

**Fatal Officer Involved Shooting of Everett Byram
Los Angeles County Sheriff's Department**

Deputy Blake Runge, #626632

J.S.I.D. File #23-0041



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

March 29, 2024

MEMORANDUM

TO: CAPTAIN ANDREW D. MEYER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

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

SUBJECT: Fatal Officer Involved Shooting of Everett Byram
J.S.I.D. File #23-0041
L.A.S.D. File #023-02034-2608-013

DATE: March 29, 2024

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the February 10, 2023, fatal shooting of Everett Byram by Los Angeles County Sheriff's Department (LASD) Deputy Blake Runge. We have concluded that Runge acted lawfully in self-defense and defense of others when he fired his weapon.

The District Attorney's Command Center was notified of the shooting on February 10, 2023, at 11:50 p.m. The District Attorney Response Team responded to the location at 2:00 a.m. on February 11, 2023. They were given a briefing regarding the circumstances surrounding the shooting, a walk-through of the scene, and interviewed a witness.

The following analysis is based on investigative reports, recorded interviews, photographs, body-worn camera video (BWV) evidence (from both the present incident and from a previous incident involving a use of force on Byram by one of the deputies in the present case), the autopsy report and witness statements submitted to this office by LASD Detectives Scott Lawler and Robert McGaughey on January 4, 2024. Runge's voluntary statement was considered as part of this analysis.

FACTUAL ANALYSIS

Introduction

On February 10, 2023, at approximately 10:00 p.m., deputies from LASD Palmdale station were dispatched to a domestic violence call on Oxford Drive in Palmdale. ██████ called for help because her husband Everett Byram was hurting her and hurting himself. ██████ said that Byram was under the influence and was possibly suicidal. The 911 operator updated the call prior to the deputies' arrival that Byram was heard in background yelling, "Suicide-by-cop."

LASD Sergeants Cory James and Matthew Pereida, along with LASD Deputies Brandon Cervantes, Juan Lopez-Munoz and Runge arrived at the scene and spoke with ██████ in front of her residence. ██████ told the deputies that Byram had assaulted her, that he had mental health

problems, and ██████ requested that the deputies have Byram, “Committed.” Deputies heard the sound of young children inside the residence. LASD Sergeant Matthew Pereida remained out front with ██████ while James supervised Cervantes, Runge and Lopez-Munoz in conducting a protective sweep of the residence.

While conducting the protective sweep, the deputies encountered Byram in the dark recesses of the yard swinging a sword, yelling aggressively, and approaching the deputies. A fatal officer-involved shooting ensued.

██████’s Statement

██████. was interviewed on February 11, 2023, at approximately 4:00 a.m. at the Palmdale Sheriff’s Station. The interview was audio recorded. ██████ had been married to Byram for approximately two years, and they had been together for about 10 years in total. Just prior to commencing the interview, investigators informed ██████ that her husband had passed away from gunshot wounds in his confrontation with deputies. As a result, ██████ was emotionally wrought and crying through much of the interview.

██████ said that she had moved to Palmdale with Byram and their 15-month-old twin children less than a year earlier. ██████ said that in that time, Byram had been depressed, drinking more alcohol and antagonizing people online. Byram eventually was fired from his job due to his abusive online behavior, which had caused Byram’s drinking and depression to get even worse.

██████ said that in August of 2022, Byram had attempted to commit suicide by taking numerous Ativan pills and alcohol. Police had taken Byram to the hospital, but Byram had been released, and when police tried to take him back to the hospital Byram fought with the police. ██████ said that Byram had attempted suicide numerous times in the past with pills and alcohol. Byram’s suicide attempts had been thwarted by his spitting the pills back out. Both ██████ and Byram’s father had witnessed Byram’s failed suicide attempts in the past. ██████ said that Byram talked about suicide all the time, but she did not know if his attempts were real attempts to kill himself or cries for help.

