

**Fatal Officer Involved Shooting of Alvaro Venegas
Los Angeles County Sheriff's Department**

Deputy Michael Miller, #542828

J.S.I.D. File #19-0392



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

April 27, 2022

MEMORANDUM

TO: CAPTAIN JOE MENDOZA
Los Angeles County Sheriff's Department
Homicide Bureau
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Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Alvaro Venegas
J.S.I.D. File #19-0392
L.A.S.D. File #019-14041-0641-013

DATE: April 27, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 12, 2019, fatal shooting of Alvaro Venegas by Los Angeles County Sheriff's Department (LASD) Deputy Michael Miller. We have concluded that Deputy Miller acted lawfully in self-defense at the time he fired his duty weapon.

The District Attorney's Command Center was notified of the shooting on September 12, 2019. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, recorded interviews, photographs, video evidence, the autopsy report and witness statements submitted to this office by LASD Detective Robert McGaughey and Sergeant Guillermo Morales. Miller's voluntary statement was considered as part of this analysis. LASD deputies at Santa Clarita Station were not yet equipped with body cameras when this incident took place.

FACTUAL ANALYSIS

Introduction

On September 12, 2019, Alvaro Venegas was outside of Concentra Urgent Care (Concentra) acting in a bizarre manner that caught the attention of numerous individuals in the area, causing Sheriff's deputies to be called. Alvaro attacked one deputy who called for backup. Numerous other deputies responded to the backup call and Alvaro attacked one of them, resulting in an officer-involved shooting causing the death of Alvaro.

██████.'s Statement

On September 12, 2019, at approximately 11:15 a.m., ██████. was the ██████ at Concentra on Rye Canyon Road in Valencia. ██████ saw Alvaro pacing on the grassy area between

Concentra's parking lot and Rye Canyon. ■■■ thought he was acting strange, looking "hyper," taking his shirt off, and occasionally yelling and banging his head against the Concentra sign at the entrance to the location. Around that time, ■■■ saw LASD Sergeant Alfonso Bertieri arrive at Concentra with Deputy Erik Sibrian. ■■■ assumed Bertieri and Sibrian had been called to deal with Alvaro and asked them if they had come to handle the problem with Alvaro. Bertieri told her that he was accompanying Sibrian to Concentra so Sibrian could receive medical care, unrelated to the disturbance out front, but Bertieri said that he would go outside and try to handle the situation. Bertieri returned and told ■■■ that the man outside was under the influence and that Bertieri was calling the Santa Clarita Station to assist. ■■■ was inside and did not see anything else. ■■■ later heard bangs while she was inside the building.

Sergeant Alfonso Bertieri's Statement

At approximately 12:15 p.m., Bertieri accompanied Sibrian, whom he supervised, to Concentra so Sibrian could receive treatment for a work-related injury he had suffered. As Bertieri and Sibrian entered Concentra, ■■■ asked Bertieri if he was there responding to a complaint about Alvaro. ■■■ told Bertieri that she assumed one of her patients had called the police about a man causing a disturbance outside the clinic and that Bertieri was there in response to that call. Bertieri told ■■■ that he was not there for that purpose but agreed to go outside and try to get the person to leave. Bertieri went to the front of Concentra where he encountered Alvaro. Bertieri tried to speak with Alvaro to get him to leave, but Alvaro responded in a hostile manner, cursing at Bertieri. Since Bertieri was not from the station serving the area and did not have any backup, he decided to go back inside Concentra and call the Santa Clarita Sheriff's Station to request deputies respond to the location. Bertieri called the Santa Clarita Sheriff's Station at 12:30 p.m.

