

**Officer Involved Shooting of Margie Hernandez and  
Emma Carranza**

**Los Angeles Police Department**

**Sergeant John Valdez, #30070, Officer Sergio Gramajo, #39927,  
Officer Marlon Franco, #39639, Officer Deshon Parker, #40337,  
Officer Geoff Lear, #39451, Officer Jonathan Roman, #37309  
Officer Jess Faber, #35848, Officer John Hart, #38001**

**J.S.I.D. File #13-0129**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**January 22, 2016**

## MEMORANDUM

TO: COMMANDER ROBERT A. LOPEZ  
Force Investigation Division  
Los Angeles Police Department  
100 West First Street, Suite 431  
Los Angeles, California 90012

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

SUBJECT: Officer Involved Shooting  
F.I.D. File #F012-13  
J.S.I.D. File #13-0129

DATE: January 22, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 7, 2013, non-fatal shootings of Margie Hernandez and Emma Carranza by Los Angeles Police Department Sergeant John Valdez and Officers Jess Faber, Marlon Franco, Sergio Gramajo, John Hart, Geoff Lear, Deshon Parker and Jonathan Roman. We find that there is insufficient admissible evidence to prove beyond a reasonable doubt that Officers Faber, Franco, Gramajo, Hart, Lear, Parker, Roman and Sergeant Valdez did not act in self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting on February 7, 2013 at approximately 5:51 a.m. The District Attorney Response Team, comprised of Deputy District Attorney [REDACTED] and District Attorney Senior Investigators [REDACTED] and [REDACTED], responded to the scene, was given a walkthrough, and participated in witness interviews.

The following analysis is based on reports prepared by the Los Angeles Police Department (LAPD), submitted to this office by Detectives Greg McKnight and Robert Solorza. The reports include photographs, audio-recorded interviews of witnesses and radio transmissions. The compelled statements of each of the involved officers were considered in this evaluation.<sup>1</sup>

### PROLOGUE

In 2009, Los Angeles Police Department (LAPD) Officer Christopher Dorner was terminated from his position as a police officer. Dorner believed the termination was unwarranted and accused the LAPD of covering up misconduct. In early February 2013, Dorner began targeting department personnel and their families for their perceived involvement in his termination from LAPD.

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<sup>1</sup> The compelled statements of all officers who are believed to have fired their service weapons during this incident have been redacted from the version of this letter released to the public.

On February 3, 2013, Dorner executed two people in Irvine. The victims were Monica Q[REDACTED], the daughter of former LAPD Captain Randy Q[REDACTED], and her fiancé, Keith L[REDACTED]. Captain Q[REDACTED] had represented Dorner in his termination proceedings.

On February 4, 2013, Dorner posted a 17 page “manifesto” on his Facebook page, that he titled “Last Resort”. Dorner wrote, “I have exhausted all available means at obtaining my name back...This is my last resort.” In chilling detail, Dorner threatened “deadly consequences” as a result of his dismissal from LAPD and warned, “The attacks will stop when the department states the truth about my innocence.”

To civilians, Dorner wrote, “Do not render medical aid to downed officers/enemy combatants...Let the balance of loss of life take place. Sometimes a reset needs to occur.”

Dorner named specific LAPD personnel, including Captain Justin Eisenberg, throughout the manifesto; Dorner identified groups of individuals as “high value” targets. At one point in the posting, Dorner refers to himself as a “cop killer,” and wrote, “To those children of the officers who are eradicated, your parent was not the individual you thought they were.”

Directing his words towards specific individuals, including Eisenberg, as well as groups of people, Dorner wrote, “Suppressing the truth (about Dorner’s termination) will leave (sic) to deadly consequences for you and your family. There will be an element of surprise where you work, live, eat and sleep.” Dorner stated that he would use law enforcement resources to collect information about individual’s homes, workplaces, “and everywhere in between,” “to coordinate and plan attacks.” Dorner threatened, “I never had the opportunity to have a family of my own, I’m terminating yours.” “Look your (spouses) and surviving children directly in the face and tell them the truth as to why your children are dead.”

Dorner continued, “I know your (techniques, tactics and procedures.) Any threat assessments you generate will be useless...I will mitigate all risks, threats and hazards. I assure you that Incident Command Posts will be target rich environments.” Dorner threatened to target vehicles with law enforcement-affiliated license plate frames. “I will conduct operations to destroy, exploit and seize designated targets. If unsuccessful or unable to meet objectives...I will reassess...and re-attack until objectives are met. I have nothing to lose. My personal casualty means nothing.”

“Hopefully, you (sic) analyst (sic) have done your homework. You are aware that I have always been the top shot, highest score, an expert in rifle qualifications in every unit I’ve been in. I will utilize every bit of small arms training, demolition, ordnance, and survival training I’ve been given.” Dorner, again, stated that he embraced death and said, “I am the walking exigent circumstance you created.”

Dorner continued, “The violence of action will be high. I am the reason TAC alert was established. I will bring unconventional and asymmetrical warfare to those in LAPD uniform whether on or off duty.” “(Officers) will now live the life of the prey.”

Regarding weaponry, Dorner stated that he had access to shoulder-fired surface to air missiles to down aircraft, .50 caliber sniper rifles, suppressors and high-capacity magazines. Dorner warned that his attacks would be unpredictable, unconventional and unforgiving. He warned outside agencies to not attempt to detain him, stating, "If you proceed with a traffic stop or attempt to notify other officers of my location or for backup, you will not live to see the medal of valor you were hoping to receive for your actions. Think before you attempt to intervene. You will not survive. Your family will receive that medal of valor posthumously."

Dorner went on at length with messages addressed to politicians, celebrities, members of the media and various people in his background. Dorner's words indicated his awareness and intention that the incidents to follow would result in his death.

On February 6, 2013, Irvine Police Chief David Maggard announced a manhunt for Dorner. News of Dorner's actions was disseminated via mass media and within internal police channels. Irvine Police Department distributed a crime bulletin that read, "On Sunday, February 3, 2013, two victims were shot and killed while sitting in their vehicle at 2100 Scholarship. Through investigation, Dorner was identified as a possible suspect in this double homicide. Dorner is a former LAPD officer and has made threats to specific police officials and their families. Dorner has made statements indicating that he will resist arrest and use any weapons at his disposal. Dorner has threatened to kill any police officer who attempts to arrest him." The bulletin also included the following information: "Dorner is armed with an assault weapon and used this weapon in the shooting of three officers. Dorner should be considered armed and dangerous."

Law enforcement officials believed that Dorner was driving a dark-colored Nissan Titan and had replaced the license plates on his vehicle.

LAPD compiled a list of personnel who required immediate police protection. The list included Eisenberg, who resided on Redbeam Avenue, in Torrance. Eisenberg had been a member of the Board of Rights that voted to terminate Dorner. LAPD effectuated protective details to ensure the safety of the targeted individuals, including Eisenberg. Initially, an LAPD security detail from Operation West Bureau Violent Crime Task Force (VCTF) was sent to Eisenberg's home on Redbeam Avenue for his protection.

Prior to the LAPD detail arriving, Eisenberg contacted Torrance Police Department (TPD) and told them about the threat. At approximately 4:30 p.m., two plainclothes TPD officers responded to Eisenberg's residence and provided security protection until LAPD arrived. At approximately 5:30 p.m., the VCTF detail arrived, consisting of Sergeant Carlton Jeter along with ten uniformed officers and one plainclothes officer. Jeter met with Eisenberg, familiarized himself with the location and stationed officers in Eisenberg's garage, backyard and at various locations surrounding Eisenberg's residence.

On February 6, 2013, at 6:44 p.m., LAPD's Communication Division (CD) sent the following message department-wide to all Mobile Digital Computer (MDC) terminals: "Officer Safety suspect wanted 187PC. Suspect vehicle is a 2005 blue Nissan Titan pick up with California license [REDACTED]. Suspect is Dorner, Christopher Jordan. Suspect is m/b, 6'0, 270 lbs., blk hair,

bro eyes. Suspect has made threats to specific police ofcrs and their families. He has threatened to kill any police ofcrs who attempt to arrest him. Suspect is a former LAPD ofcr.”

At 6:45 p.m., a group of Hollywood officers, including Officers Faber, Franco, Gramajo, Hart, Lear, Parker, and Roman, started their shift. In roll call, Captain Bea Girmala briefed the officers regarding the ongoing situation involving Dorner. The officers were given a description of Dorner’s vehicle and a photograph of Dorner. The officers were also told about the contents of Dorner’s online posting. At approximately 11:00 p.m., that group of officers was notified to respond to LAPD’s Operation West Bureau, along with Sergeants Rudy Vidal and Leonard Calderon.

The group arrived at West Bureau and was briefed by Sergeant Clinton Dohman. Dohman emphasized how dangerous Dorner was. The eight Hollywood officers, along with Vidal and Calderon, were assigned to replace the VCTF personnel at Eisenberg’s residence. Upon arriving on Redbeam, Vidal and Calderon met with Jeter and were briefed about the deployment of the officers and the layout of the location. The officers were told that Dorner may have recently been at the location.<sup>2</sup>

Vidal and Calderon did not have as many officers in their detail and made modifications to Jeter’s deployment of officers. Faber and Gramajo were stationed in the driveway of [REDACTED] Redbeam, a residence several houses south and on the opposite side of the street from Eisenberg’s. Franco and Hart were inside Eisenberg’s open garage. Parker and Lear were in Eisenberg’s backyard. Roman and Ojeda were positioned in the driveway of [REDACTED] Towers Road, several houses north of Eisenberg’s residence. Vidal and Calderon acted as rovers and drove around the area surrounding the residence. Vidal contacted TPD and was told that TPD had officers on patrol in the area who could respond quickly if additional units were needed. Each of the LAPD officers was told to broadcast any observations of vehicle or pedestrian traffic. The detail broadcast via Hollywood Simplex, an unrecorded frequency.

