

# **Fatal Officer Involved Shooting of Daniel Loren Warren**

## **Pasadena Police Department**

**Officer Zachary McFarland, #5595, Officer Jeff Newlen, #6113, and  
Officer Michael Orosco, #6648**

**J.S.I.D. File #19-0208**



**GEORGE GASCÓN**

**District Attorney**

**Justice System Integrity Division**

**May 25, 2023**

## **MEMORANDUM**

TO: CHIEF EUGENE HARRIS  
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION  
Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Daniel Loren Warren  
J.S.I.D. File #19-0208  
P.P.D. File #19-006480  
L.A.S.D. File #019-00050-3199-013

DATE: May 25, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 17, 2019, fatal shooting of Daniel Loren Warren by Pasadena Police Department (PPD) Officers Zachary McFarland, Michael Orosco, and Jeff Newlen. We have concluded the officers acted in lawful self-defense at the time they fired their weapons, reasonably believing, based on a totality of the circumstances, that deadly force was necessary to defend against an imminent deadly threat.

The District Attorney's Command Center was notified of this shooting on May 17, 2019, at approximately 8:29 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by Lieutenant Scott Hoglund, Los Angeles County Sheriff's Department (LASD), Homicide Bureau.

The following analysis is based on reports, officer body worn video (BWV), witness statements, voluntary statements from involved officers, photos, and medical records. These materials were submitted to this office by the LASD Homicide Bureau. The involved officers' compelled statements, if any exist, were not obtained or considered as part of this analysis.

### **INTRODUCTION**

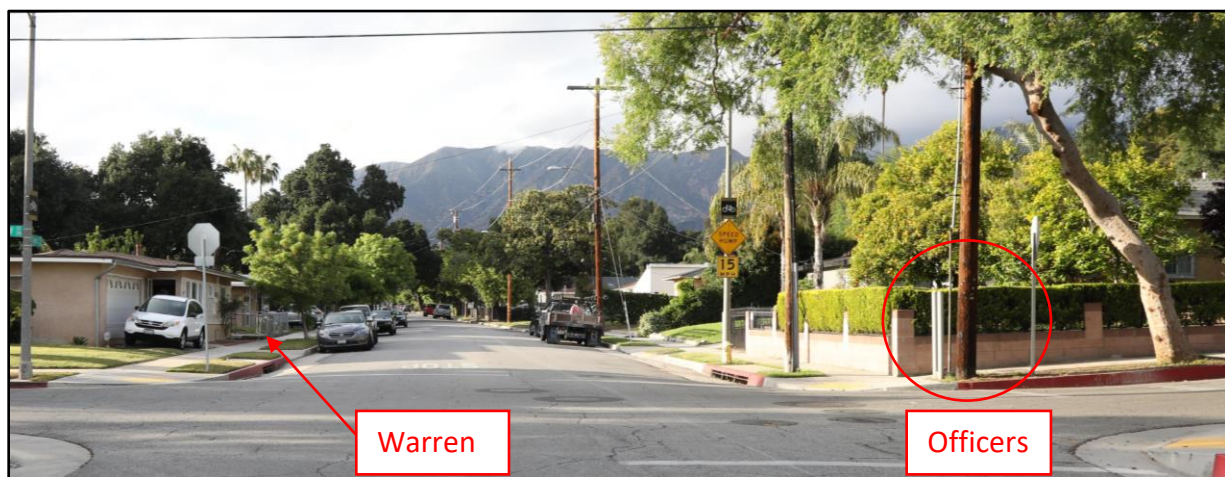
On May 17, 2019, PPD officers responded to a neighborhood after reports that a man was in the street armed with an assault weapon. Officers McFarland, Orosco and Newlen were armed with rifles and positioned at a street corner south of the residence when they saw the man, later identified as Warren, standing in his mother's yard holding a pistol.

Officers shouted several commands for him to drop his gun. According to officer and civilian witnesses, Warren ignored them and instead raised and pointed the pistol at the officers. In response, McFarland, Newlen, and Orosco fired several rifle rounds at Warren, mortally striking him in the chest and upper thigh.

Afterward, officers approached and found Warren unresponsive in the yard. He was seated, slumped over in a chair, wearing a body armor vest. An unloaded 9 mm pistol lay near his feet. A 9 mm casing, a loaded AR style assault weapon, a loaded pistol magazine, and a backpack containing 9 mm ammunition were also in the yard.

