacket, a red shirt, a red hat, and dark colored pants. Fowler quickly reached with both hands toward the area where seatbelt was clipped in, as if trying to unbuckle it, moved the seatbelt strap slightly, but did not unbuckle the seatbelt.

22:34:45 Fowler's hands moved around the area near his seatbelt buckle for several seconds. It was unclear what Fowler was trying to accomplish, but it did not appear he was trying to unfasten his seatbelt because he did not touch the button to unclip the belt.

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Enlarged to show Fowler's hands and gloves.

22:34:56 Officer Saenz reached into Fowler's car with his left hand. Officer Saenz reached his left hand across Fowler's upper body toward Fowler's hands.



22:34:57 Fowler quickly grabbed Officer Saenz's hand with his left hand and moved it away. There appeared to be a struggle between Officer Saenz and Fowler. Fowler's right hand remained near his right hip during the struggle. The front interior was lit by Officer Ayala's tactical light on his handgun. Witness #2 pointed toward Fowler's hand as Fowler

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grabbed Officer Saenz's hand. Witness #1 quickly began to climb out of the window. Because it was only 22 seconds into the recording, there was no audio. Officer Ayala began to back away from the vehicle.



22:34:58 Officer Saenz's hand and arm were no longer visible inside car. Fowler quickly leaned his upper body forward and to the left, reached his right hand behind his back with his elbow pointed upward, and appeared to pull a black object (later found to be a gun) from his right lower back/hip area. Fowler's seatbelt was still on. A rectangular shaped temporary vehicle identification DMV paper was affixed to the passenger side of the windshield. This DMV paper partially blocked the camera view of Fowler's hands. As Fowler reached behind his back and brought his right hand forward, the jacket momentarily covered his right hand, blocking it from the camera view.

22:34:59 Officer Ayala continued to back away from Fowler's car, the camera perspective changed, and Fowler's hands were momentarily obscured from the camera view. Fowler reached his left hand toward his right waist. Fowler's seatbelt was still on. Fowler began to raise his right hand, but the spotlight from Officer Ayala's tactical light reflected on the windshield, obscuring the view from the camera.

22:35:00 Officer Ayala held a small flashlight in his left hand as he quickly reached for the handgun in his right hand and took a two-handed grip onto his gun. Officer Ayala fired his handgun through the windshield toward Fowler. Officer Ayala appeared to have fired three rounds while continuing to back away from Fowler's vehicle. The front passenger (Witness #1) climbed out of the passenger window and fell to the sidewalk beside the front passenger door. Officer Ayala continued to back away from Fowler's car.

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22:35:04 Officer Ayala quickly reached for his body-worn camera with his left hand and appeared to activate it. The audio began after the 30 second delay. Six to seven gunshots, which sounded to be from multiple firearms, rang out. Two officers on the driver's side of Fowler's car quickly backed away, but Officer Ayala's arm blocked the camera view of the upper half of the officers' bodies.<sup>19</sup>

22:35:06 Officer Ayala yelled, "Stop, stop, stop." The gunfire stopped. Witness #2 screamed. Officer Ayala backed away further from Fowler's car, as did the two other officers. The two other officers were lost from camera view.

22:35:10 Officer Ayala yelled, "Stay down, stay down, stay down!" Witness #1 crawled away from Fowler's vehicle and yelled, "Oh, shit!" Witness #2 cried out loudly. Officer Ayala yelled, "It's on his right side, his right side!" Officers Saenz, Stewart, and Saibene came into camera view on the driver's side of Fowler's vehicle, several feet away. Multiple officers yelled, "Don't move, don't move!" Officer Ayala continued, "The driver, the driver." Fowler moved around in the driver's seat. An unknown officer said, "Everybody get online." Witness #1 laid face down on the ground and said, "I'm not moving, I'm not moving." Officer Ayala said, "Stay there, stay there." Witness #1 said, "Oh my God." An unidentified officer asked, "You good, is everyone good?" The officers stood several feet away from the front of Fowler's vehicle, with their firearms pointed at the car. Fowler continued moving his upper body back and forth. An officer asked if anyone was hit and Officer Ayala replied he had not. Sergeant Ahmed asked, "Where's the gun at?"<sup>20</sup> Officer Ayala replied, "It's under his, under his right hip." The officers told Witness #1 to crawl toward them.

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<sup>19</sup> Based on review of additional body-worn camera video and the officers' statements, these two officers likely were Officers Stewart and Saenz.

<sup>20</sup> Though Sergeant Ahmed was not shown in Officer Ayala's video, the other officers' body-worn cameras, including Sergeant Ahmed's, recorded Sergeant Ahmed's statements.

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22:36:35 Officer Ayala helped Witness #1 stand up, patted him down, and placed him into handcuffs. Officer Ayala had Witness #1 sit down against a chain link fence. Sirens were audible as multiple police cars arrived on scene.

22:37:06 Officer Ayala approached Officer Saenz, who stood at the driver's door holding lethal coverage on Fowler. Fowler was in the driver's seat with his seatbelt on and was still moving.

22:37:20 Officer Ayala pointed his gun at Fowler and held lethal coverage on him for Officer Saenz, who reached into the driver's compartment and removed Fowler's red baseball cap.

22:37:24 Officer Ayala warned Officer Saenz, "Hey, the barrel's pointing up. Be careful." Officer Saenz told the officers on scene that the barrel was pointing up and advised, "Hey, we're gonna take him out and start lifesaving measures, okay?" Sergeant Ahmed approached the open driver's door while Officer Saenz spoke.

22:37:30 Officer Saenz reached into Fowler's vehicle. Officer Saenz had nothing in his hands. Sergeant Ahmed, with his handgun in his right hand, stood directly to the left, and slightly behind Officer Saenz. Officer Ayala continued to hold lethal coverage on Fowler. Officer Ayala said, "It's right behind his right hand, barrel pointing up."