██████ said that Byram received psychiatric treatment for depression, and that Byram took Wellbutrin, Lexapro and Seraquel. In the days leading up to Byram’s death, Byram had cut himself several times on his neck and talked more frequently about killing himself. Eventually, ██████ told him, “Fine, if you’re going to kill yourself, go kill yourself. Just don’t do it in the house!” In the days leading up to his death, Byram even began cutting himself in front of the couple’s children.

On the day of the incident, ██████ said that she did not recognize Byram anymore. ██████ said that Byram had begun to say, “I will destroy the LGBTQ, fuck all faggots, niggers. I will get rid of them all.” ██████ described Byram as, “Crazy,” and, “Psychotic.” ██████ said she did not know where all the hate came from and described Byram as, “Sick.” ██████ said that Byram was in constant pain, hated everyone, and did not want to be alive anymore.

On February 10, 2023, ██████ said that Byram had been drinking all day and she had tried to take all his alcohol away. At approximately 9:00 or 10:00 p.m., Byram woke ██████ up trying to find his keys and wallet so he could buy some food. ██████ surmised that Byram was going to buy alcohol. When Byram left the house, she attempted to block Byram from entering the residence through a window by wedging it shut with a sword Byram had recently purchased so he would have to come back in through the front door and she could monitor what he was doing.

██████ described Byram's sword as black or silver in color and, "Huge." ██████ had told Byram not to buy the sword, calling it, "Stupid," and, "Intimidating." ██████ said Byram enjoyed swinging the sword around and playing with it. ██████ was comforted by the fact that, when she touched the sword, the sword did not have as sharp edges as she had initially feared it had.

When Byram returned home, ██████ saw he had a bottle of alcohol in his back pocket, which she tried to take away from him. Byram held ██████ in a headlock and punched her in the head with his other fist. The fighting woke up the kids, who started crying. ██████ called 911. While ██████ was on the phone with the 911 operator, Byram came into the room and screamed at her, saying he was going to kill himself. ██████ said Byram walked around the house to look for knives to use to cut his throat. ██████ was able to disarm Byram of his knife and boxcutter. By the time deputies arrived at her house, ██████ presumed that Byram had fled the location.

When the deputies arrived at ██████ residence in response to her 911 call, ██████ went outside and spoke with some of the deputies while other deputies searched her residence for Byram. While the deputies searched, ██████ stood outside with other deputies and was speaking on the phone with Byram's mother when she heard a single gunshot. ██████ did not hear anything prior to the gunshot suggesting that deputies had contacted Byram.

Search of ██████ and Byram's Residence

After the shooting, investigators conducted a more thorough search of ██████ and Byram's residence. Investigators found numerous mostly empty large bottles of liquor in various parts of the house. Investigators also found a Workplace Restraining Order under Byram and ██████ bed in their bedroom. The workplace restraining order dated January 19, 2023, restrained Byram from contacting people from his Byram's former workplace and expired in two years.

Investigators also found medication inside prescription pill bottles in Byram's name treating schizophrenia, anxiety and depression.

Autopsy

On February 15, 2023, Doctor Richard Ou of the Los Angeles County Coroner's Department conducted an autopsy and found the cause of death to be a single gunshot wound to Byram's right cheek, moving in a front to back trajectory.

A toxicology report showed that Byram's blood alcohol level was .21%. He also tested positive for [REDACTED], [REDACTED] and [REDACTED].

Previous Call for Service at Same Residence

On August 30, 2022, [REDACTED] called 911 from the same Oxford Drive residence stating that Byram was intoxicated, had consumed 14 pills, and wanted to harm himself. When deputies arrived, they had to use force to detain Byram. Deputies placed Byram on an involuntary Welfare and Institutions Code Section 5150 hold and transported him to the Antelope Valley Hospital for further evaluation.

Cervantes was one of the responding deputies to the scene in the August 30, 2022, incident. Cervantes wore BWV in that incident and was the deputy who accompanied Byram in the ambulance to the hospital. Cervantes recalled the earlier incident as he approached the residence and mentioned it to the other deputies when they first approached the residence in this incident.

