

**Officer Involved Shooting of Omar Benitez  
South Gate Police Department**

**Officer Ricardo Navarro, #10156**

**J.S.I.D. File #17-0242**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**January 12, 2018**

**MEMORANDUM**

TO: CHIEF RANDY DAVIS  
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CAPTAIN CHRISTOPHER BERGNER  
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FROM: JUSTICE SYSTEM INTEGRITY DIVISION  
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Omar Benitez  
J.S.I.D. File #17-0242  
S.G.P.D. File #17-05936  
L.A.S.D. File #017-00051-3199-013

DATE: January 12, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 15, 2017, fatal shooting of Omar Benitez by South Gate Police Department (SGPD) Officer Ricardo Navarro. We find that Officer Navarro acted in lawful self-defense and in the defense of others.

The District Attorney's Command Center was notified of this shooting on May 15, 2017, at approximately 12:53 p.m. The District Attorney Response Team responded to the scene and was given a briefing and walk-through by Los Angeles County Sheriff's Department (LASD) Lieutenant John Corina.

The following analysis is based on reports prepared by the LASD Homicide Bureau and submitted to this office by Detectives Robert Martindale and Gina Eguia. The reports include photographs, audio-recorded interviews of witnesses, radio transmissions, and news media, dash camera, and body camera recordings.

**FACTUAL ANALYSIS**

**The Vehicle Pursuit**

On May 12, 2017, Omar Benitez stole a van. Two days later, Benitez and Maricela M. used the van to commit a robbery. A day after that, the van was identified as being involved in a drive-by shooting.

On May 15, 2017, Benitez, Sairo R., and Maricela M. drove the van from Compton to South Gate, where they intended to sell it. Benitez drove, and Sairo R. and Maricela M. were passengers.

At 12:36 p.m., SGPD Officer Ricardo Navarro and other SGPD officers received a radio broadcast that the stolen van was in their area, so they started looking for it.<sup>1</sup> A short time later, they saw the van and attempted a traffic stop. Benitez did not stop and a high speed pursuit ensued.

Throughout the pursuit, Benitez ran red lights and stops signs, drove at high speeds and on the shoulder of the road, drove into oncoming traffic, and on one occasion drove the wrong way down a one way street. The pursuit was captured on videotape by a news media helicopter and was televised live. During the pursuit, Benitez stopped the van and Sairo R. jumped out, intending to surrender to the pursuing officers. He was immediately taken into custody. Benitez, however, drove away and the chase continued, with Maricela M. in the front passenger seat. The pursuit lasted approximately twenty minutes and spanned multiple cities including South Gate, Lynwood, Paramount, and ultimately ended in Long Beach. Benitez drove the van into the back parking lot of a retail store adjacent to a railroad track and a freeway overcrossing, jumped out of the van, and ran. Maricela M. also jumped out and ran behind Benitez, with officers chasing behind them. A photograph taken from media helicopter videotape coverage of the incident, showing Benitez and Maricela M. running from the van, is shown below:



<sup>1</sup> It was not reported to the officers at that time that the van was involved in a prior robbery and drive-by shooting.

## **The Foot Pursuit**

Maricela M. and Benitez ran under a freeway overpass and along a set of railroad tracks, as Navarro and SGPD Officers Roger Cancio and Isidro Munoz gave chase. During the chase, Cancio gave repeated orders to Benitez to “stop” and “get on the ground.” Benitez ignored Cancio and ran under the freeway overpass and jumped over a fence. As he continued to run, Benitez rifled through his backpack, searching for something.<sup>2</sup> Cancio drew his service weapon and ordered Benitez to stop and show his hands. Benitez did not comply and instead turned, faced Cancio, took several steps toward him, and yelled something unintelligible. Cancio believed that Benitez had armed himself with a weapon from his backpack and was going to attack him, so Cancio retreated. Munoz and Navarro caught up to Cancio, who then warned the other officers that Benitez had been searching for something in his backpack. Benitez ran through a hole in a chain-link fence. Navarro drew his service weapon and chased him. Navarro was directly behind Benitez, who continued to run as he searched for something in his backpack. Cancio and Munoz were trailing behind. Based on Benitez’s actions in facing the officers, yelling at them, and rifling through his backpack, Munoz believed that Benitez had armed himself with a gun. He radioed that Benitez was a “417” suspect (417 is police terminology for a man with a gun) and was threatening officers.