22:37:32 Officer Saenz reached across Fowler's chest and lap area with both hands and appeared to unbuckle Fowler's seatbelt. Officer Saenz said, "Hey, buddy. You're gonna be okay." Fowler was momentarily blocked from camera view as Officer Saenz leaned inside to unbuckle his seatbelt. Officer Ayala said, "Right there, you just touched the gun." Officer Saenz repeated, "You're gonna be okay, buddy."

22:37:37 Officer Saenz backed out of the driver's compartment and Fowler came into camera view. Fowler's seatbelt was no longer on.

22:37:39 Officer Saenz began to pull Fowler out of the car as Sergeant Ahmed said, "Let's get him out." Several unidentified officers approached the driver's side of Fowler's car, near Sergeant Ahmed. While Officer Saenz pulled Fowler from the vehicle, several officers yelled, "Gun, gun, gun, don't reach, don't reach, drop the gun, drop the gun!" While the officers yelled, Officer Ayala moved in closer to Fowler. Officer Ayala had both arms raised in front of his body and pointed his gun at Fowler. Officer Ayala's tactical light was still illuminated. Officer Ayala's arms momentarily blocked the camera view of Fowler's right hand and arm.

22:37:43 Fowler was successfully pulled out of the car. Fowler remained conscious as officers laid him on the ground and handcuffed him. Officer Ayala walked away from the scene toward his marked patrol unit, grabbed a trauma bag from the unit, and brought it to the officers who tended to Fowler. As the officers removed Fowler's clothing to check

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for wounds, the camera showed Fowler was wearing a shoulder holster beneath his shirt. The remainder of the video showed the officers rendering medical aid until the ambulance arrived and loaded Fowler, who was still conscious, into the ambulance.

**Officer Stewart's Body-Worn Camera Video**

22:34:38 Officer Stewart stood near the passenger side of Fowler's car and shined his flashlight into the vehicle. The front passenger rested his arms on the open window frame but faced the windshield.

22:34:48 Officer Stewart moved away from the passenger door and the camera perspective changed. Officer Saenz came into camera view, standing beside the driver's door, speaking to Fowler but because there was no audio, his words were not recorded. Officer Stewart walked around the back of Fowler's car and approached the driver's side.

22:34:54 Officer Saenz stood at the open driver's door, facing toward the driver's compartment, still speaking to Fowler. Officer Stewart approached Officer Saenz and Fowler came into camera view sitting in the driver's seat wearing his seatbelt. Officer Ayala stood at the front passenger-side quarter panel of Fowler's car, looking toward Fowler through the windshield. Fowler leaned forward. Officer Saenz placed his left hand on Fowler's left upper chest and then leaned forward and reached into the vehicle. A struggle between Officer Saenz and Fowler appeared to occur.

22:34:58 Officer Stewart reached into the vehicle and grabbed onto the back of Fowler's jacket. Fowler leaned forward and appeared to struggle against Officer Stewart.

22:35:02 Officer Stewart suddenly backed very quickly away from Fowler's car and pulled his handgun with his right hand. Simultaneously, Officer Saenz suddenly backed away very quickly from Fowler's car and pulled his handgun with his right hand. Officer Stewart quickly moved to the front quarter panel of Fowler's car.

22:35:03. Officer Stewart stood several feet away from Fowler's car, near the front driver's side quarter panel, and pointed his handgun with both hands at Fowler. Officer Saenz quickly backed away from Fowler's vehicle and pulled his handgun from its holster. Officer Saenz was lost from camera view. The open driver's door blocked the camera view of Fowler's lower body. Officer Stewart raised both hands to the front of his body, grasping his handgun with both hands. Officer Stewart's hands momentarily blocked the camera view of Fowler. Officer Stewart quickly backed away and moved toward the front of Fowler's car. The open driver's door of Fowler's vehicle partially blocked the camera view of Fowler who was still sitting in the driver's seat. Fowler quickly raised his right hand upward, then across his chest, and pointed his right hand toward Officer Saenz and Officer Stewart. The motion was very fast, and it was not clear whether Fowler had anything in his right hand. However, upon slowing the video to .25 time, and pausing the video multiple times, Fowler's hand was more clearly observed. Fowler did not appear to

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have anything in his right hand, but he wore black fingerless gloves. Fowler's left hand was positioned down near his side.



22:35:03 The tactical light shone on Fowler's face. Fowler's right hand appeared to hold an object as he quickly moved it upward and across his upper chest and pointed his right hand at the officers. With the darkness and lighting, combined with the black fingerless gloves, it appeared that Fowler had a black object in his hand when he pointed it at officers. (Image enlarged to show detail.)

22:35:04 Officer Stewart fired at Fowler and backed away from the vehicle. Gasses emitted from Officer Stewart's handgun and bullet strikes appeared on the driver's door of the car. Officer Stewart appeared to fire five rounds at Fowler. No other officers were in the camera view when Officer Stewart fired.

22:35:07 Officer Stewart reached his left hand toward his chest and activated his body-worn camera. The audio began after the 30 second delay. No gunfire was audible. Officer Ayala yelled, "Stop, stop, stop!" Officer Saibene came into camera view as he ran eastward on 16th Street toward the scene. An unknown officer asked, "Where is it?" Officer Ayala, unseen in the camera view, yelled, "It's on his right side, right side." The remainder of the video largely captured the same events and statements as Officer Ayala's camera.