In the August 2022, incident, Cervantes' BWV showed Byram speaking incoherently and yelling at deputies from the moment [REDACTED] opens the door until he is finally brought to the hospital nearly an hour later. On Cervantes' BWV, Byram can be seen cursing at the police, threatening to kill them, and calling them, "Faggots," and "Nigger."⁴

LASD Sergeant Matthew Pereida's Statement

On February 28, 2023, investigators interviewed Pereida at LASD Homicide bureau offices. Pereira gave a voluntary interview. Pereira said he was at the station when he heard a call for service and a request for a supervisor to report to the scene. Pereira said the call notes indicated that a woman had been assaulted and that the suspect was, "Suicide-by-cop." Pereira arrived at the scene after Runge, Lopez-Munoz, Cervantes and James had already arrived.

Pereida said that as he spoke with [REDACTED] at the doorway, he was able to hear a child crying inside the residence. [REDACTED] was talking on the phone at that time with someone named Valerie. Pereira said that due to the assault [REDACTED] had reported, the fact that children were inside the residence and that Byram had been described as, "Suicide-by-cop," he knew the residence needed to be cleared to conduct a further investigation. Pereira said [REDACTED] was initially

1 [REDACTED].

2 [REDACTED].

3 [REDACTED].

⁴ The prior incident is recounted in this detail only because Cervantes, one of the responding deputies to the shooting, was a responding deputy in the prior case as well. Cervantes also told his fellow responding deputies about the prior incident as they responded to this call, and the responding deputies considered that information as they conducted the search and eventually encountered Byram in this incident.

reluctant to have deputies search the residence, saying that she wanted Byram to be treated as a mental health patient instead of a criminal suspect.

Pereida continued speaking with [REDACTED] while the other deputies searched the residence. Pereida saw at least one of the deputies carrying a 40mm less-lethal shotgun as part of the search. At some point Pereida heard a loud boom and heard a radio call that deputies were rendering medical aid to someone in the back.

LASD Sergeant Cory James' Statement

On February 28, 2023, investigators interviewed James at the homicide bureau offices. After viewing the BWV from the incident, James agreed to give a voluntary interview to investigators. James said that he responded to the Oxford Drive location after deputies received a call about a suspect placing a victim in a headlock and punching her. Deputies requested a supervisor to respond to the location when it was reported to them that the suspect was heard on the 911 call saying that he was going to commit suicide-by-cop. James arrived at the location at the same time as the other supervisor, Sergeant Pereida. Cervantes, Lopez-Munoz and Runge were already in front of the location when James arrived. Cervantes informed James that Cervantes had previously responded to the location on a different date and that Byram had fought with Cervantes at that time.

James and the other deputies spoke with [REDACTED] and obtained information from her about her call to the police that evening. After speaking with [REDACTED], James ordered a protective sweep of the location. James decided to do this – even though [REDACTED] objected to the search - because he did not know where the suspect was and based on the violent nature of the call, he wanted to ensure the safety of [REDACTED], her children and the deputies who had responded to the location. James had [REDACTED] wait outside the front of the residence with Pereida while James, Lopez-Munoz, Cervantes and Runge discussed a plan to conduct the sweep of the residence together. Prior to conducting the protective sweep, James discussed the availability of less lethal weaponry such as a 40mm rifle and tasers.

James said that deputies did not see Byram inside the house, so they next went to search the backyard of the residence. While outside, James heard one of the deputies yell, “Let me see your hands!” James then heard Byram yelling something at deputies, but James could not make out what Byram said. James ran towards the deputies and asked if any of them had a taser. James was able to see Byram on the other side of an approximately five-foot-tall fence, yelling loudly and swinging a sword with two hands.

James described the sword as approximately four feet long, double edged and dark in color. James said that he never picked up the sword, but that it appeared to be a real and lethal looking sword as he looked at it in Byram's hands. James sent out a broadcast that they were detaining a suspect with a sword.