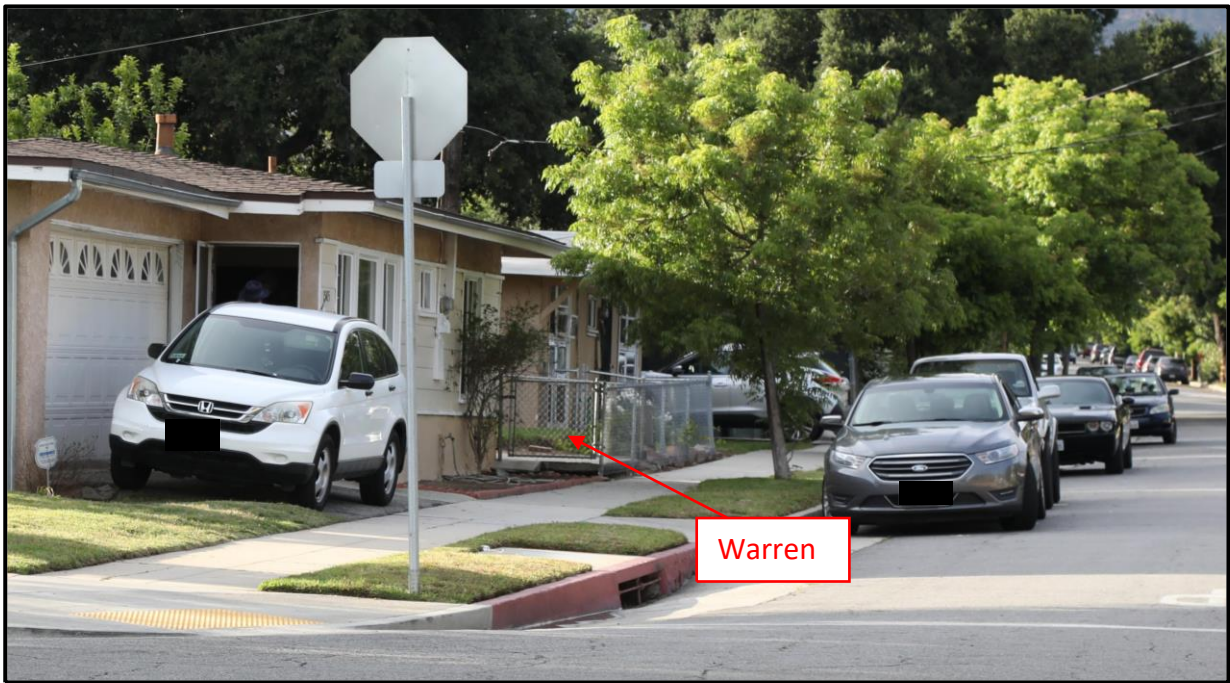


*Figure 1: Approximate locations of Warren and involved officers at time of incident.*



*Figure 2: Street view north; locations of Warren and involved officers at time of incident.*





*Figure 3: Street view north; Warren's location at time of incident.*



*Figure 4: Street view west; Warren's location at time of incident.*

## **FACTUAL ANALYSIS**

### **BWV**

Sergeant Keith Gomez, Officer Johnny Calderon, McFarland, Orosco, and Newlen were positioned at the street corner when the shooting occurred. On BWV footage, the officers can be seen taking positions at the corner, behind a brick wall and telephone pole. They are holding and pointing rifles equipped with muzzle suppressors. McFarland repeatedly yells at Warren (out of view) to put his hands up. After a minute or two, McFarland says, "He's pointing something."

Calderon responds that he thinks Warren is just “gesturing” and not actually armed. Seconds later, McFarland excitedly says, “No, he has a gun! I see it in his hands!” McFarland then repeatedly shouts “Drop the gun!” In the distance a male voice—apparently Warren—is heard yelling unintelligibly. McFarland reiterates, “Yep, Yep, he’s pointing it. Take him out.” Several rifle shots are heard simultaneously. After a short pause, another, single gunshot is heard. It is louder and distinct in pitch from the officers’ suppressor equipped rifle shots. Just as the louder gunshot is heard, McFarland radios, “Be advised suspect fired a round and it looked like it went into the house. He pointed the gun numerous times at us.” Other officers in the background are heard saying that Warren shot at them. Due to the positioning of the officers, Warren cannot be seen before or during the shooting.