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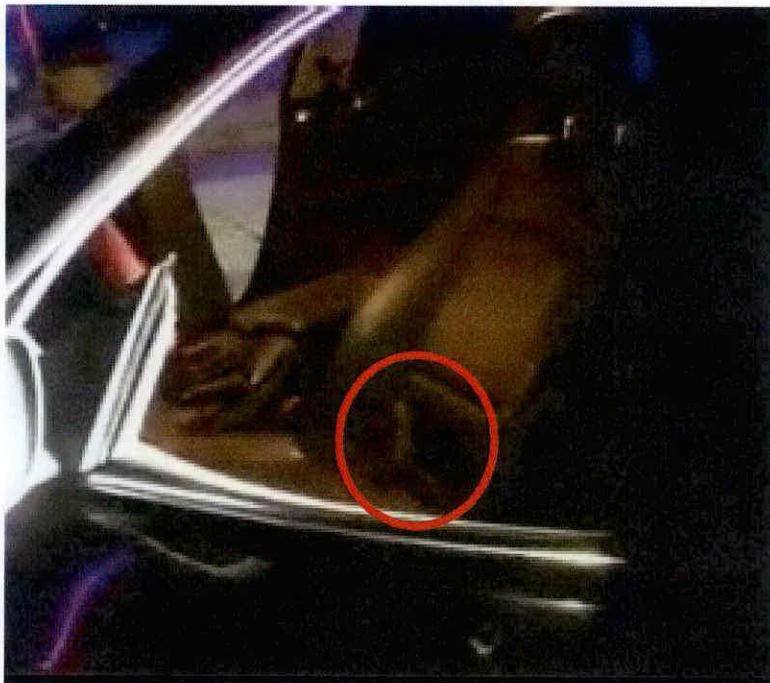
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**WEAPON**

A Citadel Model 1911-A1, .45 caliber semiautomatic handgun was located on the driver's seat of the BMW when Fowler was removed from car. The gun was loaded with six rounds in the magazine and one round in the chamber. The handgun was black with brown wooden grips.

Further investigation revealed the gun was one of two that had been inside a vehicle stolen in July 2023. Though the vehicle involved in that incident was later recovered after a hit and run collision in San Bernardino, the firearms were no longer inside.



Still image (enlarged) taken from Sergeant Ahmed's body-worn camera at 22:37:57, immediately after Fowler was removed from the vehicle, showing the black handgun was on the driver's seat.

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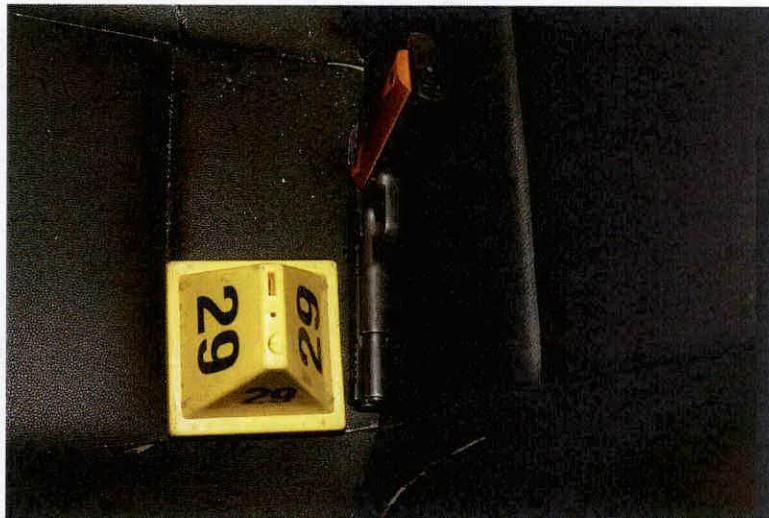
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Crime scene photo showing Fowler's 1911, .45 caliber semiautomatic handgun with brown grips, on the driver's seat.

**NARCOTICS**

Fowler's clothing was removed by officers and collected as evidence. SBPD Forensic Specialist Anna Quiroz located a white rock-like substance from the left inside pocket of the jacket belonging to Fowler. Quiroz packaged and submitted the substance to the San Bernardino County Sheriff's Department Scientific Investigations Division for analysis. Subsequent analysis revealed the substance, a white crystalline solid, 10.57 grams net weight, contained methamphetamine.

**DECEDENT**

Darrell Fowler was pronounced deceased by Dr. [Redacted] at [Redacted] Medical Center on November 11, 2023, at 6:18 p.m.

**AUTOPSY**

Dr. [Redacted], Chief Forensic Pathologist for the San Bernardino County Sheriff's Department Coroner Division, conducted the autopsy of Darrell Fowler on November 14, 2023. Dr. [Redacted] noted multiple gunshots. Dr. [Redacted] determined the cause of death was multiple gunshot wounds and that death occurred within hours. Hospital blood obtained from Fowler was received by the Coroner Division. Femoral blood and vitreous fluid were collected during the autopsy. A basic drug panel was requested.

**TOXICOLOGY**

Hospital blood, femoral blood, and vitreous fluid were collected from Fowler. Toxicology results for the hospital blood samples were listed as follows:

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- Amphetamine 34 ng/mL
- Methamphetamine 120 ng/mL
- Midazolam 14 ng/mL

**CRIMINAL HISTORY**

Darrell Fowler has a criminal history that includes the following convictions:

1982, 602.5 of the Penal Code, Unauthorized Entry to Noncommercial Residential Place, San Bernardino County case number MSB17390, a misdemeanor.

1982, 10851 of the Vehicle Code, Theft or Unauthorized Taking of a Motor Vehicle, San Bernardino County case number SCR-39157, a felony.

1985, 10851 of the Vehicle Code, Theft or Unauthorized Taking of a Motor Vehicle, With a Prior, Sacramento Superior Court case number 70758, a felony.

1985, 4131.5 of the Penal Code, Battery on Non-Inmate by Jail Inmate, Sacramento Superior Court case number 71778, a felony.

1989, 69 of the Penal Code, Resisting Executive Officer By Threat or Violence, San Luis Obispo County case number F144428, a felony.

1993, 496 of the Penal Code, Receiving Stolen Property, Sacramento Superior Court case number 93F03178, a misdemeanor.

1994, 242 of the Penal Code, Battery, 422 of the Penal Code, Criminal Threats, and 148(a) of the Penal Code, Obstruct or Resist Public Officer, San Bernardino County case number MSB11392, misdemeanors.

1995, 12020(c) of the Penal Code, Possession of Short-barreled Shotgun/Rifle, San Bernardino County case number FSB08143, a felony.