James said that Byram kept swinging the sword and coming closer to the deputies, who were standing a little more than 10 feet away from Byram at an opening in the gate. Byram kept swinging the sword and as he got within 10 feet of deputies, James heard a loud bang. James

was not sure if the bang was a firearm or a 40mm projectile. James saw Byram fall to the ground lying on top of his sword. James called for paramedics while Cervantes and Lopez-Munoz gave CPR to Byram.

James described the portion of the backyard where the shooting took place as very dark. James said that as Byram approached the other deputies, James was scared for the deputies, because those deputies were near an open gate and that Byram could reach them very quickly to attack them with the sword.

LASD Deputy Juan Lopez-Munoz's Statement

On March 1, 2023, Lopez-Munoz gave a voluntary statement at the Palmdale Sheriff's Station after reviewing BWV from the incident. Lopez-Munoz said he received the radio call about a suspect that had strangled his wife in a domestic dispute, and that the suspect was possibly mentally ill. Lopez-Munoz did not have a partner at the time, but communicated with Cervantes to meet a short distance from the location so they could arrive together. Prior to arriving at the location, Lopez-Munoz spoke to Cervantes and they agreed that Lopez-Munoz would oversee radio traffic at the location while Cervantes would deploy a taser if needed. At one point, the call was updated to note that the suspect had been heard to say he was going to commit suicide-by-cop. Based on this new information, they requested a supervisor to meet them at the scene. Runge joined Lopez-Munoz and Cervantes to drive to the location together. Lopez-Munoz carried his 40mm less lethal weapon, Cervantes had a taser ready to use, and Runge was prepared to use lethal force if needed.

The three deputies arrived at the location together, went to the front door and knocked while they awaited the arrival of supervisors. Lopez-Munoz said while he had never been to the location before, Cervantes indicated he had a prior encounter at the location where Byram had resisted arrest, necessitating Cervantes using force to detain Byram.

█████ came to the doorway crying and telling the deputies that Byram had put her in a headlock. James and Pereida arrived as Lopez-Munoz tried to gather more information and █████ became less cooperative, telling deputies that she did not want Byram to be arrested. Lopez-Munoz was able to hear babies crying inside the house. Lopez-Munoz described the crying as more than typical infant crying, describing it more as screaming, which Lopez-Munoz said gave him greater concern. Lopez-Munoz told █████ that they were going to clear the residence; █████ told them that she did not want them to do that.

Lopez-Munoz, Cervantes and Runge, supervised by James, cleared the house and then searched the backyard. Lopez-Munoz illuminated a darkened fenced area on the side of the house which appeared to contain an air conditioning unit when suddenly Byram, "Pops up with a sword." Lopez-Munoz said that Byram had appeared to be hiding when he stood up with the sword and was about 20 feet away from Lopez-Munoz at that time. Lopez-Munoz said that Byram began advancing towards the deputies swinging the sword in a threatening manner and yelling, "Kill me nigger! Kill me mother fuckers! Faggots!" Lopez-Munoz described the sword as approximately two to three feet long. Lopez-Munoz said that Byram kept swinging the sword in their direction as he advanced towards them.

Lopez-Munoz said that he retreated approximately four feet, holstered his service firearm, and switched to his 40mm weapon. Lopez-Munoz and the other deputies gave commands to Byram to, “Stop! Drop the knife!” Byram continued advancing, and Lopez-Munoz did not know exactly how much distance he had to back up before falling into the pool in the backyard. Lopez-Munoz said that he yelled out, “40! 40!” and fired the 40mm one time at Byram’s chest. Lopez-Munoz said that he heard Runge fire his duty weapon, “A second or millisecond,” after Lopez-Munoz fired his 40mm weapon. Lopez-Munoz was unable to tell the effect of the 40mm ammunition on Byram because the whole incident happened so quickly.