Bertieri asked Sibrian to monitor radio traffic to see when deputies responded to the location so Bertieri could tell the responding deputies about his encounter with Alvaro. At some point Bertieri heard radio traffic of a deputy involved in a fight at the location and went outside to see what was going on. Bertieri saw Deputy Sigifredo Sandoval outside standing next to his patrol vehicle, with Alvaro nearby waving his arms. Bertieri walked to Sandoval taking care to avoid Alvaro, and asked Sandoval if he was okay. Sandoval told him he was okay, but that Alvaro had charged him and taken his radio. Sandoval told Bertieri that he tried to use his Taser on Alvaro, but the Taser did not work, and Alvaro took it away from him. Other deputies began to arrive and park their patrol vehicles approximately 100 feet away. Bertieri yelled to them, "Hey, less lethal!" and "Taser! Taser!" As Bertieri said this, Alvaro picked up a stick in his hand and charged at the three deputies who had just arrived and were standing next to one of the patrol cars. Alvaro grabbed one of the deputies, the deputy pushed him backwards and Bertieri heard two to three gunshots. The deputy and Alvaro were two to three feet apart when Bertieri heard the gunshots.

Deputy Erik Sibrian's Statement

Sibrian came to Concentra to receive medical care for a work-related injury. He was filling out paperwork inside Concentra when Bertieri went outside to try and deal with a man causing a disturbance outside. Bertieri returned and said that he would call LASD's Santa Clarita Station

and have them respond. Bertieri asked Sibrian to monitor the radio traffic to see if any units responded so Bertieri could go outside and advise them of the situation and give a description of the person if needed. Sibrian listened to the radio traffic and heard the emergency request for assistance, so he went to the window to see what was going on. Sibrian saw patrol cars pulling up, and deputies getting out. Sibrian saw Alvaro pull a wooden stake out of the ground and wave it in the air, then Alvaro charged the deputies closest to the driveway. Sibrian realized a confrontation was about to take place, so he advised all the individuals standing in the entry area of Concentra to step away from the window in case there was a shooting. Sibrian saw a deputy push Alvaro away. Alvaro lunged forward with the stake at the deputy. Sibrian heard three gunshots and saw Alvaro fall to the ground. Sibrian then saw deputies treat Alvaro with chest compressions.

Deputy Sigfredo Sandoval's Statement

Sandoval said that he arrived at the location in response to a call of a suspicious person at Concentra. Sandoval said the call was for "a male, no shirt, acting a little strange, spitting." Sandoval went there alone in a marked black and white Sheriff's Ford Explorer patrol vehicle in full uniform. Sandoval had an assisting unit whom he told he would meet at the location. Sandoval had planned on waiting for his partner, but when he arrived at the location he saw Alvaro on his hands and knees, slouched on the grassy area at the entrance to Concentra next to the business's sign.

Since Alvaro matched the description of the person in the call, Sandoval approached and asked if Alvaro was okay or needed assistance. Alvaro stood up and started screaming, "Fuck you! Piece of shit motherfucker!" at the top of his voice and began to approach Sandoval. Sandoval told Alvaro to stop and pulled out his Taser. Alvaro said, "Fuck you!" again and kept coming closer to Sandoval. Sandoval attempted to use his Taser, but it failed to work. Alvaro got close enough to Sandoval to grab his shirt and radio. Alvaro also tried to punch Sandoval in the face, but failed to connect. Sandoval dropped his Taser and swung back at Alvaro, but he also did not connect, which caused Alvaro to release Sandoval. Alvaro picked up Sandoval's dropped Taser and chased Sandoval with the Taser pointed at Sandoval. Alvaro threw the Taser at Sandoval as Sandoval retreated to his patrol vehicle. The Taser that Alvaro threw missed Sandoval but hit and cracked the windshield of Sandoval's patrol vehicle. Alvaro returned to the same grassy area where Sandoval had first seen him. Bertieri approached Sandoval while Sandoval called for backup. Sandoval told dispatch that he had just been involved in a fight where the suspect had ripped off his radio and had been "918Victor" (a violently insane person).



Photograph of Sandoval's patrol vehicle with a broken windshield.



Photograph of Sandoval's Taser on the ground.