1998, 459 of the Penal Code, Second Degree Commercial Burglary, San Bernardino County case number FVA08884, a felony.

2002, 459 of the Penal Code, First Degree Burglary Residential Burglary, San Bernardino County case number FSB027536, a felony.

2002, 243.9(a) of the Penal Code, Battery/Gassing Peace Officer, San Bernardino County Case number FWV021344, a felony.

2007, 148.9(a) of the Penal Code, False Identity to Peace Officer, San Bernardino County Case number MSB100573, a misdemeanor.

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2007, 496D(a) of the Penal Code, Possession of a Stolen Motor Vehicle, San Bernardino County case number FVI025470, a felony.

2009, 273a(a) of the Penal Code, Child Endangerment, San Bernardino County case number FVA900431, a felony.

2014, 459 of the Penal Code, Second Degree Commercial Burglary, Imperial County case number JCF33623, a felony.

2017, 591.5 of the Penal Code, Destruction of Wireless Communication Device With Intent to Preclude Summons for Assistance of Law Enforcement, San Bernardino County case number MVI17009195, a misdemeanor.

2021, 243(d), of the Penal Code, Battery With Serious Bodily Injury, 245(a)(4) of the Penal Code, Assault By Means of Force Likely to Cause Great Bodily Injury, 245(a)(1) of the Penal Code, Assault With a Deadly Weapon, San Bernardino County case number FVI21001721, Pending pre-preliminary hearing set for November 28, 2023, Fowler out of custody, on bond.

**CRIMES UPON PEACE OFFICERS**

**Attempted Murder of a Peace Officer**

**California Penal Code section 664/187(a) (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:

(e) [...] if attempted murder is committed upon a peace officer or firefighter, [...], and the person who commits the offense knows or reasonably should know that the victim is a peace officer [...] 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.

Notwithstanding subdivision (a), if the elements of subdivision (e) are proven in an attempted murder and it is also charged and admitted or found

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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.

**Assault With a Deadly Weapon**

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

- (1) Any person who commits an assault with a firearm upon the person of a peace officer, and who knows or reasonably should know that the victim is a peace officer or 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 four, six, or eight years.
- (2) Any person who commits an assault upon the person of a peace officer with a semiautomatic firearm 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 five, seven, or nine years.

**APPLICABLE LEGAL PRINCIPLES**

A peace officer may use objectively reasonable force to effect an arrest if he believes the person arrested has committed a public offense. (Calif. Penal Code §835a(b).) <sup>21</sup> Should an arresting officer encounter resistance, actual or threatened, he need not retreat from his effort and maintains his right to self-defense. (Penal Code §835a(d).) An officer may use objectively reasonable force to effect an arrest, prevent escape or overcome resistance. (Penal Code §835a(d).)

An arrestee has a duty to refrain from using force or any weapon to resist arrest if he knows or should know that he is being arrested. (Penal Code §834a.) This duty remains even if the arrest is determined to have been unlawful. (*People v. Coffey* (1967) 67 Cal.2d 204, 221.) In the interest of orderly resolution of disputes between citizens and the government, a detainee also has a duty to refrain from using force to resist detention or search. (*Evans v. City of Bakersfield* (1994) 22 Cal.App.4th 321, 332-333.) An arrestee or detainee may be kept in an officer's presence by physical restraint, threat of force, or assertion of the officer's authority. (*In re Gregory S.* (1980) 112 Cal.App.3d 764, 778,

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<sup>21</sup> All references to code sections here pertain to the California Penal Code.

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citing, *In re Tony C.* (1978) 21 Cal.3d 888, 865.) The force used by the officer to effectuate the arrest or detention can be justified if it satisfies the Constitutional test in *Graham v. Connor* (1989) 490 U.S. 386, 395. (*People v. Perry* (2019) 36 Cal.App.5th 444, 469-470.)

An officer-involved shooting may be justified as a matter of self-defense, which is codified in Penal Code sections 196 and 197. Both 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 Section 196 states that homicide by a public officer is justifiable when it results from a use of force that "is in compliance with Section 835a." Section 835a specifies that a **police officer is justified in using deadly force** when he reasonably believes, based upon the totality of the circumstances, that it is necessary:

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

(Penal Code §835a(c)(1).)

Discharge of a firearm is "deadly force." (Penal Code §835a(e)(1).) The "[t]otality of the circumstances" means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force." (Penal Code §835a(e)(3).)

While the appearance of these principles is new to section 835a in 2020,<sup>22</sup> the courts have been defining the constitutional parameters of use of deadly force for many years. In 1985, the United States Supreme Court held that when a police officer has probable cause to believe that the suspect he is attempting to apprehend "has committed a crime involving the infliction or threatened infliction of serious physical harm" to the officer or others, using deadly force to prevent escape is not constitutionally unreasonable. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11-12.) California courts have held that when a police officer's actions are reasonable under the Fourth Amendment of our national Constitution, the requirements of Penal Code § 196 are also satisfied. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 349; *Brown v. Grinder* (E.D. Cal., Jan. 22, 2019) 2019 WL 280296, at \*25.) There is also a vast body of case law that has demonstrated how to undertake the analysis of what is a reasonable use of force under the totality of the circumstances. (See *Reasonableness* discussion, *infra*.) As such, our

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<sup>22</sup> Assem. Bill No. 392 (2019-2020 Reg. Sess.) approved by the Governor, August 19, 2019. [Hereinafter "AB-392"]

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pre-2020 state case law, developed upon the former iteration of section 196, is still instructive.