Lopez-Munoz described Byram’s demeanor as angry. Lopez-Munoz said that Byram never stopped moving towards the deputies after he first popped up. Lopez-Munoz said that Byram was, “Walking with a purpose,” as he approached the deputies. Lopez-Munoz described the sword as two to three feet in length, black, double-edged and heavy. Lopez-Munoz thought the sword was heavy because the sword did not flex or bend as Byram swung it back and forth.

Lopez-Munoz said that he and the other deputies attempted to render aid to Byram until rescue personnel arrived.

LASD Deputy Brandon Cervantes’ Statement

On March 1, 2023, Cervantes gave a voluntary statement about the incident at the Palmdale Sheriff’s Station. Cervantes’s statement was similar to Lopez-Munoz’s about responding to the radio call and meeting up with Lopez-Munoz and Runge prior to getting to the location. Cervantes also said that the three discussed tactics about less lethal ammunition. Cervantes said that prior to getting to the location, the call was updated with information that Byram, “Wanted to go suicide-by-cop.”

It was only as Cervantes began walking up to the residence that he recalled having previously responded to a call at the location where he had used force arresting Byram and placed him on a 5150 hold.⁵ Cervantes told Lopez-Munoz and Runge about his prior experience at the location as the three of them walked up to the residence.

Cervantes said that ██████ did not answer the door immediately when they knocked, but she eventually did. Cervantes said that ██████ kept saying that Byram needed help and that the deputies needed to help him. Cervantes asked if Byram had placed ██████ in a chokehold. ██████ said yes, then she began to recant and tell the deputies that they were not needed. Cervantes said he was able to hear a child crying inside the residence. Cervantes said that Pereida and James arrived around this time. James and Perdeida told the deputies to clear the residence and, “Check that box.” [make sure the location was safe and that the suspect was no longer around]. Cervantes said that he, James, Lopez-Munoz and Runge conducted the search. Cervantes said that he and Runge were designated to be prepared to use lethal force if needed, while Lopez-Munoz was designated as less lethal. One child was asleep inside the residence, the other was awake and crying. No suspect was found inside the residence.

⁵ Welfare and Institution’s Code (WIC) Section 5150 allows for an involuntary medical hold to be placed on someone who is a danger to themselves or others, among other conditions.

The deputies continued searching outside when Cervantes heard Lopez-Munoz say, “Show me your hands!” Cervantes saw Byram emerge standing up wielding a large sword in his hands. Cervantes said that Byram appeared to have been hiding in a fenced-in corner of the side yard housing either an air conditioning unit or pool equipment. Cervantes stated out loud, “He has a sword!” Deputies began ordering Byram to drop the sword.

Instead of dropping the sword, Cervantes said that Byram called the deputies, “Fucking faggots,” and the, “N,” word. Cervantes also said that Byram said, “Shoot me! Shoot me!” Cervantes said that Byram escalated the situation by continuing to swing the sword and advance on the deputies. Cervantes said that he heard Lopez-Munoz say, “40!” as Lopez-Munoz deployed the 40mm weapon. Almost immediately after that, Cervantes said that Runge fired his duty weapon, shooting Byram and causing Byram to fall to the ground on top of the sword.

Cervantes estimated that Byram was approximately 20 feet away when he first stood up with the sword. Cervantes estimated that Byram was approximately ten feet away when Runge fired his duty weapon at Byram. Cervantes said that he did not deploy the taser because the 40mm seemed more appropriate under the circumstances.

Cervantes said that the deputies began to render aid until rescue personnel arrived.

LASD Deputy Blake Runge’s Statement

On March 1, 2023, Runge gave a voluntary statement to investigators. Runge described arriving to the scene with Lopez-Munoz and Cervantes in the same way they did. Runge said that when he met with Lopez-Munoz and Cervantes prior to arriving at the scene, the call was updated to mention a possible suicide-by-cop, so they called for the Mental Evaluation Team (MET) and supervisors to meet them at the location. Runge said that he was tasked with having a taser and firearm ready in case force was needed.