## **The First Shooting**

As Benitez continued to flee, with Navarro right behind him, Benitez retrieved two black gloves from his backpack. As he walked and stumbled away from Navarro, Benitez dropped one of the gloves and put the other on his right hand. He also continued to search for something in his backpack. Navarro ordered Benitez to stop and show his hands. Benitez did not comply and instead placed an object in his gloved hand, in an apparent attempt to simulate a handgun, and pointed it at Navarro, as shown in the photograph below:



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<sup>2</sup> Since Benitez was involved in an armed robbery on May 14, and possibly a shooting on May 15, it is possible he believed he still had a gun in his backpack and was looking for that weapon to use it against the pursuing officers. Ultimately, a gun was not found in his backpack.

Navarro believed that Benitez was pointing a gun at him. Fearing for his life and the lives of the other officers, he fired his service weapon at Benitez approximately four times. Benitez may have been injured by the gunfire, but continued to walk away.

### The Second Shooting

Benitez dropped his backpack, stumbled to the ground, and feigned being disabled, still with the black object on his right hand, as shown below:



As Navarro held Benitez at gunpoint, Benitez, still with the black glove on his right hand, jumped up, faced Navarro, and moved toward his backpack, as shown below:



Benitez picked up his backpack and appeared to look inside, as shown in the photographs below. Navarro, believing that Benitez was still armed and was going to shoot him, or was drawing a weapon from his backpack, fired again at Benitez.



Benitez dropped to the ground, was still for a moment, and got up second time, as shown in the photograph below. He collapsed moments later with his hands underneath him.



The officers approached and fired less-lethal bean bags at Benitez to determine if he was in fact disabled. Benitez remained motionless, and eventually the officers approached him and handcuffed him.

Paramedics responded and performed CPR on Benitez. He was pronounced dead at the scene.

#### **Statement of Officer Ricardo Navarro**

Navarro was on patrol and riding a marked police motorcycle when he heard a radio broadcast of a possible stolen white van. He was given the license plate number of the van and he started searching for it. Another unit saw the vehicle first and started pursuing it. Navarro joined in the

pursuit and followed the vehicle. Benitez drove recklessly, going against the flow of traffic, over a center divider and onto sidewalks. Navarro terminated his pursuit when a police helicopter was overhead, but he continued to track the pursuit until he heard a report over the radio that Benitez had stopped behind a retail store and fled on foot.

Navarro arrived and saw Cancio and Munoz running after the suspects toward a freeway underpass. He also ran after the suspects. When he caught up to the other officers, he heard one of the officers yell at Benitez, "Let me see your hands!" Benitez did not comply and continued to flee. Navarro chased Benitez through a hole in a fence, drew his service weapon, and continued to chase Benitez, along with the other officers.

As Benitez continued to walk away, he reached into his bag as Navarro yelled, "Let me see your hands!" Navarro was concerned because, not only was Benitez failing to comply with his commands, but he was also walking away while searching for something in his backpack, as opposed to simply trying to get away. Navarro believed that Benitez was considering engaging in "combat" with him.

Navarro saw Benitez pull two gloves from his backpack, dropping one. Benitez put one glove on, turned his back to Navarro, and reached into his backpack again. Navarro commanded Benitez several times to show his hands, but Benitez did not comply and continued to search his backpack, while looking over his shoulder at Navarro.

Navarro then saw Benitez pull a black object from his backpack and point it at him. Navarro believed the object was a gun, so he fired four rounds from his service weapon at Benitez, who continued to run.

Benitez turned toward Navarro and ran toward his backpack. Navarro fired three more rounds at Benitez, who dropped to the ground and went into a fetal position, while still holding the backpack.

Navarro continued to issue commands to Benitez, who was unresponsive. When backup officers arrived, they continued to issue commands to Benitez to show his hands, but Benitez did not respond. Using a shield as protection in case Benitez jumped up again with a gun, the officers approached Benitez and handcuffed him.