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

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

- (1) that the use of force should be exercised judiciously and with respect for human rights and dignity; that every person has a right to be free from excessive uses of force;
- (2) that use of force should be used only when necessary to defend human life and peace officers shall use de-escalation techniques if it is reasonable, safe, and feasible to do so;
- (3) that use of force incidents should be evaluated thoroughly with consideration of gravity and consequence;<sup>23</sup>
- (4) that the evaluation of use of force is based upon a totality of the circumstances, from the perspective of a reasonable officer in the same situation; and
- (5) that those with disabilities may be affected in their ability to understand and comply with peace officer commands and suffer a

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<sup>23</sup> Penal Code §835a (a)(3) conflates a demand for thorough evaluation of a use of force incident with a dictate that it be done “in order to ensure that officers use force consistent with law and agency policies.” On its face, the section is clumsily worded. Nothing included in AB-392 plainly requires that a use of force also be in compliance with agency policies. A provision in the companion bill to AB-392—Senate Bill No. 230 [(2019-2020 Reg. Sess.) approved by the Governor, September 12, 2019] (Hereinafter “SB-230”), does explicitly state that “[a law enforcement agency’s use of force policies and training] may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably, but shall not be considered as imposing a legal duty on the officer to act in accordance with such policies and training.” (Sen. Bill No. 230 (2019-2020 Reg. Sess.) §1.) It is noteworthy, however, that this portion of SB-230 is uncodified, unlike the aforementioned portion of Penal Code §835a (a)(3).

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greater instance of fatal encounters with law enforcement, therefore.

(Penal Code §835a(a).)

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

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

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

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

**IMMINENCE.** "Imminence is a critical component" of self-defense. (*People v. Humphrey* (1996) 13 Cal.4th 1073, 1094.) A person may resort to the use of deadly force in self-defense, or in defense of another, where there is a reasonable need to protect oneself or someone else from an apparent, *imminent* threat of death or great bodily injury. "An imminent peril is one that, from appearances, must be instantly dealt with." (*In re Christian S.* (1994) 7 Cal.4th 768, 783.) The primary inquiry is whether action was instantly required to avoid death or great bodily injury. (*Humphrey, supra*, 13 Cal.4th at 1088.) What a person knows, and his actual awareness of the risks posed against him is relevant to determine if a reasonable person would believe in the need to defend. (*Id.* at 1083, *emphasis added*.) In this regard, there is no duty to wait until an injury has been inflicted to be sure that deadly force is indeed appropriate. (*Scott v. Henrich, supra*, 39 F. 3d at 915.)

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

A threat of death or serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of

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future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.

(Penal Code §835a(e)(2).)

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

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

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

The "reasonableness" test requires an analysis of "whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." (*Id.* at 397, citations omitted.) What constitutes "reasonable" self-defense or defense of others is controlled by the circumstances. A person's right 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, emphasis added.) Yet, a person may use no more force than is reasonably necessary to defend against the danger they face. (*Id.*)

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. (*Id.*) It was previously held that in the context of an officer-involved incident, this standard does not morph into a "reasonable police officer" standard. (*People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147.)<sup>24</sup> 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.*)

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<sup>24</sup> The legislative findings included in Penal Code section 835a(a)(4) suggest to the contrary that "the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation." As such, if the officer using force was acting in an effort to *effect arrest*, as is governed by section 835a, then it appears the more generous standard included there would apply.

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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, and whether the person seized is actively resisting arrest or attempting to flee to evade arrest. (*Id.*)

Whether the suspect posed an immediate threat to the safety of the officer or others has been touted as the “most important” *Graham* factor. (*Mattos v. Agarano* (9th Cir. 2011) 661 F.3d 433, 441-442.) The threatened use of a gun or knife, for example, is the sort of immediate threat contemplated by the United States Supreme Court, that justifies an officer's use of deadly force. (*Reynolds v. County of San Diego* (9th Cir. 1994) 858 F.Supp. 1064, 1071-72. Emphasis added.) 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.” (*Id.* at 1072. Emphasis added.) Again, the specified factors of *Graham* were not meant to be exclusive; other factors are taken into consideration when “necessary to account for the totality of the circumstances in a given case.” (*Mattos v. Agarano, supra*, 661 F.3d at 441-442.) The use of force policies and training of an involved officer's agency *may* also be considered as a factor to determine whether the officer acted reasonably. (Sen. Bill No. 230 (2019-2020 Reg. Sess.) §1. See fn. 3, *infra*.)

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

Under *Graham* we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.

(*Martinez v. County of Los Angeles, supra*, 47 Cal.App.4th at 343, citing *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.) Specifically, when a police officer reasonably believes a suspect may be armed or arming himself, it does not change the analysis, even if subsequent investigation reveals the suspect was unarmed. (*Baldridge v. City of Santa Rosa* (9th Cir. 1999) 1999 U.S. Dist. LEXIS 1414 \*1, 27-28.)

The Supreme Court's definition of reasonableness is, therefore, “comparatively generous to the police in cases where potential danger, emergency conditions or other exigent circumstances are present.” (*Martinez v. County of Los Angeles, supra*, 47 Cal.App.4th at 343-344, citing *Roy v. Inhabitants of City of Lewiston* (1st Cir. 1994) 42 F.3d 691, 695.)

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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 affect it.'

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

**ANALYSIS**

The legal justification for an officer's use of deadly force requires a comprehensive analysis of the circumstances precipitating the incident. If the officers involved herein reasonably believed, based upon the totality of the circumstances, that lethal force was necessary to defend against an imminent threat of death or serious bodily injury to the officer or another, then the use of deadly force was justified pursuant to Penal Code §835a(c)(1). Each officer's belief must be both subjectively honest and objectively reasonable.

Officers Ayala, Stewart, Saenz, Sergeant Ahmed, and Corporal Saibene were on patrol in a well-known high-crime neighborhood. As members of the MET and SWAT teams, the officers had received extensive training and were proficient in their assignments. Each officer had personal experience working in this particular neighborhood. The officers recognized the increased risk associated with working in such an area where violent encounters were more likely.

Officer Saenz initiated a lawful traffic stop on Fowler's car after he observed Fowler was unable to maintain a straight line of travel. Fowler drove southbound on Mount Vernon Avenue toward 16th Street, straddling the lane and crossing over the center line. Officer Stewart also observed Fowler's vehicle straddle and drive back and forth over the double yellow line. Based on these observations, Officers Saenz and Stewart suspected Fowler was driving under the influence of alcohol, drugs, or both. Officer Ayala first observed Fowler's car after Fowler had already stopped at the intersection of Mount Vernon and 16th Street. Officer Ayala saw that Fowler's car was stopped past the limit line.