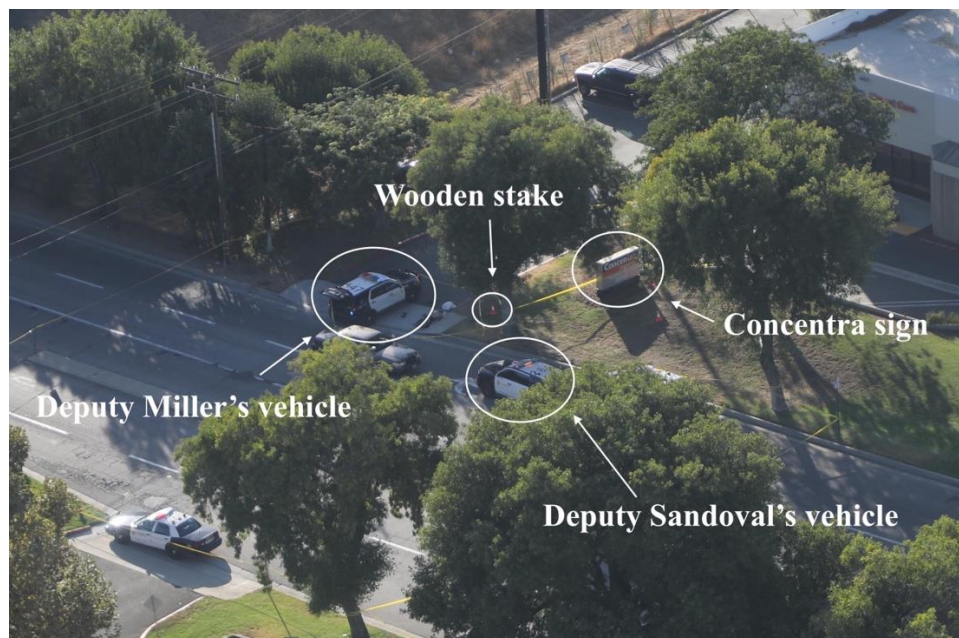
Sandoval said that two marked patrol units arrived and parked just west of him. The first vehicle had LASD Deputies Michael Miller and David Reeder; the other was driven by LASD Detective Phillip Briones. As they arrived, Sandoval told them to get a stun-bag shotgun. Reeder went to his trunk to retrieve his stun-bag shotgun. As Reeder stood at the trunk of his patrol vehicle retrieving the stun-bag, Alvaro began to charge Miller and Briones holding a weapon with the sharp end pointed at Miller and Briones. Briones and Miller commanded Alvaro to stop. Sandoval pulled out his baton, figuring that Alvaro would drop the weapon, and because the other deputies had drawn their firearms. Sandoval saw Alvaro get "super close" to Miller. He

could see Miller and Alvaro struggling with Alvaro's arm around Miller's neck. Sandoval ran towards them and then heard a few shots. Alvaro fell to the ground. Sandoval saw Miller retrieve his medical bag, and Reeder began giving chest compressions to Alvaro.

Deputy Miller's Voluntary Statement

Deputy Miller gave a voluntary statement to investigators. Miller was driving a marked black and white patrol SUV and in full patrol uniform. Miller drove to the location in his patrol vehicle with Reeder as the passenger in response to a radio call of a deputy in a fight where the suspect had taken the deputy's radio. Miller parked his vehicle and met with Sandoval while Alvaro stood on the grassy area waving a wooden stake with a sharpened end and yelling. Miller told Reeder to get the stun-bag shotgun from the trunk.