Several officers eventually approach Warren with a tactical shield. BWV shows Warren slumped over, seated in a chair, in a side yard surrounded by a short chain link fence. He is wearing a body armor vest. A pistol lies at his feet. An assault weapon lies on a bench nearby. Warren is unresponsive, and on scene paramedics pronounce him dead minutes later.



*Figure 5: BWV of officers approaching Warren (in red) shortly after incident.*



## Physical Evidence

From the yard in which Warren was located, investigators recovered an unloaded 9 mm pistol—near Warren’s feet—a 9 mm casing, a loaded AR style assault weapon—equipped with a high capacity drum magazine—a loaded pistol magazine, and a backpack with 9 mm ammunition. Officers found Warren clad in a body armor vest (later removed by paramedics).



*Figure 6: Items recovered from yard.*



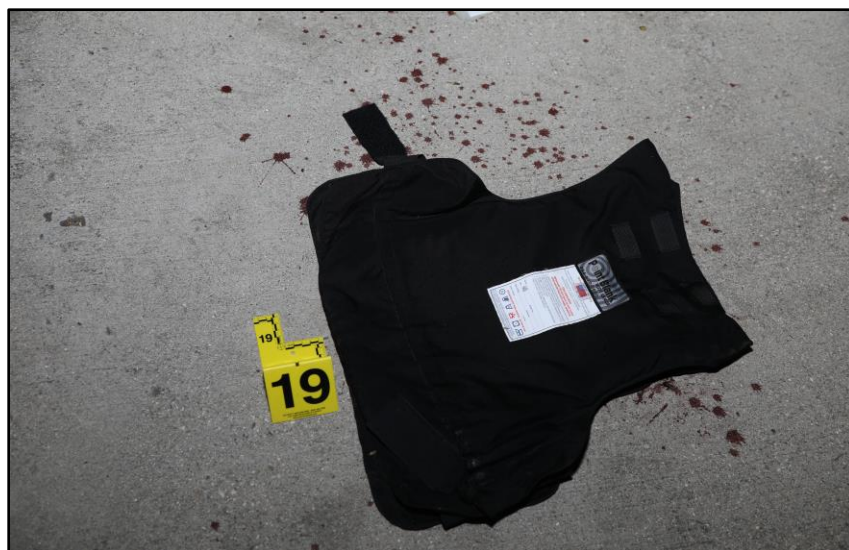
*Figure 7: Items recovered from yard.*



*Figure 8: 9 mm pistol recovered from yard.*



*Figure 9: Magazine and casing recovered from yard.*



*Figure 10: Body armor worn by Warren at time of incident.*



At the location from which officers fired, investigators recovered nine 5.56 casings and one .308 casing.

### Post Incident Round Count

McFarland's duty AR-15 rifle was loaded with one round in the chamber plus 21 in an attached 30 round magazine. McFarland said he did not know how many rounds were in the magazine before the incident because he did not load the weapon. In his public safety statement to Gomez, he said he fired one to two rounds from the rifle.

Orosco's duty AR-15 rifle was loaded with one round in the chamber plus 24 in an attached 30 round magazine. He did not know how many rounds were in the magazine before the incident because he did not load the weapon. In his public safety statement to Gomez, he said he fired two to three rounds from the rifle.

Newlen's duty .308 bolt action Winchester 700 rifle contained one round in the chamber plus three rounds in an attached five round magazine. Newlen did not state how many rounds were in the magazine before the incident. In his public safety statement to Gomez, he said he fired one round from the rifle.



*Figure 11: Yellow evidence placards marking locations of officers' casings.*



### Civilian Witness Statements

A neighbor told investigators that she heard Warren yelling that someone was trying to “set him up” and would shoot anyone who “came out of their house.” Shortly after, she looked out her window and saw Warren pointing a pistol toward the corner where officers were located, then heard multiple gunshots but could not tell who fired.

Two other neighbors, who said they were friends with Warren, did not see the incident but related an incident the day before, when one saw Warren in possession of an “AR-15.” He was yelling “fuck everybody. I don’t care. I’m going to kill somebody.” The other neighbor told investigators that he knew Warren well, and that recently Warren had been suffering mental health problems he believed were compounded by drug use.