Runge did not initially speak with ██████ at the doorway, but instead looked around the side of the house and the street to see if any suspects were visible. After the other deputies spoke with ██████, Runge entered the house with Lopez-Munoz, Cervantes and James to clear the location. Runge recalled hearing a child crying as they entered the residence. Runge did not recall anything out of the ordinary during the search inside the residence. Runge said he conducted the search with his firearm out because statements made by Byram wanting to commit suicide-by-cop made the call for service a high-risk call.⁶

Runge and the other deputies continued their search in the backyard, Runge recalled seeing a swimming pool in the backyard, and then heard one of the deputies shout, “Show me your hands!” Runge saw Lopez-Munoz and Cervantes standing at the opening of the fence looking along the side of the house at someone. Runge ran towards Lopez-Munoz and Cervantes and

⁶ The BWV shows that the deputies utilized the flashlight attached to their firearms to illuminate the interior and exterior of the residence.

stood shoulder to shoulder with them, while all three illuminated Byram with their flashlights.⁷ Runge said that he was standing behind the fence, while Cervantes and Lopez-Munoz stood at the opening of the fence while all three faced Byram.

Runge observed Byram acting extremely agitated and was only about 10 feet away from him and the other deputies. Runge said that Byram was saying, “Fucking shoot me, faggots! Just fucking shoot me!” Runge was able to see a sword in Byram’s hands that was approximately three feet long. Runge said that Byram initially had the sword in just one hand, but as Byram approached the deputies Byram switched to holding the sword in two hands and swinging it violently.

Runge said he was terrified at that time and thought that Byram would stab him or one of the other deputies. Runge heard someone yelling, “Drop the sword!” Runge did not recall giving any orders himself, but Runge recalled hearing the orders given, all the while Byram ignored the orders and continued advancing on the three deputies. Runge said that Byram got to within six to eight feet of the deputies when Runge fired his duty weapon at Byram. Runge said that he was convinced that if he had not fired his weapon at Byram then Byram would have harmed either of the other deputies or himself. Runge said that from the moment he first observed Byram until he fired his duty weapon perhaps two to three seconds had elapsed.

After firing his weapon, Runge watched Byram fall to the ground. The deputies rendered aid to Byram until rescue personnel arrived. It was only while rendering aid to Byram that Runge saw expended 40mm ammunition. Runge was not aware that the 40mm had been fired prior to that moment.

████████ 911 Call

████████ 911 call was recorded. On the call, ██████ told the operator that Byram is, “Hurting me and hurting himself and if he’s not taken away, I’m afraid he’s going to hurt my children.” ██████ told the operator that Byram put her in a headlock, and that Byram was presently in the bathroom. ██████ also said that Byram was suicidal, and that, “All day he has been threatening murder.”

████████ muted the call for a period of time. When she unmuted the call Byram could be heard in the background saying, “Suicide-by-cop!” and “Suicide-by-cop, nigger!” ██████ told Byram to “Go outside and wait for them then!”

████████ could also be heard on the call saying, “Put that down! Put that down! Put that down right now!” ██████ told the operator that Byram had gone to his office and, “He had a kitchen knife, but I told him to drop it.” Byram could then be heard saying, “When the cops come, I’m going to kill them!” and “Suicide-by-cop, nigger!”

⁷ Runge was standing behind a fence looking at Byram from over the fence. It should be noted that Runge is six feet, seven inches tall, and from the BWV it showed his view over the fence was unobstructed. Runge said the fence went up to his mid-chest area.

Analysis of BWV

Each of the responding deputies wore BWV cameras in this case. The BWV shows the incident as it unfolded from the first moment they arrived at the location until after the shooting of Byram. As Cervantes and Lopez-Munoz approach the front door and knock on it, Cervantes remembers the location, pointing to his left and saying to Lopez-Munoz that all the bedrooms in the residence are to the left. There are small doorway-windows on each side of the door that the officers are standing in front of as they knock on the door and attempt to look through.