While Reeder was at the trunk getting the stun-bag shotgun, Alvaro rapidly approached Miller, waving the stake and shouting. Miller was standing next to the passenger side of his vehicle and dodged Alvaro, causing Alvaro to miss hitting him with the stake. At that point, both of their bodies were touching. Miller's gun was out of his holster, and he tried to take Alvaro down with his arm and a leg sweep, but was not able to. Alvaro raised the stake and struck Miller in the face and neck. Miller pushed Alvaro back and fired three rounds from his service weapon, causing Alvaro to fall to the ground backwards. Miller tried to render first aid to Alvaro before being relieved by other sheriff's deputies. Miller suffered a cut on his lip and had red marks on his neck, which he said he sustained from being struck when Alvaro attacked him. Miller told investigators he feared for his life when Alvaro attacked him with the stake.



Photograph of overview of location.



Photograph of the Concentra sign and Alvaro's wooden stake with Sandoval's car in the background.



Photograph of the wooden stake.

Detective Philip Briones' Statement

Approximately an hour before the radio call regarding the disturbance at Concentra, Briones had responded to a call of a man causing a disturbance in the parking lot of a Jimmy Dean's restaurant on the corner of Rye Canyon and The Old Road in Valencia, approximately 200 feet away from Concentra on the other side of Interstate 5 Freeway. Briones had encountered Alvaro at that location and asked him to leave the property, which Alvaro did after several requests.

Briones had been monitoring radio traffic when he heard the call at Concentra. Briones was driving a marked patrol vehicle and responded to the location with light and sirens on. Briones arrived and saw Sandoval standing next to his vehicle with an expandable baton in his hand pointing at Alvaro, who was standing on the grassy area next to the Concentra sign. Briones recognized Alvaro from his interaction an hour earlier. Briones thought Alvaro looked agitated based on the look on his face, and by the way he waved a long object in his hands. Briones realized the object was a wooden stake with a sharpened end.

Briones stood three to four feet behind Miller while someone shouted, “Get the stun-bag! Get the stun-bag!” Briones saw Alvaro begin to affix his attention on Miller, and then begin to run at Miller with the stake raised above his head in a stabbing motion. Miller retreated a few steps to try to create distance between himself and Alvaro, almost bumping into Briones and causing Briones to have to back up as well. Both Miller and Briones had their guns drawn. Alvaro stopped in front of Miller and wrestled with Miller with his arm around Miller’s neck. Briones saw Miller was able to step back and then Briones heard three gunshots. Alvaro stood back, still looking angry or agitated, then fell to the ground. Briones immediately advised on the radio that an officer involved shooting had just occurred. Reeder and Miller approached Alvaro, Reeder handcuffed Alvaro in front of his body, and both began conducting CPR on Alvaro.

Deputy David Reeder’s Statement

Reeder came to the location with Miller and noticed Alvaro standing on the grassy area, shirtless, acting bizarre and holding a sharpened wooden stick. Reeder told Miller he was going to get the stun-bag and went to retrieve it from the trunk of his patrol vehicle. As Reeder opened the trunk he heard Alvaro shout and charge towards Briones and Miller. Both Briones and Miller shouted at Alvaro to stop, and Reeder stopped getting the stun-bag and reached for his gun, believing Alvaro was going to attack Miller in the neck with the stake. Alvaro stopped suddenly two to three feet from Miller with a shocked look on his face, then swung the stake downwards towards Miller as if trying to stab him. Miller backed up until he backed into his patrol vehicle, and Alvaro lunged again. Reeder heard three gunshots and saw Alvaro fall to the ground. Reeder put his gun away, handcuffed Alvaro in the front, and began to render aid until relieved by other sheriff’s personnel.

Carly Reddy’s Statement

North County Correctional Facility Custodial Assistant Carly Reddy was driving home from work when she saw traffic stopping near Concentra on Rye Canyon. As Reddy drove slowly by she saw a sheriff’s patrol vehicle with the door open, and Sandoval standing next to it. Sandoval lifted his arms and his leg as if to shield himself, when Reddy saw something flying through the air and realized something had been thrown at Sandoval. Reddy saw Alvaro on the grass area north of the car. Reddy parked her car, got out and talked to Sandoval, who was now inside his car, and asked if he was alright. Sandoval said he was okay, that he had tried to use his Taser on Alvaro, the Taser did not work, and that Alvaro had pulled his radio from his body. Reddy looked over and saw Alvaro now on his hands and knees near the sign. Sandoval told her that Alvaro was 918, which she understood as the radio code for insane. Reddy also saw Bertieri