Each of the officers was armed as follows: Faber, with a Remington shotgun and a .40 caliber Glock semiautomatic handgun; Gramajo, with a .40 caliber Glock semiautomatic handgun; Lear, with a .40 caliber Glock semiautomatic handgun; Parker, with a .40 caliber Glock semiautomatic handgun; Franco, with a Remington shotgun and a .40 caliber Glock semiautomatic handgun; Hart, with a Remington shotgun and a .40 caliber Glock semiautomatic handgun; Roman, with a 9mm Beretta semiautomatic handgun, and; Ojeda, with a .40 caliber Glock semiautomatic handgun.

At approximately 1:20 a.m. on February 7, 2013, Dorner traveled to Corona and was involved in a shooting with two LAPD officers who were on their way to provide protection to an LAPD employee named in Dorner’s manifesto. During the firefight, Dorner shot one of the officers,

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<sup>2</sup> Michelle Eisenberg, Captain Eisenberg’s wife, saw a person that she later believed to be Dorner at the front door of their residence on or about January 9, 2013. Mrs. Eisenberg saw the individual via a home security camera and did not open the door nor contact the person. Somehow, via the transmission of information, officers involved in this incident believed that Mrs. Eisenberg had seen Dorner just two days earlier, on or about February 5, 2013.

who suffered a graze wound to the head and survived. Dorner was armed with a semiautomatic rifle.

Dorner fled from that incident and, approximately ten minutes later, encountered two Riverside Police Department officers who were stopped at a traffic light. Dorner ambushed the officers and shot both of them, killing Officer Michael Craine. Dorner fled to an unknown location.

At approximately 3:00 a.m. on February 7, 2013, Sergeant John Valdez responded to Redbeam to relieve Vidal and Calderon, who briefed Valdez about their knowledge of Dorner's actions and the deployment of officers in and around Eisenberg's residence. Valdez contacted each of the officers in the detail and informed them that he had replaced Vidal and Calderon. Valdez was armed with a Remington shotgun and a .45 caliber Smith and Wesson semiautomatic handgun.

At 3:26 a.m., CD sent a department-wide message to all MDC terminals that relayed information regarding the Corona and Riverside shootings. The information stated that Dorner had possibly used a rifle and was driving a "blue or charcoal gray Nissan" pickup truck.

At approximately 4:19 a.m., Debbie Keller was driving on the westbound 105 freeway when she saw a light Nissan Titan truck swerving in and out of lanes. Keller had seen amber alerts relating to Dorner and believed that it could be the suspect vehicle. Keller called 9-1-1 and reported her observations. The call was routed to the South Bay Regional Communication Authority and broadcast to the El Segundo Police Department. At 4:26 a.m., the information was relayed to CD. At 4:37 a.m., CD broadcast, "All units...information from El Segundo PD on ADW on PO suspect. Weaving in and out of traffic on the 105 freeway, exiting Sepulveda, unknown direction.<sup>3</sup> Vehicle is a light grey Nissan Titan pick up, partial plate is 808, partial plate of 808."

A few minutes later, CD broadcast updated information regarding the description of Dorner's vehicle and indicated that he had changed the license plate on his vehicle to "8D8[REDACTED]."

Each of the broadcasts, and the communications therein, reached the LAPD detail positioned on Redbeam. Additionally, Hollywood Patrol Division Watch Commander Lieutenant Richard Gabaldon telephoned Valdez and told him that Dorner may have been seen in the area and could be heading towards Redbeam.

At approximately 5:10 a.m., Margie Carranza and her mother, Emma Hernandez, were delivering newspapers in Torrance. Carranza was driving a blue, four-door 2007 Toyota Tacoma pickup truck with the license plate "8D6[REDACTED]." The rear windshield, rear driver's side and rear passenger side windows of the truck were tinted. Hernandez was in the middle rear seat, handing newspapers to Carranza, who threw them out of the front driver's side window of the vehicle towards subscribers' residences.

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<sup>3</sup> The 19000 block of Redbeam Avenue is less than seven miles from the 105 freeway at Sepulveda.

Carranza turned north onto Redbeam from Del Amo Boulevard. For reasons detailed below, officers mistakenly believed the vehicle was Dorner's. An officer-involved shooting involving seven officers occurred. Hernandez was struck twice and survived. Carranza suffered cuts to her hand, likely from broken glass.

The incident took place in the darkness of the early morning. Redbeam is a tree-lined street illuminated by 12 street lights positioned approximately 150 feet apart along the west side of the street.

## **FACTUAL ANALYSIS**

### **Statement of Margie Carranza**

On the morning of February 7, 2013, Margie Carranza and her mother, Emma Hernandez, were delivering newspapers in Carranza's Tacoma. At the time, Carranza delivered on two separate routes, one of which included residences on Redbeam. Carranza was in the front driver's seat; Hernandez was in the middle seat of the back row of the vehicle. The interior of the cabin was loaded with newspapers.

Carranza turned northbound onto Redbeam, from Del Amo. Carranza saw a police vehicle parked in a driveway of a residence on the west side of the street. The police vehicle was reversed into the driveway, with its hood pointed towards the street. All four doors of the police vehicle were open but Carranza did not see any officers in or about the vehicle. Carranza, from her driver's side window, threw a newspaper to what was later identified as [REDACTED] Redbeam.<sup>4</sup> Carranza continued to drive. Carranza estimated that she was driving at approximately five miles per hour.

As Carranza approached the intersection of Redbeam and Delane Street, she heard a large number of gunshots coming from behind her. Carranza stopped her car due to the shots being fired. Gunshots began to strike her truck. She screamed out and tried to yell that she was working. She felt the tires of the car "explode" and glass passed by her face. Carranza was in a panic. Hernandez told her, "Don't be afraid."

Eventually, the shooting stopped. Officers ordered her out of the car. The officers were speaking to her in English, though Carranza is a Spanish speaker. She got out of the car with her hands up and noticed that she was bleeding. Her mother exited the vehicle and Carranza saw that her mother had been shot in the back. Paramedics arrived and transported her and Hernandez to Harbor-UCLA Medical Center.

Carranza was treated for a laceration to her right index finger.

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<sup>4</sup> Investigators determined that Carranza threw a folded newspaper, wrapped in plastic, towards [REDACTED] Redbeam. The newspaper landed on the sidewalk, between the apron and the driveway. Investigators determined that Carranza had delivered newspapers to a total of approximately seven houses on the west side of the street, including [REDACTED]. Carranza did not throw any newspapers to any addresses north of [REDACTED] Redbeam, nor to any houses on the east side of the street.

Hernandez suffered two gunshot wounds; one to her lower back and the other to her rear right scapula.

Prior to entering the ambulance, an unidentified Hispanic officer told her that the officers had confused her for somebody with the same truck as hers. Carranza overheard an unidentified African-American officer ask an unidentified Hispanic officer, “Why did you do that?”<sup>5</sup> Carranza understood the question to mean, “Why did you shoot at these women?” The Hispanic officer did not reply.

In an interview with investigators, Carranza characterized the incident as a “giant atrocity” and “savage deed.”

Carranza and Hernandez filed a claim against the City of Los Angeles and the Los Angeles Police Department. That claim was settled for \$4.2 million. Carranza also received funds to replace her vehicle.

The investigation revealed that the headlights and hazard lights of the Tacoma were on at the time of the incident.

#### **Statement of LAPD Officer Salvador Sanchez**

Officer Sanchez provided a compelled statement to investigators.

On the morning of February 7, 2013, Sanchez was on duty, assigned to Harbor Patrol. His watch commander asked him to take replacement batteries to the officers stationed on Redbeam. Sanchez drove to the location and distributed the batteries. After being at the location for just a few minutes, Sanchez was standing beside his patrol vehicle when an unidentified officer motioned to him. Sanchez saw a vehicle approaching northbound and Sanchez interpreted the motioning as a sign to take cover. Sanchez saw the headlights of the approaching vehicle. The vehicle appeared to slow down, then traveled toward Sanchez’ location.

Sanchez heard approximately seven gunshots coming from south of his location. Sanchez unholstered his service weapon and took cover. Sanchez saw a possible crossfire situation because of officers standing directly across the street and did not fire his weapon. The vehicle, which Sanchez observed to be a blue pickup truck, drove past him. The truck was traveling at a fast rate of speed and Sanchez heard more gunshots. Two patrol cars drove north, following the truck, which eventually stopped approximately 100 yards away. Sanchez heard additional shots fired, but could not see which officers were shooting. Sanchez also heard officers giving orders to the occupants of the vehicle.

Sanchez retrieved a rifle and used the magnification to get a better view of the interior of the truck. The occupants, later identified as Carranza and Hernandez, exited the vehicle and came

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<sup>5</sup> It is unclear whether this was the same Hispanic officer who told Carranza about the mistaken belief regarding her vehicle.



towards Sanchez. Sanchez continued to focus on the truck and was looking for any activity inside. As Carranza and Hernandez got to him, Sanchez asked them, in Spanish, if anyone else was in the vehicle; they replied, "No." The women told Sanchez that they were hurt and Sanchez called for an ambulance.

Sanchez did not fire a weapon during the incident and did not personally know any of the involved officers.

### **Statement of LAPD Sergeant Carlton Jeter**

Sergeant Jeter provided a compelled statement to investigators.

On February 6, 2013, Sergeant Jeter was assigned to VCTF. In the late afternoon, Commander Dennis Kato ordered Jeter and 11 officers under his command to Eisenberg's residence to provide security. Jeter learned that Dorner was the subject of a manhunt and was wanted for the murders of Quan's daughter and her fiancée and that Dorner had made specific threats against LAPD Command Staff. Jeter gave his officers a quick briefing before responding to Redbeam. Jeter was aware of Dorner's professed familiarity with LAPD tactics and training and knew about Dorner's manifesto, which he read later in the evening.