Both the interior and exterior of the house were dark as the deputies try to look through the small windows to see what is happening inside. When █████ comes to the front door, she catches Lopez-Munoz by surprise, causing him to quickly jump back in surprise and exclaim, “Oh, shit!”

The BWV shows the conversation between █████ and the responding deputies and sergeants that come to the scene. █████ is seen as initially resistant to the deputies searching the residence for Byram, saying he has left the location. Eventually Pereida calms █████ down while Cervantes, Runge, Lopez-Munoz and James search the residence and backyard for Byram.

The BWV shows both the residence and backyard were dark and quiet while the search was taking place, except for one of the babies who was standing and crying in the crib. Eventually, the search continues outdoors into the backyard. Cervantes and Lopez-Munoz approach the side of the house while James and Runge trail behind them.



Figure 1 Still photo from James’s BWV showing Cervantes and Lopez-Munoz approaching the location where they first observe Byram while Runge trails behind them.



Figure 2 Still photo from James's BWV showing Cervantes and Lopez-Munoz standing at the fence at the moment Byram emerges with his sword and deputies yell, "Hands!"



Figure 3 Still photo from Cervantes's BWV showing Byram emerging with his sword in the air and approaching deputies.



Figure 4 Still photo from James's BWV showing Runge looking over the fence at Byram after catching up with Cervantes and Lopez-Munoz. Byram is swinging his sword and approaching the deputies.

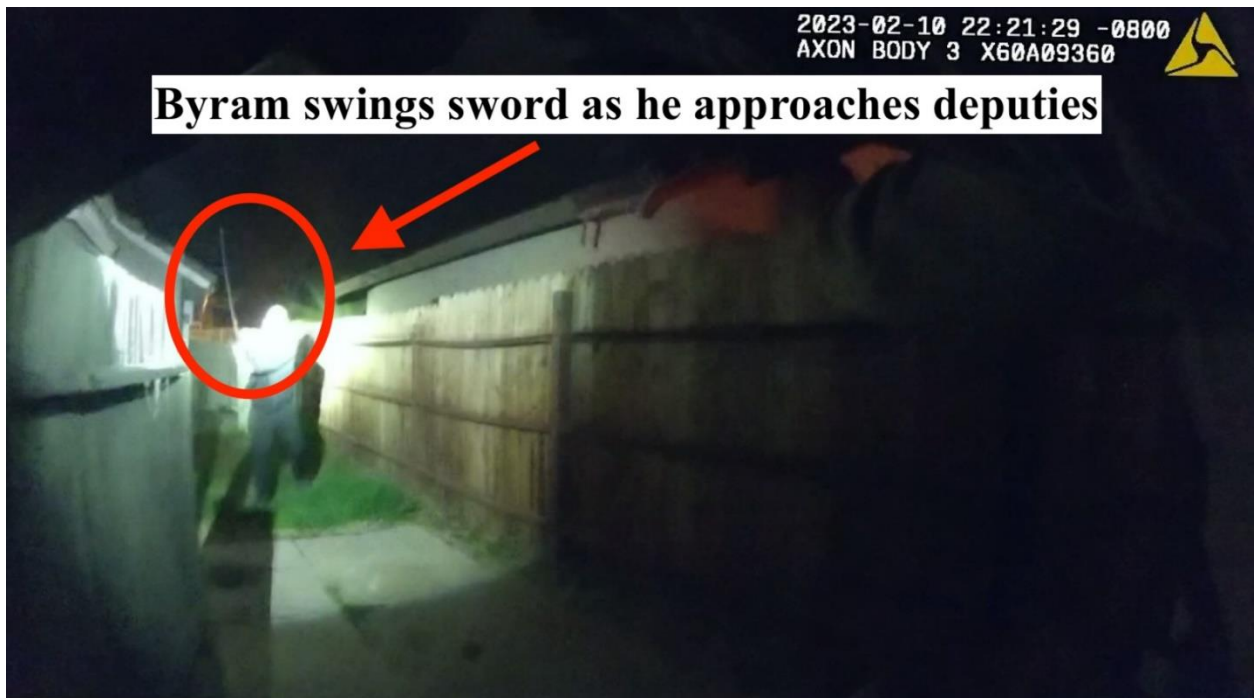


Figure 5 Still photo from Cervantes's BWV showing Byram approaching the deputies while he swings the sword with two hands.