approach Sandoval, and then saw other patrol vehicles arrive. Reddy saw Alvaro waving a weapon around, and bouncing side to side, in the manner of a boxer preparing for a fight. Alvaro began to approach Sandoval when Miller stepped forward and Alvaro moved towards him. Alvaro lunged at Miller and she heard four to five gunshots. Reddy was unsure if there was one or more shooters.

██████████'s Statement

██████████ told investigators that he saw the whole incident from inside his office across the street from Concentra while eating his lunch. ██████████ first saw a fight between Alvaro and Sandoval and saw Sandoval's microphone swinging down at his knees. ██████████ said Sandoval got back into his car and Alvaro raised his arms in victory and went back to the area next to the sign and knelt down. ██████████ could tell that Alvaro was yelling but could not make out what he was saying. ██████████ saw other patrol vehicles arrive and saw three deputies pointing guns at Alvaro, who held a long weapon, which ██████████ thought was perhaps a machete. Alvaro walked towards the deputies making a stabbing motion. Miller tried to hold Alvaro back, then tried to detain him, but Alvaro kept trying to attack Miller, and Miller shot him three to four times.



Photograph of the view of the scene of the shooting from ██████████'s workplace lunch room.

██████████'s Statement

██████████ had seen Alvaro outside of her work at Concentra for nearly an hour, so when Bertieri and Sibrian came in for treatment she asked if they were going to make Alvaro leave the location. ██████████ then left to get her lunch, and when she came back Alvaro was still there. As ██████████ ate her lunch she heard sirens, so she walked back to the window at the entrance to see what was happening. ██████████ saw six deputies standing near a patrol vehicle while Alvaro was still on the grassy area near the Concentra sign at the entrance. Alvaro had something

resembling a wooden stick in his hands, and she heard a single gunshot that sounded like a “knock.” [REDACTED] estimated that Miller and Alvaro were approximately four feet apart at the time of the shot. [REDACTED] saw a deputy rendering first aid to Alvaro.

[REDACTED]’s Statement

[REDACTED] worked at Concentra, and while returning from lunch at approximately 12:10 p.m., saw Alvaro outside standing, squatting, kneeling and leaning against the Concentra sign outside the business. Alvaro appeared to be acting strange and digging into the dirt. [REDACTED] thought Alvaro was on something. [REDACTED] went inside Concentra and heard a manager asking Bertieri to ask Alvaro to leave. [REDACTED] saw Bertieri go outside, and then saw him coming back inside and saying he was going to call the station. [REDACTED] first saw one patrol vehicle arrive, continued her work, then looked up again and saw multiple patrol vehicles outside. [REDACTED] heard no sirens, she just saw the deputies were blocking off the street. Alvaro appeared to be less agitated when no one was interacting with him. When people interacted with him, Alvaro would get more agitated. [REDACTED] saw Alvaro raising and lowering his arms, then picking up a wooden stake from the ground and waving it around. When [REDACTED] looked again, she saw several deputies pointing firearms at Alvaro. Sibrian was in the lobby at that time and told everyone to get away from the windows. [REDACTED] heard three gunshots, and when she looked out of the windows again, deputies were performing CPR on Alvaro.

[REDACTED]’s Statement

[REDACTED] was driving his car on Rye Canyon Road when he saw deputies dealing with a large male with long hair, no shoes and no shirt. [REDACTED] stopped his car 15 to 20 feet from the deputies and saw Alvaro holding what he thought was a “brown rusty knife.” He heard deputies saying, “Drop the weapon!” [REDACTED] saw the deputies standing in a line on the side of the patrol car, while one deputy stood at the open trunk of the patrol vehicle. [REDACTED] saw Alvaro make slashing motions with the item in his hand, and then Alvaro suddenly charged Miller. [REDACTED] saw Alvaro get Miller in a head lock, then he saw Miller escape the head lock, pull out his gun, retreat, and then fire the gun as Alvaro kept charging him. [REDACTED] said that Alvaro was bigger than Miller and moved so quickly towards Miller that Miller had no time to react.