Jeter and his team arrived at Redbeam at approximately 5:30 p.m., met with Eisenberg and his family, and familiarized himself with the layout of the property. Jeter positioned two officers in Eisenberg's backyard, two in the garage and additional officers on Redbeam and on the cul de sac adjacent to their location. All of the officers had handguns and some of the officers had access to rifles. The officers planned to take breaks and use the restroom at a nearby 7-Eleven convenience store.

Jeter checked in with the TPD watch commander and informed him that LAPD personnel were on Redbeam to provide security for Eisenberg. At some point during the night, Jeter was notified that a group of officers from Hollywood Division were en route to relieve the VCTF team. Around 1:30 a.m. or 2:00 a.m., the Hollywood officers arrived. Jeter met with Vidal and Calderon and told them where he had positioned his officers. Jeter asked how many officers were with the Hollywood group and expressed that his group of 11 was barely enough to do the job properly. Jeter and his officers left the location shortly thereafter.

Jeter and his group were not present at the time of the incident. In his interview with investigators, Jeter stated that he did not believe eight officers would be enough to do the security detail sufficiently.

### **Statement of LAPD Sergeant Rudy Vidal**

Sergeant Vidal provided a compelled statement to investigators.

On February 7, 2013, Vidal was assigned to Hollywood division. From a briefing, Vidal was aware of the circumstances surrounding Dorner. He knew that Dorner had military experience

and was armed with high-powered weaponry. Vidal also knew that Dorner was identified as the suspect in the Irvine double murder and that if officers confronted Dorner, Dorner was not going to be taken alive and would shoot it out with any officers who tried to detain him. Vidal was given a bulletin containing Dorner's photo and additional information.

At some point during his shift, Vidal was ordered to respond, with Calderon, to West Bureau. Vidal and Calderon, along with several Hollywood officers were ultimately assigned to provide protection to Eisenberg. Vidal was told that VCTF was already present and that his officers would be replacing them.

Vidal responded to the scene and spoke to Jeter, who told Vidal about the positioning of the VCTF officers. Vidal knew that VCTF had more personnel on Redbeam than he had been given. Vidal talked to the Hollywood officers about specific scenarios that could arise. Vidal felt that he did not have enough officers to control a fire at any one location and that, likely, any incident involving Dorner would occur directly in front of, or at, Eisenberg's residence. Vidal was concerned that none of the officers were armed with rifles.

Vidal positioned the officers in Eisenberg's garage and backyard and at various points along Redbeam. Vidal did not have enough officers to cover the same area as Jeter had previously. Specifically, VCTF had officers covering an adjacent street, but Vidal did not have any officers to place there. Vidal and Calderon acted as rovers. Vidal felt very limited in where he could place officers, due to a lack of personnel and appropriate weapons. Vidal did not express his concerns to any supervising officers.<sup>6</sup>

Vidal contacted TPD Lieutenant Don Edwards and told him where the LAPD officers were positioned. He also told Edwards that the officers did not have any rifles and that they would be outgunned if Dorner arrived. Edwards told Vidal that TPD officers were in the area, had access to rifles, and would provide backup if necessary. Throughout the evening, TPD officers drove through the location and made contact with the Hollywood officers. Vidal and his officers agreed that if anyone needed to use the restroom, they would travel to a nearby 7-Eleven and Vidal and Calderon would temporarily relieve their positions.

Vidal and Calderon continuously patrolled up and down Redbeam, discussed ways "where it would go down," and looked for locations from where Dorner could arrive. At some point in the evening, Vidal received a call from Sergeant Clint Dohman, who told him that Dorner was involved in shootings in Corona and Riverside and that a Riverside officer was killed. Vidal conveyed the information to each of his officers and told them to be on high alert. Vidal was aware that Eisenberg was likely a "high value target" due to Eisenberg's involvement in Dorner's dismissal from LAPD and believed that Dorner could be headed their way. Vidal conveyed what he learned to Edwards. Dohman did not pass on any tactical advice.

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<sup>6</sup> In his interview with investigators, Vidal explained that the department (LAPD) wants officers to think on their own and to make do with what resources they are given. Vidal was involved in previous tactical situations where, for example, he requested assistance from SWAT officers and was told, "SWAT ain't coming."

Vidal observed that Redbeam was a very dark street, covered with trees and that visibility was not great. Vidal sensed that his fellow officers were “amped” and were thinking that something was going to occur involving Dorner. At some point they discussed, “Depending on how the situation goes and who’s left...and then if Dorner doesn’t take out so many officers, we get to an officer down and we just got to almost play it by ear.” Vidal encouraged his officers to think back to their tactics training and shooting policies but was concerned with overwhelming the group.

At some point in the evening, Valdez arrived on Redbeam to replace Vidal and Calderon. Only the sergeants were replaced; the remaining Hollywood officers remained. Vidal and Calderon spoke to Valdez and forwarded all of the information they had received leading up to that point. Vidal told Valdez that there was already one officer dead and possibly three wounded as a result of Dorner’s actions that morning. Vidal pointed out the officers’ locations to Valdez and explained why the officers were positioned in their respective places. Shortly after Valdez arrived, Vidal and Calderon left the location. They were not present at the time of the incident.

Prior to the day in question, Vidal had never been involved in a protection detail and could not recall having received protection detail training.

#### **Statement of LAPD Sergeant Leonard Calderon**

Sergeant Calderon provided a compelled statement to investigators.

On February 6, 2013, Sergeant Calderon was assigned to Hollywood Division. His shift began at 5:00 p.m. Shortly after starting his shift, Calderon was called into Girmala’s office for a briefing. Calderon was told that Dorner had been identified as the suspect in the murders of Monica Quan and her fiancée. Calderon learned that Quan was the daughter of former Captain Randy Quan, who was involved in the board of rights that resulted in Dorner’s firing. Calderon was told that Dorner had posted a manifesto online and was given an outline of Dorner’s threats towards law enforcement. As a result of the briefing, defenses were set up at Hollywood Station, which was one of Dorner’s former workplaces. Officers were told that no officer would ride alone, to be extra mindful on patrol and to back up each other’s calls. Everyone knew that the situation was “unusual.” Calderon had never experienced anything like it in his previous 20 years with the department.

Sometime after midnight, Calderon and Vidal were ordered to respond to West Bureau to be assigned to a protection detail at the residence of an LAPD employee. Calderon and Vidal were assigned to supervise a detail at Eisenberg’s residence. They responded to the location, met with Jeter and got a briefing about what Jeter had done. Calderon familiarized himself with the layout of the residence, but was not allowed inside. Calderon learned that Dorner may have been at the location a few days prior and was viewed via a security camera. Calderon drove through the neighborhood to determine avenues of escape as well as locations where Dorner could come from.

Calderon and Vidal intended on placing their officers in the same places as the VCTF officers, but could not, due to having less personnel. Calderon advised all of the officers that Eisenberg's house would be the last line of defense and told every officer to broadcast any pedestrian or vehicle traffic along with anything suspicious. Calderon and Vidal called TPD, notified them of their presence on Redbeam and informed them that they were only armed with handguns and shotguns. TPD said that additional resources, including SWAT, would be available to provide backup assistance.

At some point in the evening, Calderon learned about the shootings in Corona and Riverside. When that information was disseminated, it, "Just fueled the anxiety and the seriousness of what was going on." Calderon knew that Dorner was actively targeting police personnel.

Later in the evening, due to overtime issues, Valdez arrived to relieve Calderon and Vidal. Calderon and Vidal briefed Valdez and, shortly thereafter, left Redbeam. Calderon and Vidal were not present at the time of the incident.

### **Statement of LAPD Captain Justin Eisenberg**

Captain Eisenberg provided a compelled statement to investigators.

On February 6, 2013, Eisenberg returned home from work and received a message to contact Captain Vito Palazzolo at Internal Affairs. Eisenberg called Palazzolo, who told Eisenberg that law enforcement had discovered Dorner's online manifesto and warned him that he and his family were in danger. Palazzolo told him that he needed a protection detail and emailed him a flier and Dorner's photograph. Eisenberg called TPD, spoke to a watch commander and asked that a unit come to his house. Two plainclothes TPD officers arrived and Eisenberg told them about the threat. Approximately 45 minutes to an hour later, the VCTF team arrived with Jeter. Eisenberg showed Jeter the layout of his house and introduced him to his family. Jeter positioned officers around Eisenberg's house and inside the garage. Eisenberg last saw Jeter at approximately 9:45 p.m. Eisenberg went to sleep shortly thereafter.

At around 5:00 a.m., Eisenberg was awoken by the sound of a tremendous number of gunshots and yelling. Eisenberg could not hear what was said, but was jolted out of bed. Eisenberg immediately felt that Dorner was at his house, shooting at the protection detail, and trying to shoot his way into the house. Eisenberg was "positive."

Eisenberg grabbed his service weapon, a flashlight and his phone, and ran downstairs, to a room in which his daughter was sleeping, adjacent to the garage. Eisenberg pointed his weapon at a door leading to the garage and yelled to his daughter, "Get down! Get down! Get under your bed!" Eisenberg believed Dorner was going to come through the door and felt, "I'm going to stop him," and, "protect my family." Eisenberg was concerned that rounds were going to come through the exterior of the house and strike his family members. His daughter could not fit under the bed and ran upstairs. Eisenberg told his family to get on the ground. They prayed for their safety. Eisenberg heard additional shots fired outside, continued to point his weapon at the door and expected Dorner to enter.