Figure 6 Still photo from Cervantes's BWV showing Byram continuing to approach deputies while swinging sword at the moment a deputy yells, "40!"



Figure 7 Still photo from Cervantes's BWV showing the moment Cervantes fires 40mm round at Byram.



Figure 8 Still photo from James's BWV showing Runge looking over the fence at the moment Runge fires his service weapon at Byram.



Figure 9 Still photo from Cervantes's BWV showing Byram falling to the ground after being shot and rolling onto his sword.

Crime Scene Photographs

Numerous crime scene photographs were taken showing the house and backyard area.



Approximate location of deputies at time of shooting



Figure 10 Crime scene photograph looking from where Byram began approaching the deputies towards where the deputies were standing at the time of the shooting. The area behind where the deputies stood had debris strewn around it, as well as a swimming pool almost directly behind them.



Figure 11 Crime scene photograph showing the location that Byram emerged from with the sword and taken from the approximate location of Cervantes and Lopez-Munoz when they first observed Byram.



Figure 12 Crime scene photograph showing the sword laying after it was moved while the deputies rendered aid to Byram.

LEGAL ANALYSIS

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. Penal Code section 835a.

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

A threat of death or serious bodily injury is imminent when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. Penal Code section 835a(e)(2).

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

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

Runge, Cervantes, Lopez-Munoz, along with two sergeants, James and Pereida, responded to a radio call about domestic violence by a suspect who was audibly threatening violence against his spouse as well any responding police officers. One of the deputies had a prior call at the same location made by the same victim where the same suspect had previously been violent and resistant to the police. When deputies arrived, the deputies were aware of the threats towards law enforcement in this situation, as well as the prior incident. During the search for the suspect in the backyard, Byram appeared suddenly out of a darkened area swinging a sword. Byram kept

walking towards deputies as they stood in the dark area with little room for deputies to maneuver, all the while cursing at the deputies, threatening them, and demanding that they shoot him. Byram refused orders to stop and drop the sword, instead continuing to approach to within ten feet of the deputies.

The confrontation took place suddenly with little opportunity for deputies to redeploy, confer or to attempt to safely stop and consider alternative less-lethal means of force. The BWV shows the location to be dark, cramped, and not providing the deputies easy areas of retreat without possibly endangering themselves. The deputies had conferred briefly before the search to consider the use of less lethal force, if needed. However, at the moment the confrontation began, there was no obvious opportunity for a safe redeployment so as to effectuate the use of less lethal forms of force. While the deputies planned the use lethal and non-lethal force, the rapidly evolving circumstances did not allow for a re-assessment and reconsideration of those plans.

Despite numerous commands to stop and drop the weapon, Byram did not listen and continued approaching the deputies. While Runge stood behind a fence and was arguably in a safer position than Cervantes and Lopez-Munoz, he was not in an obviously safe position in light of the damage a sword could do him, even while mostly shielded by a fence. Furthermore, Runge's partners were completely exposed, and as the designated lethal force deputy, Runge felt he had responsibility not only for his own safety, but also for the safety of his fellow deputies who were more exposed and not the designated lethal force deputies.

These facts support Runge's stated belief that he reasonably feared for his life and the life of his partners, and that the deadly force was necessary to defend against an imminent threat of death or serious bodily injury to himself or another within the meaning of Penal Code Section 835a(c).

CONCLUSION

We conclude that Deputy Runge lawfully used deadly force in his own defense and of his partners.