The inherent nature of a traffic stop, which requires an officer to stand exposed next to the driver's window, creates a significant safety risk. The traffic stop's location in a high-crime neighborhood, the late hour, and the reduced visibility combined to create a significantly heightened risk to the officers. Each officer recognized the heightened danger and exercised increased caution when they approached Fowler's car and while

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they interacted with him. Before Officer Saenz reached Fowler's driver's door, he heard Fowler yell, "This is fucking bullshit. Fuck this! You guys always fucking do this to me!" Fowler was angry from the start, before the officers even had a chance to talk to him. Witness #2, Fowler's rear seat passenger, also reported that Fowler was immediately angry upon being stopped by law enforcement.

Officer Saenz introduced himself to Fowler and asked for his driver's license. Fowler had no driver's license. In fact, Fowler's driver's license was suspended. Though unknown to Officer Saenz at the time, it would have been impossible for Fowler to produce a valid driver's license because he did not have one. Also unknown to the any of the officers at the time, Fowler was a convicted felon and was armed with a loaded handgun. Nor did the officers know that Fowler was out on bail, pending charges in a separate felony criminal case. While these facts were not known to the officers at the time, they shed light on Fowler's hostility, his refusal to cooperate with the officers, and his subsequent actions.

Fowler argued with Officer Saenz and accused him of racial profiling. Officer Saenz attempted to de-escalate the situation by continuing to speak with Fowler and reassuring him that he was only trying to do his job. Officer Saenz told Fowler, "Hey, you're going to dictate how this interaction goes. If you're going to be respectful, then we can be respectful right back." Officer Saenz's efforts seemed to be somewhat effective, because after the reassurances, Fowler appeared to try to cooperate. Though unable to provide a valid driver's license, Fowler handed Officer Saenz his identification. Officer Saenz asked Fowler if he had a valid driver's license, but Fowler "kind of ignored" the question. Fowler did not provide Officer Saenz with a valid driver's license.<sup>25</sup>

When Officer Saenz asked Fowler to step out of the vehicle, Fowler again became uncooperative and refused to get out of the car. Officer Saenz continued his efforts at de-escalation by explaining to Fowler that he would not need to go to jail, and his vehicle would not need to be towed if "everything checked out." However, Fowler probably knew that everything would not "check out" because his driver's license was suspended, he was a convicted felon in possession of a loaded firearm, and he was driving under the influence of methamphetamine. Interacting with law enforcement was not a new experience to Fowler. Fowler had significant experience in this. Fowler had been arrested multiple times in his life. Fowler's first criminal conviction occurred in 1982. Thereafter, Fowler's arrests and subsequent convictions continued throughout his life, with very little interruption. In fact, Fowler had pending felony charges for an arrest that had occurred in 2021. Fowler had served time in prison and had been convicted of crimes he committed while imprisoned. Based on Fowler's significant experience with law enforcement, he surely knew that once he stepped out of his car, Officer Saenz would conduct a pat down for weapons. Officer Saenz's pat down for weapons would lead to the discovery of Fowler's handgun. So, despite Officer Saenz's reassurances, Fowler must have realized his arrest was inevitable and his car would be impounded

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<sup>25</sup> Fowler's California Department of Motor Vehicles record showed that Fowler had been notified of the license suspension.

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With Fowler's continued refusal to get out of the car, Officer Saenz opened Fowler's driver's door. Officer Saenz again told Fowler to step out of the vehicle. Officer Stewart believed Fowler was stalling for time or preparing for a physical confrontation or to escape. Officer Stewart walked from the passenger side to the driver's side to assist Officer Saenz with removing Fowler from the car.

Fowler reached for his seatbelt. Officer Saenz believed Fowler was going to unbuckle it and get out of the car. However, Fowler did not remove his seatbelt. Instead, Fowler placed his hands at his right hip, near the seatbelt latch, and maneuvered his clothing for several seconds. Video from Officer Ayala's body-worn camera showed Fowler's actions: Fowler did not touch the latch on his seatbelt; Fowler appeared to make no effort to unbuckle his seatbelt. As soon as the officers recognized that Fowler was taking too long to remove his seatbelt, they all believed he was intentionally stalling for time. Based on Fowler's behavior up to that point, the officers' belief was reasonable.

None of the officers attributed Fowler's delay as having been caused by a faulty seatbelt as Witness #2 later claimed. Witness #2 told investigators after the shooting that she believed Fowler's seatbelt had jammed. However, there is no evidence that Fowler or anyone else told Officer Saenz, or any of the other officers, that Fowler's delay in removing his seatbelt was because it was jammed. Nor is there any evidence that Fowler's seatbelt was jammed. In fact, the evidence is to the contrary. After the officer-involved shooting occurred, the officers removed Fowler from the vehicle to render medical aid. Body-worn camera video showed the moment Officer Saenz reached in to unbuckle Fowler's seatbelt-- Officer Saenz unbuckled Fowler's seatbelt quickly and with no apparent difficulty.

The officers correctly perceived that Fowler was not attempting to remove his seatbelt. Even Witness #1, Fowler's front seat passenger, recognized the danger of Fowler's delay. Witness #1 anticipated danger. Witness #1 placed his hands out of the passenger window so the officers could see he was unarmed. While Witness #1 said he did this in response to the officers pointing their guns at Fowler, body-worn video showed that Witness #2 placed his arms out of the window before the officers pulled their handguns.