There was a lull in the shooting and Eisenberg opened the door to the garage to retrieve a rifle from the trunk of his car. An unidentified person yelled, "Stay inside!" Eisenberg retreated inside but was concerned that officers had been shot and felt he needed to do more than just stand at the doorway. Eisenberg went back into the garage, announced his presence and asked, "Is there anybody down? Is there anybody shot?" An officer replied, "No. Nobody is hit."

Eisenberg heard a lot of noise and believed a helicopter was overhead. He saw a vehicle on the street that had been struck by multiple gunshots. Eisenberg asked, "Is the suspect outstanding? Where is the suspect?" An unidentified officer replied, "He's not here. He's not here." Eisenberg realized that it was not Dorner and asked about the condition of the people in the vehicle. Eisenberg learned that TPD was attending to them.

Eisenberg exited the garage and looked for Jeter. Seeing a different group of officers than he had seen the night before, Eisenberg realized that the personnel involved in the protection detail had been switched out. Eisenberg asked Valdez if he had fired during the incident; Valdez replied that he had and indicated that the other officers had fired as well. Eisenberg, the highest ranking officer on scene, ordered the group to not talk about the incident with each other and to standby for additional supervisors to arrive.

A short time later, Eisenberg saw a friend, Hermosa Beach Police Department Officer Eric Cahalan, and his partner, Officer Guy Dov. The two had heard a radio call for help and responded. Eisenberg told the two of them to be careful, that the protective detail was out of service and that Dorner could still show up. Shortly thereafter, LAPD supervisors arrived and began separating the involved officers.

In his interview with investigators, Eisenberg stated that he expected to see multiple officers down when he walked outside. Eisenberg was certain Dorner was present and shooting at the officers.

### **Statement of Hermosa Beach Police Department Officer Eric Cahalan**

In the early morning hours of February 7, 2013, Officer Cahalan was on patrol with his partner, Officer Dov. The officers were aware of the circumstances surrounding Dorner. While on patrol, Cahalan heard a radio call indicating that Dorner had possibly exited the freeway nearby. Sometime later, Cahalan heard a radio broadcast indicating that an officer involved shooting had occurred on Redbeam. Cahalan and Dov responded. The scene was chaotic; there were rounds on the ground and empty shells in the driveway of Eisenberg's residence. Cahalan was a friend of Eisenberg's and found him at the garage. Eisenberg asked Cahalan to "cover him." Based on conversations Cahalan overheard at the scene, he realized that Dorner was not involved in the incident. Nonetheless, Cahalan was aware that Dorner had threatened to attack incident command posts and would possibly know that police personnel were responding to the location, making the location a possible target.

Eventually, Cahalan went back to his station and briefed his fellow officers. Cahalan told investigators that information being disseminated within law enforcement regarding Dorner was

not consistent. For example, there were questions about the accuracy of the description of Dorner's truck.

In describing his perception of what occurred, Cahalan stated, "I can easily see after sitting there for 10, 15, 20 hours... I mean, hearing, I'm assuming that they received similar information that the guy (Dorner) was in the area. I mean, everything couldn't have worked out worse in terms of, you know, the information they provided. I mean, the truck, in the dark, you know, if you look at the truck from the one side in the dark, it looks gray."

Cahalan presumed that the involved officers were unfamiliar with the area and the presence of the local newspaper delivery services. Cahalan stated, "But for somebody who doesn't know and has their windows down and hears somebody is in the area and hears the flick of a paper slapping against the wet foggy ground, you know, and what do you hear, you hear, you know... that pop. I mean, to me, that's all it takes, shots fired, taking rounds." During the interview, the investigators discussed the similarity between the sound of a gunshot and the sound of newspaper hitting the ground. Cahalan interjected, "It does. There's a pop to it when it hits it right and if that car is swerving side to side and goes by the house and that paper goes flying out this window, it can easily sound like a shot and some poor guy who has been up for 20 something hours, you know..."

#### **Statement of LAPD Commander Dennis Kato**

Commander Kato gave a voluntary statement to investigators.

On February 6, 2013, Kato was present at West Bureau when the plans to provide a protection detail at Eisenberg's house were put together. Initially, LAPD sent VCTF to the location. Kato left work for the day and planned to return the next day at 6:00 a.m.

At approximately 5:15 a.m. on February 7, Kato received a call from a watch commander at Hollywood Division who stated, "We had an officer-involved shooting in Torrance on Redbeam." Kato immediately responded to Eisenberg's residence. Kato arrived, saw a group of officers near Eisenberg's garage, and located their supervisor, Valdez.

In his interview with investigators, Kato recounted the following exchange with Valdez. Kato asked Valdez, "What happened?" Valdez replied, "We got in a shooting." Kato asked if there was an outstanding suspect. Valdez replied, "There could be." Kato asked, "What do you mean, could be? Did you clear the truck?" Valdez said, "Yes." Kato asked, "Well, who was in the truck." Valdez replied, "Two ladies." Valdez again acknowledged clearing the truck, but added, "But we don't know. Cap, I don't know, but there could have been a third person or not." Kato thought the answer was strange, but noticed that Valdez appeared nervous and confused. Kato was unsure whether Valdez was trying to say that he and the other officers shot because a suspect, Dorner, may have been holding the women hostage and escaped. Kato told Valdez, "Look, tell me, yes or no, because if there's a guy out here or somebody in this perimeter we need to lock this place down." Valdez replied, "No, okay, there's nobody outstanding."

Kato determined that Valdez had fired his weapon during the incident. Kato realized that there were not enough supervisors on scene to effectively separate each of the officers. Kato asked a TPD officer to help lock down the crime scene. Lieutenant Paul McKechnie arrived a short time later and assisted with controlling the crime scene. Kato ordered each of the involved officers to not talk to each other about the shooting. Lieutenant Richard Gabaldon also arrived and Kato asked him to try to obtain a public safety statement. Eventually, additional supervisors arrived and assisted with separating the involved officers. Kato remained at the scene for several hours.

Regarding the organization of the protection details, Kato described it as, "A very hurry-up offense." A single call put everything in motion and groups of officers were called into West Bureau for assignments. As a group would arrive, Kato would meet with the supervising sergeant and provide whatever information they had at the time. The sergeants were told to go to the assigned location and put a plan together on how to protect the residence. Initially, Kato believed that Metro Division would be relieving the initial officers. Kato knew that VCTF was sent to Redbeam, but was not aware that they had been relieved by the Hollywood unit in the middle of the night. Kato knew that there were concerns about overtime, but stated that he wanted his assigned groups, including VCTF, to stay there until the next morning, regardless of any overtime-related issues. The first time Kato learned that VCTF had been replaced was when he showed up on Redbeam and saw a different group of officers than he had assigned to the location.

While at the scene, besides the statements by Valdez, Kato did not receive any additional statements regarding what triggered the shooting.

### **Statement of LAPD Lieutenant Richard Gabaldon**

Lieutenant Gabaldon provided investigators with a compelled statement.

On the morning of February 7, 2013, Gabaldon was assigned to Hollywood Division. He was aware of the Hollywood units on Redbeam and was monitoring Hollywood Simplex frequency when he heard a broadcast indicating, "An officer needs help, shots fired," at the Redbeam location. Gabaldon requested TPD respond to the location. Gabaldon received a call from Valdez. Gabaldon, aware of the shootings involving Dorner in Corona and Riverside, asked Valdez if the suspect in the involved vehicle was the same suspect. Valdez replied that he did not know. Gabaldon knew that Valdez was also aware of the details of the earlier shootings.

Gabaldon responded to Redbeam and saw that the Hollywood officers were split into two groups and were being monitored by supervisors. Gabaldon started to obtain a public safety statement from Valdez, but was told to stop, due to an uncertainty as to whether LAPD or TPD was going to handle the investigation. Eventually, Gabaldon was told to simply ascertain which officers were involved and the location where the shooting started and ended.

Officers Faber and Gramajo told Gabaldon that they were the first officers to engage the vehicle. Gramajo admitted firing two to three rounds at the vehicle as it drove northbound. Both officers entered their patrol car and followed the vehicle to where it stopped, at which point a second

shooting took place involving additional officers. Gabaldon was able to determine that every officer in the detail except Ojeda had fired his weapon. Neither Faber nor Gramajo told Gabaldon why they fired their weapons at the vehicle.

Prior to the incident, Gabaldon heard a broadcast from LAPD's Pacific Division, indicating that El Segundo Police Department (ESPD) had seen the possible suspect vehicle exit the 105 freeway at Sepulveda, headed south. The broadcast included a request for a helicopter. A partial plate was given that Gabaldon believed matched Dorner's plate. Gabaldon knew that the Redbeam address was south of the 105 and Sepulveda. Gabaldon called Valdez and informed him of the contents of the broadcast. Gabaldon told Valdez that the suspect vehicle was possibly heading in their direction and warned, "(Dorner's) already shot at four officers." Approximately ten minutes later, Gabaldon heard the "shots fired" call.

### **Statement of LAPD Officer Sergio Gramajo**

Officer Gramajo provided a compelled statement to investigators.

On February 6, 2013, Gramajo was on duty, assigned to Hollywood Division. His shift started at 6:45 p.m. He was partnered with Faber. He was wearing a full police uniform and was armed with a .40 caliber Glock semiautomatic handgun.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]  
[REDACTED] Vidal and Calderon positioned Gramajo and Faber in front of [REDACTED] Redbeam and tasked them with monitoring pedestrian and vehicle traffic in and out of the area. Gramajo and Faber reversed their police car into the driveway. [REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

Gramajo fired a shot from his service weapon at the vehicle, from a distance of approximately 40 feet. Gramajo [REDACTED] fired an additional two rounds at the truck, from a distance of approximately 38 feet. [REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] Gramajo fired two to three rounds at the vehicle, from a distance of approximately 95 feet,  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Gramajo fired two additional rounds at the truck, from a distance of approximately 99 feet.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

The investigation revealed that Gramajo fired eight rounds from his handgun during the incident.