### **Statement of Officer Roger Cancio**

Cancio was on patrol in a marked police vehicle when he received a radio call about a pursuit of a stolen van. He caught up to the pursuit and followed closely behind Munoz's vehicle, who was also in pursuit. Cancio pursued the van with Munoz until Benitez stopped the van behind a retail store, and both suspects ran. Cancio and Munoz exited their vehicles and chased Benitez and Maricela M.

Cancio followed Benitez under the freeway overpass, and Benitez jumped over a fence. Benitez took off his backpack and began to search it. Cancio yelled at Benitez, "Show me your hands!" Benitez yelled a reply, however Cancio could not understand what Benitez was saying.

Cancio believed that Benitez was attempting to arm himself with a weapon, because Benitez stopped trying to run away and was actively searching his bag. Cancio retreated, hoping to find cover and turned to warn Munoz and Navarro, who were behind him. Cancio told the other officers, "Hey, he's reaching for something."

Navarro passed Cancio and Munoz and went through a hole in the fence and continued to pursue Benitez. Cancio followed Navarro as he was going through the fence and he heard Navarro order Benitez to show him his hands. Shortly thereafter, he heard gunshots. Cancio saw Benitez immobile on the ground, with his hands under his chest. Cancio once more commanded Benitez to show him his hands, but Benitez did not respond. Cancio saw some movement from Benitez and was concerned that Benitez would shoot him and the other officers.

Once backup officers arrived, they fired bean bag rounds at Benitez to confirm that he was non-responsive.

### **Statement of Officer Isidro Munoz**

Munoz was patrolling in a marked police vehicle when he received a radio call about a stolen van and a pursuit. He joined the pursuit and saw the van pull over briefly. Sairo R. jumped out from the side door of the van. Sairo R. surrendered immediately. Munoz continued with the pursuit as Sairo R. was taken into custody by other officers. Benitez parked the van behind a retail store and both he and Maricela M. ran.

Munoz exited his vehicle and ran after the suspects. He saw Benitez go over a fence as Maricela M. continued running until she was able to go through an opening in the fence.

Benitez stopped and faced them while searching through his bag. Munoz commanded Benitez to "stop reaching" and warned over the radio that the suspect was potentially armed and threatening officers. He saw Benitez continue to walk away from them as Navarro continued to give chase by going through the hole in the fence.

Munoz saw Benitez pull a black glove from his backpack and spin around to face them, with a black object in his hand. Munoz heard gunshots. He saw Benitez fall, get back up, and reach into his backpack to look for something again. Munoz believed that Benitez was searching for a weapon. Munoz heard more gunshots and saw Benitez fall to the ground.

### **Statement of Maricela M.**

Maricela M. knew Benitez for approximately three to four years. They were in a romantic relationship at the time of the incident. Earlier in the day, Benitez and Maricela M. were driving a van that Benitez had stolen a couple of days prior. They picked up Sairo R. and were on their way to sell the van to one of Sairo R.'s friends who lived in South Gate. While driving to South Gate, the police started chasing them. During the pursuit, Sairo R. jumped out of the van. The chase continued and Benitez stopped the van behind a store. Maricela M. grabbed her purse and several bags of clothes and ran behind Benitez. She heard the officers chasing and commanding her to stop. Maricela M. saw Benitez jump over a fence and saw him reaching into his backpack. She thought Benitez was searching for something to throw at the officers. Maricela M. continued through a hole in the fence and kept running, eventually passing Benitez. She saw



Benitez “act[ing] like he had a gun.” Maricela M. heard gunshots and when she turned around she saw Benitez lying on the ground. Maricela M. continued to run and hid in an adjacent industrial building. She was apprehended by police officers later that day.

### **Statement of Sairo R.**

Sairo R. met Maricela M. about three weeks before the date of the incident. Maricela M. had given him work as a laborer and told him that she would contact him again when she needed more work done. On the day of the incident, Maricela M. and Benitez arrived at Sairo R.’s home in a white van and Maricela M. told Sairo R. that she had another manual labor job for him. Sairo R. left with Maricela M. and Benitez. Later, while driving, they were ordered by a motorcycle officer to pull over. Sairo R. told Benitez to pull over, but Benitez said that he could not because the van was stolen. Sairo R. tried to open the door and exit the vehicle, but was stopped by Benitez who punched him in the side. Sairo R. stayed in the back of the van for a while, but at some point during the pursuit the passenger door of the van opened, he jumped out, and he surrendered to the police officers.