Because Fowler was not removing his seatbelt, Officer Ayala grew concerned that Fowler was attempting to pull a weapon to shoot Officer Saenz. None of the officers knew that Fowler wore a holster hidden beneath his clothing. Fowler's gun was likely in that holster, unseen by the officers, until Fowler pulled it out. An individual armed with a hidden firearm has the element of surprise. An unseen gun pulled on an unsuspecting officer puts the officer behind the reactionary curve. Fowler's actions were indicators that betrayed his otherwise hidden intent. Officer Ayala's concern was reasonable. Officer Ayala pulled his handgun, turned on the gun's tactical light, and pointed it at Fowler through the windshield. Officer Ayala ordered Fowler to stop reaching, but Fowler refused to comply. Officer Ayala hoped that Fowler would be deterred from pulling a gun when he saw Officer Ayala's gun pointed at him. However, Fowler never looked at Officer Ayala because he

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was fixated on Officer Saenz. Officer Ayala repeated his command to Fowler to stop reaching multiple times, but Fowler still reached for the gun he had hidden beneath his clothing.

Video from Officer Ayala's and Officer Stewart's body-worn cameras, filmed from opposite sides of the car, recorded what next occurred. Officer Ayala's camera angle was through the windshield and faced directly toward Fowler. Officer Ayala's tactical light illuminated Fowler inside the car. Officer Saenz leaned into Fowler's driver's compartment and reached across Fowler's torso toward the seatbelt latch at Fowler's right hip. Fowler pushed Officer Saenz's hand away with his left hand. Fowler's right hand remained at his right hip and lower right back. Fowler frantically reached between the seatbelt buckle and his right hip and then leaned forward and reached behind his lower right side back. Officer Ayala saw Fowler lean forward and reach behind his lower back. Officer Ayala noticed Fowler's right elbow pointed upward as if he was drawing a firearm from behind his lower right back.

Officer Stewart's body-worn camera angle was from the driver's side of Fowler's car and showed Officer Saenz leaning into the driver's compartment. Officer Stewart stood outside the driver's door, behind Officer Saenz. Officer Stewart grabbed onto the collar of Fowler's jacket while Officer Saenz leaned into Fowler's driver's compartment. Officer Stewart tugged on the back of Fowler's jacket in an upward motion. Officer Stewart tried to help Officer Saenz physically remove Fowler from the car. However, because of Fowler's resistance, and the fact that his seatbelt was still latched, the officers were unable to achieve their objective.

Officer Saenz felt an object that he believed was a gun when he reached in to try to unbuckle Fowler's seatbelt. Officer Saenz immediately looked down and saw Fowler's handgun. Officer Saenz quickly tried to remove the gun from Fowler's right hand, but Fowler moved his right arm to "contradict" Officer Saenz's movement. Fowler pulled the gun away from Officer Saenz's grip. This caused Officer Saenz great fear because it conveyed to him that Fowler's intent was to finish drawing the firearm and potentially use it to kill him and his partners. Officer Saenz's fear was reasonable because Fowler's actions made it clear that he did not want Officer Saenz to take the gun away from him. As this happened, Officer Ayala saw Fowler begin to pull the handgun from his lower right side back. Officer Ayala yelled, "Gun! Gun! Gun! Drop the gun!" Officer Ayala's partners also yelled, "Drop the gun!"

Body-worn camera video showed the instantaneous reaction of Officers Saenz and Stewart. Both Officer Saenz and Officer Stewart abruptly backed away from Fowler's car. Officer Stewart used his right hand to push himself away from the car. As the officers retreated, Sergeant Ahmed sprinted toward the driver's side of Fowler's car.

Officer Ayala's Use of Force

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In that instant, Officer Ayala's fear that Fowler was going to pull a gun became a reality. As Fowler pulled the gun, Officer Ayala saw that Fowler's focus remained on Officer Saenz. Officer Ayala saw Officer Saenz at the driver's door, just feet from Fowler. Officer Ayala knew it would only take a split second for Fowler to shoot Officer Saenz in the face. Officer Ayala also knew that Fowler could quickly point the gun in Officer Ayala's direction and shoot him through the windshield. Despite Officer Ayala's commands to drop the gun, Fowler refused to drop it and instead continued to draw it from its hiding place within his clothing. Upon seeing this, Officer Ayala reasonably believed that Fowler was going to shoot both Officer Saenz and him. Officer Ayala feared both his and Officer Saenz's lives were in imminent danger. Officer Ayala's fear was both subjectively honest and objectively reasonable.

Officer Ayala immediately brought his left hand up to his handgun and fired two rounds at Fowler. Officer Ayala's intent when he fired was to prevent Fowler from shooting Officer Saenz and Officer Ayala. While he fired the two rounds at Fowler, Officer Ayala maneuvered backward to get a better position because he knew his partners were on the driver's side of the car. Officer Ayala saw one of his partners moving away from the back of Fowler's vehicle. Officer Ayala saw Fowler's head come up and heard gunshots as his partners fired at Fowler. Because he did not want to put his partners at risk, Officer Ayala did not fire any additional rounds.

**Officer Stewart's Use of Force**

As shown by body-worn camera video, while Officer Stewart quickly pushed away from the side of Fowler's car, Officer Stewart unholstered his handgun. Officer Stewart sprinted toward the front of Fowler's car and turned to face Fowler. Officer Stewart was still very close to Fowler's car. Officer Stewart knew that he and his partners were in a dangerous position because none of them had any cover or concealment. Fowler's driver's door was open, and the officers were in close proximity, making them easy targets. Officer Stewart saw that Fowler continued to reach near his right side, after Officer Ayala yelled, "Gun!" three times. Officer Stewart saw that Fowler "abruptly and aggressively lifted his right hand above his chest level." Fowler's chest appeared to be facing toward the officers "as if he was going to take a seated shooting platform." Officer Stewart saw an object in Fowler's right hand, which he recognized to be a gun. "It was in the shape of a firearm and the color of a firearm" and was "black with brown tips."

In fear for his own and his partner's lives, Officer Stewart pointed his handgun at Fowler, aimed for his chest, and fired approximately five shots. Officer Stewart paused to reassess the situation and to reposition himself if necessary. Officer Stewart did not fire any additional rounds.