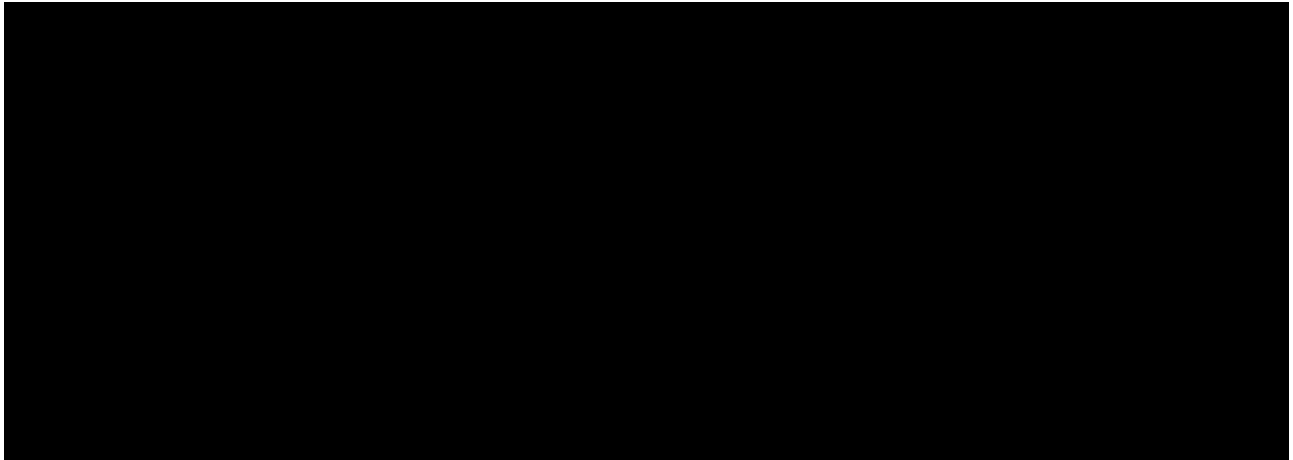
#### **Statement of LAPD Officer Jess Faber**

Officer Faber provided a compelled statement to investigators.

On February 6, 2013, Faber was on duty, in full uniform, and was assigned to Hollywood Division. His shift started at 6:45 p.m. Faber was armed with a .40 caliber Glock semiautomatic handgun and had a Remington 870 shotgun in his vehicle.

---

<sup>7</sup> [REDACTED]  
[REDACTED]



[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Faber and Gramajo  
were positioned in the driveway of [REDACTED] Redbeam. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Faber and Gramajo backed their marked police car into the driveway of [REDACTED] Redbeam, with the vehicle lights turned off. The street was mostly dark, with streetlights staggered up and down the street. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] Faber fired two shotgun rounds towards the vehicle, from a distance of approximately 98 feet. [REDACTED] Faber fired two additional rounds, from the same position. [REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED] Faber [REDACTED]  
[REDACTED] fired four to five rounds [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Faber fired an additional four or five rounds.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

The investigation revealed that Faber fired four rounds from the shotgun and 11 rounds from his handgun during the incident.

#### **Statement of LAPD Officer Deshon Parker**

Officer Parker provided two compelled statements to investigators.

On February 6, 2013, Parker was on duty, assigned to Hollywood Division. His shift started at 6:45 p.m. He was partnered with Lear. Parker was in full uniform and armed with a .40 caliber Glock semiautomatic handgun.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] Parker [REDACTED]  
fired two to three shots at the truck from his service weapon, from an approximate distance of 89 feet. [REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Parker

fired 12 to 13 rounds at the truck, from an approximate distance of 90 feet. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

---

<sup>9</sup> Following the incident, newspapers were found outside the passenger side of the truck. [REDACTED]  
[REDACTED] it is unknown whether any newspapers were discarded from the passenger side of the vehicle during the incident, or whether the newspapers fell to the ground when Hernandez exited the vehicle.

<sup>10</sup> [REDACTED]



[REDACTED]

[REDACTED]

Investigators conducted a follow-up interview with Parker on July 18, 2013.<sup>11</sup> [REDACTED]  
[REDACTED]  
[REDACTED]

The investigation revealed that Parker fired a total of 28 rounds from his handgun during the incident.<sup>12</sup>

#### **Statement of LAPD Officer Geoff Lear**

Officer Lear provided a compelled statement to investigators.

On February 6, 2013, Lear was on-duty, assigned to Hollywood Division. His shift began at 6:45 p.m. He was wearing a full police uniform and was partnered with Parker. Lear was armed with a .40 caliber Glock semiautomatic handgun.

[REDACTED]

[REDACTED]

---

<sup>11</sup> Parker's initial interview was on February 11, 2013. The focus of the follow-up interview was to clarify issues related to Parker's ammunition and the number of rounds found at the scene compared to the round count done of Parker's magazines on the day of the shooting.

<sup>12</sup> Investigators located 28 casings at the scene that had been fired from Parker's firearm. A round count of his magazines, however, only accounted for 21 missing rounds. Seven rounds were unaccounted for. [REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] Lear was armed with a handgun; Parker had a handgun and a  
shotgun.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] Lear [REDACTED] fired  
multiple rounds [REDACTED]  
[REDACTED]  
[REDACTED] Lear fired  
from an approximate distance of 90 feet.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The investigation revealed that Lear fired 11 rounds from his handgun during the incident.

#### **Statement of LAPD Officer John Hart**

Officer Hart provided a compelled statement to investigators.

On February 6, 2013, Hart was on-duty, assigned to Hollywood Division. His shift started at 6:45 p.m. He was wearing a full uniform and partnered with Franco. [REDACTED]  
[REDACTED] Hart was armed with a .40 caliber Glock semiautomatic handgun and had a 12 gauge Remington shotgun in his vehicle.

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] Vidal assigned Hart and Franco to the garage of the targeted residence. In addition to his handgun, Hart armed himself with a shotgun.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] Hart fired four to five rounds from his  
shotgun [REDACTED] from an approximate distance of 78 feet.

[REDACTED] Hart [REDACTED]  
[REDACTED] fired two to three rounds at the truck [REDACTED]  
[REDACTED] The shots were fired from an approximate distance of between 78 to 129 feet.<sup>14</sup>

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

---

<sup>14</sup> The range in distance is due to the movement of the truck.

[REDACTED]

The investigation revealed that Hart fired five rounds from the shotgun and nine or ten rounds from his handgun during the incident.<sup>15</sup>

### **Statement of LAPD Officer Marlon Franco**

Officer Franco provided a compelled statement to investigators.

On February 6, 2013, Franco was on-duty, assigned to Hollywood Division. His shift started at 6:45 p.m. He was wearing a full uniform and was partnered with Hart. [REDACTED]

[REDACTED] Franco was armed with a .40 caliber Glock semiautomatic pistol and had a Remington 12 gauge shotgun in his vehicle.

[REDACTED]

[REDACTED]

[REDACTED]

---

<sup>15</sup> A count of Hart's available rounds indicated that he fired his handgun ten times, however, only nine expended rounds from Hart's weapon were found at the scene. The reason for the discrepancy is unknown.

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] Franco and Hart were positioned inside the opened garage of the targeted residence.

[REDACTED]  
Franco was armed with a handgun and borrowed a shotgun from Ojeda and Roman. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]



[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Franco fired four or five rounds from his shotgun [REDACTED] from an approximate distance of 74 feet. [REDACTED]  
[REDACTED]

[REDACTED] Franco  
[REDACTED]  
[REDACTED] fired two additional shots at the [REDACTED] truck from his shotgun. The shots were fired from an approximate distance of 75 feet. [REDACTED]  
[REDACTED] Franco [REDACTED] fired six rounds at the truck, from an approximate distance of 76 to 127 feet.<sup>16</sup> [REDACTED]  
[REDACTED]

[REDACTED] Franco fired two more rounds at the truck. [REDACTED]  
[REDACTED] Franco fired three rounds at the truck [REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

---

<sup>16</sup> The range in distance is due to the northbound travel of the truck.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The investigation revealed that Franco fired three rounds from the shotgun and between eight and eleven rounds from his handgun during the incident.<sup>17</sup>

#### **Statement of LAPD Sergeant John Valdez**

Sergeant Valdez provided a compelled statement to investigators.

On February 6, 2013, Valdez was on duty in Hollywood Division, assigned to patrol. His shift began at 6:45 p.m. [REDACTED] Valdez was armed with a .45 caliber Smith and Wesson semiautomatic firearm. He carried a .38 caliber Smith and Wesson revolver as a backup firearm.

[REDACTED]

[REDACTED]

---

<sup>17</sup> A count of Franco's available rounds indicated that he had fired his handgun 11 times, however, investigators only located eight discharged casings at the scene. The reason for the discrepancy is unknown.

<sup>18</sup> [REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

---

19 [REDACTED]  
[REDACTED]  
[REDACTED]

20 [REDACTED]

[REDACTED]  
 [REDACTED] Valdez fired  
 two rounds [REDACTED]  
 [REDACTED]  
 [REDACTED]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[illegible]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

The investigation revealed that Valdez fired five rounds from the shotgun during the incident.

### **Statement of Officer Jonathan Roman**

Officer Roman provided a compelled statement to investigators.