[REDACTED]’s Statement

[REDACTED] worked across the street and could see Alvaro on his knees under the tree talking to himself from his work’s break room. [REDACTED] saw patrol vehicles arrive and saw Alvaro “flail” his hands. [REDACTED] heard gunshots but did not see anything because passing cars in the street obstructed his view.

[REDACTED]’s Statement

[REDACTED] was walking on Rye Canyon when she saw a female talking to Sandoval, and saw Alvaro, shirtless and lying on the grass in front of Concentra. [REDACTED] saw a second deputy arrive, get out of his car and approach Sandoval. [REDACTED]’s view was blocked by a third police car, but she saw two deputies pull out retractable batons. [REDACTED] heard gunshots and began recording with her phone. [REDACTED]’s view was blocked and she did not see the actual confrontation or the shooting, but said

that prior to the gunshots Alvaro did not appear to be confrontational with the deputies. ■■■ was able to see Alvaro lying on the ground after he was shot.

■■■■'s Statement

■■■■, the sister of Alvaro, told investigators that Alvaro had a history of schizophrenia, drug use and violence. She said that in the last few months Alvaro had been angry and uncontrollable, which she attributed to drinking and drug use. ■■■ had told Alvaro that he was not welcome in her house because of his violent behavior.

Autopsy

On September 15, 2019, Deputy Medical Examiner Dr. Timothy Dutra conducted an autopsy on Alvaro. He found Alvaro's cause of death to be four gunshot wounds to his torso.

Alvaro suffered the following four gunshot wounds:

- 1) Gunshot wound to the lateral right shoulder and slightly posterior to the midpoint of the lateral shoulder with a leftward and slightly downwards trajectory.
- 2) Gunshot wound to the right anterolateral proximal upper arm with a leftward and slightly downwards trajectory.
- 3) Gunshot wound to the right anterior chest with a leftward, backwards and downwards trajectory.
- 4) Gunshot wound to the right lateral chest with a leftward and downwards trajectory.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code section 197; *People v. Randle* (2005) 35 Ca1.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Ca1.4th 1172, 1201); *People v. Humphrey* (1996) 13 Ca1.4th 1073, 1082; see also, CALCRIM No. 505.

In evaluating whether a police officer's use of force was reasonable, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than 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. *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

The evidence examined in this investigation shows that Alvaro attacked Sandoval when Sandoval responded to Concentra in response to a call for service regarding a man acting strangely on their property. Alvaro tried to punch Sandoval, disarmed him of his Taser, knocked his radio off of his body, and then threw the Taser at Sandoval. The Taser did not hit Sandoval, but it did crack the windshield of his patrol vehicle. Sandoval called for backup and explained

what had happened so responding deputies knew what to be ready for when they arrived to assist Sandoval.

When Miller, Reeder and Briones arrived at the location, they were all aware of Alvaro's previous attack on Sandoval. Upon getting out of their cars, the responding deputies sought to use less lethal force. Reeder went to retrieve the bean-bag shotgun, but prior to retrieving it, according to the statement of every witness who observed the whole interaction, Alvaro armed himself with the wooden stake and charged Miller with Briones standing directly behind him. Miller acted in legitimate fear of imminent death or great bodily injury as a result of Alvaro's attack with a sharpened wooden stake at such close quarters. He was able to create a little distance between himself and Alvaro to deploy his weapon, and lawfully discharged his weapon at Alvaro to defend himself against a further imminent attack.

CONCLUSION

We conclude that the Deputy Miller acted in lawful self-defense.