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**Officer Saenz's Use of Force**

Officer Saenz had felt and seen the gun in Fowler's right hand at the moment Fowler began to draw the firearm. Officer Saenz tried to take Fowler's gun away, but Fowler prevented him from doing so. When this happened, Officer Saenz, like Officer Stewart, pushed away from Fowler to create distance from him. Officer Saenz knew that neither he nor his partners had any cover or concealment from Fowler's gunfire. Officer Saenz saw Fowler move his right arm upward in a manner "consistent with drawing a firearm from his right side." Officer Saenz drew his handgun and pointed it at Fowler's center of mass. Officer Saenz observed that Fowler "continued to move his arm up in a manner that was indicative of him drawing a firearm."

Fearing for his life, Officer Saenz fired three to five rounds at Fowler's center of mass. Fowler "continued to pull out his gun and oriented his body towards officers," and pointed the gun at them. Officer Saenz fired an additional three to five rounds at Fowler's center of mass. Officer Saenz stopped firing when he saw Fowler was no longer a threat and had stopped moving.

**Sergeant Ahmed's Use of Force**

When Sergeant Ahmed exited his patrol unit to assist his partners, he heard Officer Ayala yell, "Stop reaching! Gun! Gun! Drop the gun!" or "Don't reach for the gun!" Officer Stewart knew Officer Ayala's commands were directed at Fowler because he saw Officer Ayala look directly at Fowler and use his gun's tactical light to illuminate Fowler. Based on this, Sergeant Ahmed knew Fowler had a gun. Sergeant Ahmed heard gunfire from Officer Ayala's direction. Body-worn camera footage showed that Sergeant Ahmed sprinted toward the driver's side of Fowler's vehicle, where Officers Saenz, and Stewart were retreating. Because there was no audio at this point in the body-worn camera video, no audible gunfire was heard; however, Officers Stewart and Saenz were quickly backing away from Fowler's car, with their handguns pointed at Fowler, as Sergeant Ahmed neared them.

As Sergeant Ahmed reached the open driver's door, he saw that Fowler appeared to be holding a gun. Fowler's arm was at a 90-degree angle at chest level. Fowler turned his upper body toward Sergeant Ahmed and Officers Saenz and Stewart. To Sergeant Ahmed, it appeared that Fowler was preparing to shoot him, Officer Saenz and Officer Stewart. Sergeant Ahmed feared for his life and his partners' lives, Sergeant Ahmed fired two rounds at Fowler, aiming for his chest.

**Use of Force by Officers Stewart, Saenz, and Sergeant Ahmed**

Body-worn camera video footage from several of the officers showed the moment described by Officers Stewart, Saenz, and Sergeant Ahmed. Fowler quickly raised his right arm upward from his waistband and thrust his right arm and hand across his chest,

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in a motion consistent with pointing a handgun at the officers. Because Fowler's movement was so quick and was consistent with a person drawing and pointing a firearm, it appeared Fowler was about to shoot at the officers who were on the driver's side of his car.

Officers Stewart, Saenz, and Sergeant Ahmed each believed Fowler had a handgun and was preparing to shoot them. Fowler wore black fingerless gloves, which contributed to the appearance of a handgun in his hand. Officer Stewart described the object, which he believed to be a handgun-- Officer Stewart reported the object was in the shape of a firearm and the color of a firearm with "black and brown tips." Fowler's gloves were black and were fingerless. Fowler's fingers, which extended from the gloves, were brown in color.



Crime scene photo showing one of Fowler's gloves, turned inside out when it was removed from Fowler's hand as medical aid was rendered.

Adding to the complexity, Officers Stewart, Saenz, and Sergeant Ahmed were in motion. Officers Stewart and Saenz were quickly backing away from Fowler's driver's door, and Sergeant Ahmed was in the process of sprinting past the driver's door when Fowler thrust his hand toward them. Officers Stewart, Saenz, and Sergeant Ahmed were in highly vulnerable positions, directly beside and mere feet away from Fowler's car. Due to their proximity, the officers were at a high risk of being hit by any bullets Fowler fired. The time needed for the officers to react to the threat was shortened because they were so close to Fowler. The passengers inside Fowler's car only served to add to the difficulty. In a mere fraction of a second, Officers Stewart, Saenz, and Sergeant Ahmed were forced to react to the threat they perceived.

Only upon slowing the body-worn video, stopping the video, and enlarging the image, was it possible to see that Fowler no longer had the gun in his hand. Presumably, the gun fell from Fowler's hand when Officer Ayala fired at him. Fowler was in the process of drawing the handgun and presenting it when Officer Ayala began to fire. Officers Stewart, Saenz, and Sergeant Ahmed appeared to fire their duty weapons simultaneously, less than three seconds after Officer Ayala fired his first gunshot. Based on all that had occurred up to that point, and given what Officers Stewart, Saenz, and Sergeant Ahmed

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saw in that instant, it was objectively reasonable for them to believe that Fowler had a gun in his hand and was attempting to shoot them.

As the United States Supreme Court explained in *Graham v. Connor* (1989) 490 U.S. 386:

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.)

Officers Stewart, Saenz, and Sergeant Ahmed honestly believed they were all in imminent danger and feared for their lives. Their fear was objectively reasonable.

When Fowler pulled his gun, Officers Ayala, Stewart, Saenz, and Sergeant Ahmed recognized an immediate and grave threat to their lives. The danger posed by Fowler when he pulled the handgun was clear and imminent. The officers also feared for the safety of the passengers inside Fowler's car and knew their response to Fowler's deadly threat needed to take their safety into account. Consequently, Officers Ayala, Stewart, Saenz, and Sergeant Ahmed were compelled to take swift and decisive action to safeguard themselves, their colleagues, and the passengers in Fowler's car. The vigilance of the officers and their unremitting alertness allowed the officers to react in time to Fowler's threat and resulted in no gunshot wounds sustained by the passengers.

**CONCLUSION**

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

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

**Submitted By:**

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