On February 6, 2013, Roman was on-duty, assigned to Hollywood Division. His shift began at 6:45 p.m. He was partnered with Ojeda. [REDACTED]  
[REDACTED] Roman was wearing a full police uniform and was armed with a 9mm Beretta semiautomatic handgun.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Roman and Ojeda were positioned in the driveway of [REDACTED] Towers Street, several houses north of Eisenberg's residence.<sup>21</sup> They reversed their police car into the driveway and parked between two cars belonging to the resident. The view from their perspective was southbound, down Redbeam towards Del Amo. There was a walkway adjacent to the neighboring house that led to the playground of a school that was located directly behind the residence. [REDACTED]

[REDACTED] there were no officers stationed on the playground [REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

---

<sup>21</sup> At the north end of Redbeam, the street turns west and becomes Towers.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Roman fired approximately eight rounds [REDACTED] from an approximate distance of 270 feet.<sup>22</sup> [REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] Roman [REDACTED] fired approximately three rounds at the truck, from an approximate distance of 287 feet. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

The investigation revealed that Roman fired 11 rounds from his handgun during the incident.

### **Statement of Officer Jonathan Ojeda**

LAPD Officer Jonathan Ojeda provided a compelled statement to investigators.

On the evening of February 6, 2013, Ojeda was on-duty, assigned to Hollywood Division and was partnered with Roman. His shift began at 6:45 p.m. He was wearing a full police uniform and was armed with a .40 caliber Glock semiautomatic handgun.

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<sup>22</sup> [REDACTED]



The officers attended a roll call training and were briefed regarding Dorner. They were told that Dorner was wanted for a double murder and was considered armed and extremely dangerous. They were told that Dorner was a former military officer who had been terminated from LAPD and may be armed with high-powered rifles. Additionally, Dorner was driving a blue Nissan Titan.

While on patrol, Ojeda and Roman received a message via their mobile data computer to respond to West Bureau. Once at West Bureau, they, along with several other Hollywood officers, were assigned to guard Eisenberg's residence in Torrance. There was no discussion regarding how they were going to deploy, nor any diagrams presented. The officers were told that they would meet a supervisor at the scene and receive their positions at that time. The officers were aware of Dorner's manifesto and knew that Eisenberg was named as a potential target therein. The group of officers responded to Redbeam and congregated in front of Eisenberg's residence. They were told where other officers were posted and were given a description of the points of ingress and egress at the location. Additionally, they were told to broadcast any observations of any pedestrian, bicyclist or motor vehicle traveling in the area.

Ojeda and his fellow officers were told that Dorner had been to the location two days prior, had knocked on Eisenberg's door and that Eisenberg's wife did not answer. Ojeda and Roman were positioned on the corner of Tower and Redbeam, several houses north of Eisenberg's residence. They backed their patrol vehicle into the driveway of a residence.

While stationed on Redbeam, Ojeda learned that Dorner had been involved in an officer-involved shooting in Corona, resulting in an injury to a fellow LAPD officer. He also learned about the shooting in Riverside and that a deputy was in critical condition.

At some point, after being at the location for several hours, Ojeda received a message that stated that Dorner was possibly seen exiting the 105 freeway and Sepulveda.<sup>23</sup> Roman told Ojeda that they were positioned close to the described location. Approximately 30-45 minutes later, Gramajo and Faber, who were positioned towards the south end of Redbeam, broadcast that a truck was heading in their direction. The broadcast indicated that the truck was "creeping," which Ojeda understood to mean, "driving slowly." The vehicle had its headlights and fog lights on. Ojeda was standing at the rear of his patrol vehicle and moved behind the engine block of one of the resident's vehicles, which was also parked in the driveway. Roman moved behind a different vehicle.

Approximately two seconds after hearing the broadcast regarding the truck "creeping," Ojeda heard gunshots, but did not see any muzzle flashes. Ojeda drew his service weapon, took cover and looked in the direction of the vehicle further down Redbeam. Ojeda continued to hear gunshots and heard several rounds strike a tree adjacent to his location as well as the residence behind him. The vehicle was moving in his direction and Ojeda heard the engine rev. Ojeda could not see the occupants of the vehicle nor any officers other than Roman, who was nearby.

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<sup>23</sup> Ojeda recalled the message coming via the MDC, but was unsure whether it was also broadcast via the radio.

Ojeda could hear additional rounds being fired towards him. Ojeda moved back towards the residence and took cover on the side of a wall.

Ojeda believed Dorner had seen him and his partner and was firing at them. Ojeda was in fear for his life. Roman came around the corner and joined Ojeda next to the wall. Roman was pointing his firearm towards the approaching vehicle and fired approximately two shots in its direction.

Ojeda and Roman retreated to the front door of the residence where they were stationed and banged on the door. The resident opened the door and they went inside. Ojeda and Roman told the occupants to get upstairs and to get on the ground. Ojeda went to an upstairs bathroom window and looked down to the street below. His view was blocked by a tree and he could not see the suspect vehicle. Ojeda used his radio to try to ascertain whether Dorner was still in the area, but could not get any discernable information. Ojeda and Roman remained with the occupants of the residence until a call came through saying that the scene was clear.

After exiting the residence, the involved officers were separated from each other and were given orders not to talk about the shooting. Roman never told Ojeda what happened nor why he shot.

Ojeda did not fire a weapon during the incident.

### **Forensic Examination**

The investigation revealed that the involved officers fired the following number of rounds from their weapons. All of the listed weapons were department-issued, with the exception of Franco's handgun, which was his personal weapon.

Franco fired three rounds from a Remington 12-gauge shotgun and 11 rounds from a .40 caliber Glock semiautomatic handgun.

Hart fired five rounds from a Remington 12-gauge shotgun and 10 rounds from a .40 caliber Glock semiautomatic handgun.

Valdez fired five rounds from a Remington 12-gauge shotgun.

Parker fired 28 rounds from a .40 caliber Glock semiautomatic handgun.

Lear fired 11 rounds from a .40 caliber Glock semiautomatic handgun.

Faber fired four rounds from a 12-gauge shotgun and 11 rounds from a .40 caliber semiautomatic handgun.

Gramajo fired eight rounds from a .40 caliber semiautomatic handgun.

Roman fired 11 rounds from a Beretta 9mm semiautomatic handgun.

An examination of Carranza's vehicle showed 83 single impact pathways and 27 multi-impact pathways. The investigation revealed that, at the time of the incident, the truck's hazard lights and front headlights were activated. The truck had tinted windows. Newspapers were located in two boxes in the bed of the truck as well as in the rear seat.

Several vehicles and residences along Redbeam were struck by gunfire during the incident. Other than Carranza and Hernandez, no other individuals sustained injuries during the shooting.

## **LEGAL ANALYSIS**

There are a number of legal issues raised in this evaluation, focusing, ultimately, on a determination as to whether there is sufficient evidence to charge any of the involved officers with a crime. While the potential criminality of each officer is analyzed independently, the actions of each officer must be viewed in light of a totality of the circumstances, which includes the information known to that officer at the time of the incident, as well as the effect of the actions, or inactions, of their fellow officers before and during the shooting. To a marginal extent, the officers' actions immediately following the shooting provide additional evidence from which to evaluate the officers' conduct.

In determining whether sufficient evidence exists to charge any individual with a crime, all plausible, reasonably foreseeable defenses must be considered. Each and every officer's emotional state would undoubtedly be central to an eventual defense claim that an officer's actions were reasonable. In order to better evaluate the reasonableness of those anticipated claims, the compelled statements of all involved officers were considered in this analysis.

This memorandum does not address whether any officer violated LAPD policies and procedures. This office is aware that LAPD Police Chief Charlie Beck determined that the involved officers violated department policy. Any administrative discipline imposed on those officers is extraneous to the findings in this memo. LAPD administrative determinations utilize a different, lower burden of proof than is used in a criminal prosecution. Additionally, officers' compelled statements may be used as evidence against them in administrative hearings.

Although addressed briefly, the purpose of this memorandum is not to evaluate LAPD practices and procedures; that task falls to other entities. From the involved officers' perspectives, however, there appear to be significant questions regarding administrative decisions, planning, and tactics in this case that had a bearing on individual officer's actions. Those issues are addressed herein but, ultimately, the sole purpose of this office's evaluation is to determine if the actions of the involved officers rise to the level of criminal conduct and whether the available evidence provides proof, beyond a reasonable doubt, of such criminality.

The author of this memorandum had the benefit of being at the scene of the incident within a short period of its occurrence. There was a palpable degree of tension and fearful apprehension amongst the law enforcement personnel gathered to conduct this investigation. Threats from Dorner to target incident command centers created an environment that was significantly different from other shootings. Although those observations are not determinative of the

reasonableness of the officers' actions, the environment corroborated the heightened tension later described by the officers in their statements to investigators.

There are several areas of law that are relevant to this analysis: 1) The use of an officer's compelled statements; 2) Mistake of fact; 3) Self-defense, and; 4) Use of force to detain a dangerous fleeing felon. [REDACTED]

[REDACTED] As explained in detail, below, there is insufficient evidence to prove, beyond a reasonable doubt, that any claims of self-defense or use of force to detain a fleeing felon are not reasonable.

### **Officers' Compelled Statements**

In the present case, each of the involved officers provided a compelled statement to investigators. Those statements were made under the compulsion of potential administrative discipline and cannot be used against any officer in any subsequent criminal proceeding.<sup>24</sup> If an officer had chosen to remain silent, and not provide a statement to investigators, that silence could have been deemed insubordination and could have resulted in his termination from LAPD. Every officer was so warned prior to providing a statement.

As noted, this evaluation included a review of each of the involved officer's statements. Those statements provide insight into each officer's state of mind, but cannot be used in a prosecution of those officers. Those statements were considered solely to analyze prospective defenses, to determine whether there is sufficient evidence to charge any of the officers with a crime. A prospective prosecution would be based only on independent evidence, exclusive of the officers' statements, presenting a significant challenge to a successful prosecution.

It is important to note that, although portions of statements of certain officers are inconsistent with the available evidence, those inconsistencies would have no material value in a subsequent prosecution, due to the inability to use those statements in a criminal proceeding for any purpose.