### Officer Statements

Gomez, Calderon, and Newlen provided voluntary statements to investigators. The officers responded to that location after hearing radio transmissions of a man armed with an “AR” rifle wearing body armor. At scene, Gomez realized it was Warren. Gomez was familiar with him from past contacts and was aware that he had been arrested days prior for a “P.C. 69”<sup>1</sup> but had bonded out of custody. (It is unclear whether the other officers were aware of the prior incident.)

Newlen and Calderon said that they saw Warren point a gun at them just before officers opened fire. Newlen clearly observed it through the magnified scope on his .308 Winchester 700 rifle. He heard multiple officers fire their AR rifles as he fired one round at Warren because, he said, he feared for his life and the lives of his fellow officers. After the shots, Warren disappeared behind the house. Newlen and Calderon heard one gunshot, which sounded like it came from Warren’s location after he disappeared from view. They did not see him shoot. Over the radio, Newlen heard another officer say that Warren had sat in a chair behind the wall. When Newlen approached Warren, he saw him slumped over, seated in the chair with a pistol laying at his feet. Gomez was in charge of communications during the incident and did not fire a weapon. Calderon did not fire his weapon because he was not a “designated shooter.”

### Autopsy

On May 20, 2019, Los Angeles County Senior Deputy Medical Examiner Dr. Raffi Sarkis Djabourian performed an autopsy of Warren’s remains. Dr. Djabourian ascribed the cause of death to two fatal gunshot wounds. Gunshot wound number one (in no particular order) entered the left upper chest, traveled front to back, right to left, and pierced the left subclavian artery and vein. Bullet fragments were recovered from the left axilla. Gunshot wound number two entered and exited the upper right thigh, traveled back to front, left to right, and pierced the femoral artery. No bullet was recovered. Toxicology testing revealed the presence of marijuana and cocaine in Warren’s blood.

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<sup>1</sup> Gomez references Penal Code section 69(a), commonly known as resisting an officer by force, which is a misdemeanor or a felony.

## **THE LAW**

A peace officer is justified in using deadly force when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or to another person; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code section 835a(c)(1)(A) & (B).

Deadly force shall be used “only when necessary in defense of human life,” and officers “shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” Penal Code section 835a(a)(2).

“A threat of death or serious bodily injury is ‘imminent’ when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person.

An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.” Penal Code section 835a(e)(2).

When considering the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force, are taken into consideration. Penal Code section 835a(a)(4) & (e)(3). The peace officer’s decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code section 835a(a)(4).

## **LEGAL ANALYSIS**

Officers responded to the scene with information that a man in body armor was on a residential street armed with an assault rifle. A resident reported that Warren threatened to shoot anyone who stepped out of their house. According to BWV, responding officers took positions behind a telephone pole and block wall. Although the footage does not capture Warren or his actions, McFarland is heard suddenly exclaiming to other officers that Warren was pointing a gun at them. McFarland shouted repeated commands for Warren to drop his gun. He reiterated that Warren was pointing a gun before officers fired several rifle rounds. According to Newlen’s statement, he clearly saw Warren point a pistol at them through his magnified rifle scope. After officers ceased fire, Warren moved out of sight behind the north wall of the house and apparently fired one shot from his pistol in an unknown direction. Warren’s gunshot, distinct in sound from the rifle rounds, is heard on BWV, and investigators later found a 9 mm casing near Warren’s remains.



Corroborating the officers, Warren's neighbor said that she also saw Warren point a pistol toward officers. Near Warren's remains, moreover, investigators recovered a loaded assault weapon, a loaded pistol magazine, a backpack full of 9 mm ammunition, a 9 mm casing, and inches from Warren's feet, an unloaded 9 mm pistol.

Considering the totality of the circumstances known to the officers at the time, including those leading up to the incident, it was reasonable, according to the evidence, for them to believe that deadly force was necessary to defend against an imminent deadly threat when they repeatedly commanded Warren to drop his weapon and he instead raised and pointed it at the officers.

## **CONCLUSION**

For the foregoing reasons, we find that Officers McFarland, Orosco, and Newlen acted lawfully in self-defense when they used deadly force against Daniel Warren.