### **Autopsy**

Deputy Medical Examiner Scott Luzi, M.D. performed a postmortem examination on Benitez’s remains and determined that Benitez’s cause of death was a gunshot wound to the chest. Benitez also had gunshots to his back and left arm. A toxicology analysis was performed and it was determined that Benitez had the presence of Tetrahydrocannabinol (THC), amphetamines, and methamphetamines in his blood at the time of his death.

### **Evidence Recovered at the Scene**

Numerous items of evidence were located around Benitez’s body, including a backpack, a pair of black socks, a black hat, two cellular telephones, two pliers, two screwdrivers, scissors, and an eyeglass case, as shown in the photograph below:



## **Firearms Evidence**

Navarro was armed with a Glock model 22, .40 caliber service weapon. It was fully loaded with 16 rounds before the shooting. After the shooting, there were nine rounds remaining, and seven expended .40 caliber shell casings were located at the scene, which is consistent with Navarro firing seven rounds during the incident.

## **LEGAL ANALYSIS**

### **The Law**

California law permits the use of deadly force in self-defense or in the defense of others if that person actually and reasonably believes that he or others are in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4<sup>th</sup> 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4<sup>th</sup> 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4<sup>th</sup> 1073, 1082; *see also, CALCRIM* 505.

In the context of officer involved uses of force, the United States Supreme Court has long held that, “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 the police 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. “Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety.” *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

Notably, in circumstances in which a person might be simulating a deadly weapon, *the danger does not need to have actually existed* when deadly force is used. Specifically, an officer is not constitutionally required to wait until he sets eyes upon a weapon before employing deadly force to protect himself against a fleeing suspect, who turns and moves as though to draw a gun. *Thompson v. Hubbard* (2001) 257 F.3d 896, 899. Indeed, if a person acted from reasonable and honest convictions, he cannot be held criminally responsible for a mistake in the actual extent of the danger, when other reasonable people would alike have been mistaken. *People v. Jackson* (1965) 233 Cal.App.2d 639.

In the end, the test of whether the officer’s actions were objectively reasonable is “highly deferential to the police officer’s need to protect himself and others.” *Munoz v. City of Union City* (2004) 120 Cal.App.4<sup>th</sup> 1077, 1102.

### **Analysis**

Here, although Benitez was not armed with a gun at the time of the shooting, there is compelling evidence suggesting that Navarro reasonably believed that Benitez had a gun and was going to shoot him.

As to the first shooting, Benitez, whose mental judgment may have been altered by his use of methamphetamines and marijuana, was behaving aggressively toward the officers and the public in attempting to escape, rummaging through his backpack, putting on a glove to simulate a gun, halting his retreat, and pointing an object at Navarro.<sup>3</sup> This was done in an apparent attempt to make Navarro believe the object was indeed a real gun and to provoke Navarro into using deadly force. Although it cannot be proven conclusively, Benitez's actions suggest that his intent was not to flee but to commit "suicide by cop," by intentionally provoking Navarro into shooting him. Regardless, Navarro had no way of knowing that the gun was simulated, based on its size, color, shape, and the manner in which Benitez was pointing it at him.

As to the second shooting, Navarro jumped up from the ground, still with the black object in his hand, and moved aggressively toward Navarro, and picked up his backpack. At no time did Benitez try to surrender. It was reasonable for Navarro to believe, particularly under rapidly unfolding and tense circumstances, that Benitez was either continuing his attack on Navarro with the black object in his right hand, or was retrieving a weapon from his backpack to further his attack on Navarro.

## **CONCLUSION**

Based on a review of the totality of the evidence presented in this case, Officer Ricardo Navarro was reasonable in his belief that Benitez presented a deadly threat to him and the other officers when he fired. As such, Officer Navarro acted in lawful self-defense and in the defense of others. We are closing our file and will take no further action in this matter.

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<sup>3</sup> There were numerous objects found around Benitez's body, and the object or objects he had in his right hand to simulate a gun cannot be determined with certainty.