### **Mistake of Fact**

A person is not guilty of a crime if he commits an act under an honest and reasonable belief in the existence of certain facts and circumstances which, if true, would make such an act lawful.<sup>25</sup> "An honest and reasonable belief in the existence of circumstances, which, if true, would make the act for which a person is charged an innocent act, has always been held to be a good defense."<sup>26</sup> When a person commits an act based on a reasonable mistake of fact, his guilt or innocence is determined as if the facts were as he perceived them.<sup>27</sup>

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<sup>24</sup> *Lybarger v. City of Los Angeles* (1985) 40 Cal. 3d 822.

<sup>25</sup> CALCRIM No. 3406; *People v. Raszler* (1965) 169 Cal.App.3d 1160, citing *People v. Osbourne* (1979) 77 Cal.App.3d 479.

<sup>26</sup> *People v. Lucero* (1988) 203 Cal.App.3d 1011.

<sup>27</sup> *Id.*, see also, *People v. Beardslee* (1991) 53 Cal.3d 68.

In analyzing the reasonableness of the arrest of a person based on mistaken identity by police officers, the United States Supreme court, explained, “When the police have probable cause to arrest one party, and when they reasonably mistake a second party for the first party, then the arrest of the second party is a valid arrest.”<sup>28</sup> The same legal principle applies when an officer mistakenly shoots an innocent person, believing him to be a suspect.<sup>29</sup>

“Where an officer’s particular use of force is based on a mistake of fact, we ask whether a reasonable officer would have or should have accurately perceived that fact.”<sup>30</sup> Courts have warned against second-guessing the split second judgment of a trained police officer merely because that judgment turns out to be mistaken.<sup>31</sup>

The involved officers were mistaken in two fundamental areas: 1) that Dorner was in the subject vehicle, and, 2) that they were being shot at by Dorner, or any other occupant of the vehicle. As to the former there are a number of indisputable facts that support that conclusion.

While we now know that the officers mistakenly shot at two innocent victims, Hernandez and Carranza, that mistake would not negate justification for the use of deadly force if a particular officer had an objectively reasonable belief that the car was being driven by Dorner and, further, that they were being shot at by the occupant of the car.<sup>32</sup>

[REDACTED] Ojeda, a non-shooter, believed that Dorner had arrived on the street and was engaging the officers in a firefight. [REDACTED]

## Self-Defense

California law permits the use of deadly force in self-defense or in defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed he or others were in imminent danger of great bodily injury or death.<sup>34</sup> The belief in the need to defend oneself must be both actual and reasonable. [REDACTED]

Again, there is

<sup>28</sup> *Hill v. California* (1970) 401 U.S. 797, citing the underlying case at 69 Cal.2d 550.

<sup>29</sup> *Milstead v. Kibler* (2001) 243 F.3d 157

<sup>30</sup> *Torres v. City of Madera* (2011) 648 F.3d 1119, citing *Jensen v. City of Oxnard* (1998) 145 F.3d 1078.

<sup>31</sup> *McLenagen v. Kegan, et. al.* (1994) 27 F.3d 1002.

<sup>32</sup> *Milstead v. Kibler*, *supra*, 243 F.3d at 165.

<sup>33</sup> Additionally, and not addressed in this memorandum, there was a second, contemporaneous shooting just a few blocks away in which Torrance Police Department Officer Brian McGee mistakenly believed he had encountered Dorner and fired upon an individual. McGee's belief tends to support the conclusions of the LAPD officers in the present matter.

<sup>34</sup> *People v. Humphrey* (1996) 13 Cal.4<sup>th</sup> 1073

insufficient evidence to prove, beyond a reasonable doubt, that any claims of self-defense or defense of others are unreasonable.

“[T]he rule is well established that one who, without fault, is placed under circumstances sufficient to excite the fears of a reasonable man that another designs to commit a felony or some great bodily injury and to afford grounds for a reasonable belief of imminent danger, may act upon those fears alone and may slay his assailant and be justified by appearances.”<sup>35</sup>

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent injury which appears to be imminent.<sup>36</sup> The defendant must use no more force than was reasonably necessary to defend against the perceived danger.<sup>37</sup> Determining whether the degree of force used in this case was reasonable is arguably the most difficult part of this analysis. Ultimately, it is the area in which the evidence raises the most significant questions regarding each officer’s actions. The question being asked is, “What would a reasonable officer do in this circumstance?” In a situation such as this, where criminality is based on what a reasonable officer would do under same or similar circumstances, and a total of seven officers acted in a similar manner, it is difficult to say any particular officer acted unreasonably. The uniqueness of the circumstances surrounding the shooting has a significant effect on this evaluation.

“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that 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.”<sup>38</sup>

The Fourth Amendment reasonableness test is, “an objective one: the question is whether the officer’s actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them.”<sup>39</sup> The analysis must take into account the officer’s perceptions as part of the totality of the circumstances and courts have cautioned against second-guessing the split-second judgment of a trained police officer merely because that judgment turns out to be mistaken.<sup>40</sup>

In *Graham*, the United States Supreme Court held that the reasonableness of the force used “requires careful attention to the facts and circumstances” of the particular incident. “...Thus, 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

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<sup>35</sup> *People v. Mercer* (1962) 210 Cal. App. 2d 153, 161.

<sup>36</sup> CALCRIM No. 3470.

<sup>37</sup> *Id.*

<sup>38</sup> *Graham v. Conner*, (1989) 490 U.S. 386, 396-397.

<sup>39</sup> *Graham v. Connor*, *supra*, 490 U.S. at 396.

<sup>40</sup> *Milstead v. Kibler*, *supra*, 1999 U.S. Dist Lexis 8380.

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.”<sup>41</sup>

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.”<sup>42</sup> Once an officer believes that deadly force is necessary, the officer does not have an obligation to stop firing his weapon until the perceived threat has ended. “If lethal force is justified, officers are taught to keep shooting until the threat is over.”<sup>43</sup>

In this case, any foreseeable defense would surely argue that, for each individual officer, there were several other like-minded individuals at the scene, providing a baseline from which to establish a “reasonable person standard.” [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Actual danger is not necessary to justify the use of force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or apparent.<sup>44</sup> 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 men would alike have been mistaken.<sup>45</sup> “A defendant may well be mistaken in his assessment of the circumstances; but if reasonably so, he is nevertheless entitled to the defense.”<sup>46</sup>

When considering the reasonableness of a claim of self-defense, one must take into account the effect of antecedent threats or assaults by the victim, or in this case, the person that the victim was perceived to be.<sup>47</sup> “While such considerations alone do not establish a right of self-defense, they illuminate and reflect on the reasonableness of (the) defendant’s perception of both the imminence of danger and the need to resist with the degree of force applied. They may also justify the defendant ‘in acting more quickly and taking harsher measures for (his) own protection in the event of assault, whether actual or threatened, than would a person who had not received such threats.’”<sup>48</sup> Antecedent threats may color a person’s perceptions.<sup>49</sup> Therefore, each officer’s knowledge of Dorner’s threats and violent actions is part of this analysis. Those

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<sup>41</sup> *Smith v. Freland* (6<sup>th</sup> Cir. 1992) 954 F.2d 343, 347.

<sup>42</sup> *Munoz v. City of Union City* (2004) 120 Cal. App. 4<sup>th</sup> 1077, 1102.

<sup>43</sup> *Plumhoff v. Rickard* (2014) 134 S.Ct. 2012

<sup>44</sup> *People v. Toledo* (1948) 85 Cal. App.2d 577

<sup>45</sup> *People v. Jackson* (1965) 233 Cal. App.2d 639.

<sup>46</sup> *People v. Humphrey*, supra, 13 Cal.4<sup>th</sup> 1073.

<sup>47</sup> CALJIC No. 5.50.1

<sup>48</sup> *People v. Humphrey*, supra, 13 Cal.4<sup>th</sup> at 1094, citing *People v. Fitch* (1938) 28 Cal.App.2d 31, *People v. Moore* (1954) 43 Cal.2d 517, and *People v. Bush* (1978) 84 Cal.App.3d 294.

<sup>49</sup> *People v. Minifie* (1996) 13 Cal.4<sup>th</sup> 1055

include the postings in the manifesto as well as each of the prior attacks committed by Dorner. The magnitude of those threats had an incalculable effect on each officer's actions.

Every factor contributing to an officer's state of mind must be considered, including knowledge about Dorner's actions, concerns about tactical planning, or lack thereof, information the officers received throughout the night, observations and communications occurring once the vehicle turned onto Redbeam and, finally, any stimuli arising during the shooting.

Additionally, beyond any findings that the actions of each individual officer were justified, in a criminal case, it is a requirement of due process that the prosecution prove every fact necessary to constitute any charged offense.<sup>50</sup> In California, if the defendant raises a defense, such as self-defense, the prosecution bears the burden of proving, beyond a reasonable doubt, that the defense does not apply.<sup>51</sup> In other words, the prosecution has the burden to prove a defendant did not act in self-defense.<sup>52</sup> No criminal liability attaches to an officer's actions unless the prosecution can prove, beyond a reasonable doubt, that the particular officer was not actually and reasonably in fear for their safety or the safety of others when he fired his weapon.

### **Use of Force to Detain Fleeing Felon**

The police may use reasonable force to make an arrest, prevent escape or overcome resistance, and need not desist in the face of resistance and, in virtue of a police officer's duty to act affirmatively to protect the public, a police officer is "entitled to (utilize) even greater use of force than might be, in the same circumstance, required for self-defense."<sup>53</sup>

Under California law, a peace officer is entitled to use deadly force to capture a dangerous person who has committed a felony. A dangerous person is defined as one who (a) poses a significant threat of death or serious bodily injury to the person attempting the apprehension or others, or (b) has committed a forcible and atrocious felony.<sup>54</sup> A forcible and atrocious felony is one that by its nature and manner of its commission reasonably creates a fear of death or great bodily injury.<sup>55</sup> Murder and assault with a firearm are forcible and atrocious felonies.

Additionally, police are not required to exhaust every possible alternative before using justifiable deadly force.<sup>56</sup>

As previously stated, a mistaken belief in the identity of a detainee may justify the use of force upon a person believed to be a fleeing felon. [REDACTED]

[REDACTED] Had Dorner actually been in the vehicle, the officers would have been justified in using deadly force to stop him.

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<sup>50</sup> *People v. Jimenez* (1995) 33 Cal.App.4<sup>th</sup> 54, at 61.

<sup>51</sup> *People v. Pineiro* (1982) 129 Cal.App.3d 915, at 920.

<sup>52</sup> *People v. Rios* (2000) 23 Cal.4<sup>th</sup> 450.

<sup>53</sup> *Brown v. Ransweiler* (2009) 171 Cal.App.4<sup>th</sup> 516.

<sup>54</sup> *People v. Ceballos* (1974) 12 Cal.3d 470.

<sup>55</sup> CALCRIM No. 505 (bench notes).

<sup>56</sup> *Forrett v. Richardson* (9<sup>th</sup> Circuit, 1997) 112 F.3d 416.



## Conclusion

Before analyzing the potential criminality of each officer's actions, it is important to detail Dorner's actions, as they provide a reference from which each officer's eventual mental state and subsequent decisions must be evaluated. Dorner, a former police officer, was hunting his former colleagues and appeared to have accepted that his actions would likely result in his own death.

Just a few days prior to this incident, Dorner executed two family members of an individual, Captain Quan, who Dorner blamed, in part, for his firing. Each of the involved officers was aware of those victims' tangential relationship to Dorner. Dorner had no personal connection to either individual but targeted them because of their relationship to Captain Quan.

Subsequent to the murders of Quan and her fiancée, Dorner posted a manifesto, the details of which have been recounted in detail, above. Each of the involved officers was aware of Dorner's intentions and willingness to kill. Dorner's threats extended to any and all law enforcement, civilians who might render assistance, and to family members of law enforcement, including those not related to LAPD nor Dorner's termination. Dorner claimed knowledge of the whereabouts of employees and their family members, including spouses and children. Dorner's manifesto indicated a detailed, elaborate plan to execute an untold number of people. Undoubtedly, Dorner's actions and threats would be the focal point of any defense.

Dorner claimed to have access to a cache of weaponry greater than any available to the involved officers. [REDACTED]  
[REDACTED]

In addition to the information known regarding Dorner, there were several tactical issues that appear to have contributed to the officers' state of mind. Each of the involved officers was assigned to Hollywood Division [REDACTED]  
[REDACTED]

[REDACTED] The Hollywood officers arrived to Redbeam after dark. [REDACTED] A seemingly more qualified team, VCTF, was in place but was replaced in the middle of the night. At least one supervisor, Commander Kato, anticipated that VCTF would man the protection detail until the following morning. Even Eisenberg, the protected target, was unaware that there was a change in the personnel responsible for guarding him and his family.

Despite knowing that Dorner was armed with high-powered weaponry, the involved officers were sent to the location armed only with shotguns and handguns. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] Again, these tactical issues are included solely for the purpose of presenting a full picture of each officer's state of mind.

While at Redbeam, each of the involved officers learned that Dorner was actively targeting protected personnel, based on the information received regarding the shootings in Corona and Riverside. [REDACTED] A short time prior to the incident, radio communications indicated that a vehicle, matching the description of Dorner's vehicle, was seen exiting the freeway a short distance away. [REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] Additionally, Gabaldon telephoned Valdez and cautioned that Dorner could be in the area. [REDACTED]  
[REDACTED] the officers were told Dorner had been to the location just days before and was familiar with the area.

[REDACTED] Earlier, Vidal spoke of planning and stated, "Depending on how the situation goes and who is left...and then if Dorner doesn't take out so many officers." [REDACTED]

Within a short period of time, a vehicle whose body style and coloring was consistent with descriptions of Dorner's, turned onto Redbeam.<sup>57</sup> [REDACTED]  
[REDACTED]  
[REDACTED]

Faber broadcast that the truck was "creeping." [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

The vehicle, for a completely innocent reason, stopped directly in front of where Faber and Gramajo were stationed. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Although the officers were mistaken, their perceptions were based on actual observations: a vehicle matching the suspect vehicle's description, with a partial matching license plate, being driven slowly on the wrong side of the street, followed by an object being thrown from the driver's side [REDACTED]

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<sup>57</sup> Both vehicles are dual-cabin pickup trucks. Dorner's vehicle was described as both blue and grey.

From that point on, as the shooting continued, it is clear that the involved officers' actions were responsive to the actions of their fellow officers. Beyond the first shot fired, all other shots appear to have been responsive to gunfire that came from officers. [REDACTED]  
[REDACTED]

Neither Carranza nor Hernandez made any threatening movement nor took any action that could reasonably be interpreted as threatening to any officer. Carranza's driving away was a reaction to being shot at. She bears no blame for advancing her vehicle northbound on Redbeam. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

After the vehicle came to its final resting spot, the barrage of gunfire was tremendous, and troubling. It is impossible to determine the sequence of shots fired by the officers. [REDACTED]  
[REDACTED]

From that point forward, the available evidence is insufficient to make a reasonable determination as to the order of any shots fired. The location of casings and trajectory analysis shows that shots were fired from a multitude of directions. [REDACTED]  
[REDACTED]

[REDACTED] No shots were fired from within, or from the direction of, the vehicle. The reverberations of sound from the volume of gunshots, on a residential street, likely contributed to a reasonable perception that the officers were being fired upon.

The positioning of the officers during the shooting jeopardized not only Carranza and Hernandez, but nearby residents as well as fellow officers. It appears that [REDACTED] Ojeda [REDACTED] perceived that they were being fired at, as the house where they were stationed was struck by gunfire. [REDACTED] the shots were coming from fellow officers rather than any suspect in the vehicle. [REDACTED] Ojeda believed they were being shot at by Dorner. [REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED] Although it is clear from the officers' conduct that they believed Dorner was in the vehicle, Dorner was obviously not. [REDACTED]  
[REDACTED]

[REDACTED] For the reasons previously mentioned, there is insufficient evidence to prove, beyond a reasonable doubt, that the officers' belief was unreasonable.

Assuming, for argument's sake, that the officers reasonably believed that the vehicle contained Dorner, logic follows that, under the legal principles invoked when attempting to capture a fleeing felon, the officers would be entitled to use deadly force to capture him. [REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] Carranza certainly did not have a weapon nor point one at any officer. [REDACTED]

[REDACTED]  
[REDACTED] As explained previously, however, the compelled statements of the involved officers are not admissible in any subsequent criminal proceeding and, thus, are of limited value. [REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED] we are unable to determine the order of shots fired nor what exact stimuli was actually occurring at the time each officer fired. Whether it is characterized as reliance on their fellow officers' actions or merely a blind assumption, there is no question that each officer's conduct was, in part, reactionary to the actions of fellow officers. Although the actions of each officer must be analyzed separately, the reactionary nature of the shooting significantly complicates the analysis.

The circumstances immediately prior to, and during, the shooting put each of the officers into a situation in which they were required to make split-second judgments under an incredibly heightened emotional state. There is no question that each of the officers' judgment was clouded by the circumstances surrounding Dorner and the environment on Redbeam. The fear of Dorner was understandable and justified. There is no evidence to suggest that the officers did not honestly believe that Dorner was in the vehicle, nor is there evidence to suggest the officers did not honestly believe they were being fired upon.

[REDACTED] There are a number of factors that contributed to that perception. The involved officers were redirected from their division to the unfamiliar area of Torrance, ordered to conduct a protective detail with limited planning or tactical instruction and limited resources. The group received information that a former officer, turned murderer, was on his way to their location. The officers waited on a darkened street for his arrival. Arguably, the situation could not have been worse. Would a different group of officers

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<sup>58</sup> This location was several houses north of 19715 Redbeam, where Carranza had thrown a newspaper from the vehicle towards the residence.

have responded differently? That is an unanswerable question. While the circumstances do not legally justify what occurred, they do explain why it occurred. There is insufficient available evidence to prove, beyond a reasonable doubt that each of the officers' actions were unreasonable under the circumstances.

Cahalan, from Hermosa PD, summarized it well when he evaluated what took place. After hearing that Dorner was possibly in the area, "Everything couldn't have worked out worse in terms of, you know, the information they provided. I mean, the truck, in the dark, you know, if you look at the truck from the one side in the dark, it looks gray." He continued, "But for somebody who doesn't know (the area)...and hears somebody is in the area and hears the flick of a paper slapping against the wet foggy ground, you know, and what do you hear, you hear, you know...that pop. I mean, to me, that's all it takes, shots fired, taking rounds." The defense would argue that Cahalan, who was not involved in the shooting and is a member of a different agency, articulated the perceptions of a "reasonable" officer.

The actions of the officers in this case nearly caused the death of two innocent victims. The fact that those actions were based on a significant mistaken fact does little to mollify the emotional response to such a near tragedy. Nonetheless, this office is guided by the legal principles discussed in this memorandum. The findings in this memorandum are not an endorsement of the officers' conduct nor of the tactical decisions made by LAPD in this situation.

Given the totality of the circumstances, the available admissible evidence is insufficient to prove beyond a reasonable doubt that Officers Faber, Franco, Gramajo, Hart, Lear, Parker, Roman and Sergeant Valdez did not act in self-defense and in the defense of others or that they were not justified in acting to stop a person who the officers believed to be a fleeing felon. Therefore, we are closing our file and will take no further action in this matter.