

**Non-Fatal Officer Involved Shooting of Michael Benavidez  
Los Angeles Police Department**

**Officer Diana Lebron, #43047  
Officer Thomas Sauer, #41175**

**J.S.I.D. File #18-0514**



**GEORGE GASCÓN**

**District Attorney**

**Justice System Integrity Division**

**June 22, 2023**

## MEMORANDUM

TO: CAPTAIN RICHARD GABALDON  
Los Angeles Police Department  
Force Investigation Division  
100 West First Street, Suite 431  
Los Angeles, California 90012

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

SUBJECT: Non-Fatal Officer Involved Shooting of Steven Michael Benavidez  
J.S.I.D. File #18-0514  
F.I.D. File #F068-18

DATE: June 22, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 22, 2018, non-fatal shooting of Steven Michael Benavidez by Los Angeles Police Department (LAPD) Officers Diana Lebron and Thomas Sauer. It is our conclusion that Lebron and Sauer acted in lawful self-defense and defense of others at the time they fired their weapons and used lawful force in shooting Benavidez.

The District Attorney's Command Center was notified of this shooting on December 22, 2018, at approximately 10:39 p.m. The District Attorney Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports submitted to this office by the LAPD, Force Investigation Division and body worn camera video (BWV). The shooting officers' departmentally compelled statement were not considered in this analysis.

### **FACTUAL ANALYSIS**

On December 22, 2018, at approximately 8:59 p.m., [REDACTED] called 9-1-1 and reported a man outside her residence walking up and down the street and knocking on all doors. She further reported the man appeared to be trying to get into houses, and that he seemed intoxicated or mentally disturbed. [REDACTED] gave a description of the man.

LAPD Communications Division (CD) broadcast a call along with a description for a "415 Man"<sup>1</sup> at a residential address on Genesta Avenue in the Encino area of Los Angeles. LAPD

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<sup>1</sup> California Penal Code section 415 is the statute for disturbing the peace.

Officers Dylan Smiley and Michael Roll responded to the call. Smiley and Roll were driving a marked police vehicle. They drove east on Albers Street from Amestoy Avenue and both officers saw Benavidez walking west on Albers Street towards them. Both officers immediately recognized Benavidez as matching the description of the man in the call. [REDACTED] was driving west on Albers Street and as she drove past Smiley and Roll she pointed towards Benavidez and stated “That’s him.”

Smiley turned his vehicle around and followed Benavidez west on Albers Street.<sup>2</sup> Benavidez alternated between a fast-paced walk and a jog. Smiley attempted to gain Benavidez’s attention out of his open window, however Benavidez did not respond and continued westbound on Albers Street away from the officers.

Smiley observed Benavidez had an object in his hand. Smiley stated, “He pulled out something. Did you see that?” Benavidez continued west on Albers Street and then turned south onto Ostrom Avenue. Smiley observed Benavidez discard an item onto the ground. Smiley drove past the discarded item and recognized it to be a sheath. Smiley then recognized the item in Benavidez’s hand to be a knife. Smiley stated, “He’s got a knife!” Smiley and Roll saw that Benavidez was approaching [REDACTED], a resident standing in front of a residence on Ostrom Avenue.

Roll broadcast a call for an additional police unit. Smiley and Roll exited their police vehicle and Smiley unholstered his pistol. Roll broadcast a call for back-up for a “415 man with a knife.” Both officers yelled commands at Benavidez, however Benavidez ignored them and ran south on Ostrom Avenue. Smiley and Roll followed Benavidez on foot.

Benavidez travelled southbound on Ostrom Avenue to Margate Street, westbound on Margate Street to Aldea Avenue, and then southbound on Aldea Avenue, and then westbound on Weddington Street. Smiley and Roll followed, continually broadcasting updates to their location. Benavidez turned southbound onto Andasol Avenue, and, as he did, Smiley asked Roll “Is that a gun? In his right hand?” Roll stated that he couldn’t see it. Smiley and Roll lost sight of Benavidez near a residence on Andasol Avenue. Roll broadcast that Benavidez had just gone into a backyard and that he and Smiley were holding a perimeter at a residence on Andasol Avenue.

LAPD Officers Dennis Noralez and Kevin Perla responded to the residence on Andasol Avenue. Smiley and Roll updated Noralez and Perla as to Benavidez’s last known location, description, that Benavidez was armed with a knife and may also have a pistol in his right hand. Noralez and Perla stayed at the residence on Andasol Avenue while Smiley and Roll returned to Weddington Street to cover the north side of the perimeter. As Roll and Smiley moved towards Weddington Street, Roll heard the sound of a gate opening to his west and saw Benavidez exiting the gate and running westbound on Weddington Street towards Bianca Avenue. Roll broadcast his observations.

LAPD Officers Kyle Golveo and Jae Kim were driving to the scene when Roll made his latest broadcast. They drove past Smiley and Roll and caught up to Benavidez who was running

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<sup>2</sup> Smiley and Roll both activated their BWV at this time.

westbound on Weddington Street. Golveo stopped his vehicle at Bianca Street facing westbound.

LAPD Sergeant Matthew Vannatter and Officer Kenny Liam drove onto Weddington Street from Encino Avenue. Vannatter saw Benavidez running towards him and stopped his vehicle on Weddington Street facing eastbound. Vannatter, Liam, Golveo and Kim exited their vehicles. Vannatter, Kim and Liam recognized that Benavidez was armed with a pistol, unholstered their own pistols, and took cover behind their respective vehicle doors. Benavidez ignored officers' commands to drop his weapons and stop running. Benavidez continued to run westbound on the north side of Weddington Street towards Encino Avenue, passing Vannatter and Kim's vehicle.

Benavidez turned northbound on Encino Avenue towards Margate Street. Vannatter, Noralez, Perla, Roll, Smiley and Kim pursued Benavidez on foot. Vannatter broadcast, "The suspect is running down Encino from Weddington. He appears to have a gun in his hand." Golveo returned to his vehicle to retrieve a 40 mm less-lethal launcher.

Benavidez continued to run northbound on Encino Avenue and refused officers' commands to drop the gun, to stop, and to get on the ground. Instead, Benavidez turned westbound on Margate Street. Video surveillance from a residence on Margate Street depicts Benavidez holding a pistol in his right hand and a knife in his left hand.



Benavidez running westbound on Margate Street holding a gun in his right hand and a knife in his left hand

LAPD Officers Francisco Castro and Laura Gonzalez arrived on the scene, driving northbound on Shoshone Avenue from Weddington Street. They exited their vehicle and took cover behind

the vehicle doors. Castro repeatedly yelled commands at Benavidez to get on the ground, and both Castro and Gonzalez called out that Benavidez was armed with a pistol.

At approximately 9:30 p.m., Lebron and Sauer arrived on the scene and parked their vehicle behind Castro and Gonzalez's vehicle. Benavidez turned northbound on Shoshone Avenue into a residential cul-de-sac. Benavidez approached a residential gate at the north end of the cul-de-sac and attempted to open the gate. Vannatter ordered Castro to drive his vehicle forward to provide cover for the other officers. Castro did so and officers followed alongside of the vehicle, using it for cover.

Lebron pulled her vehicle into the cul-de-sac and stopped near the west curb. Officers ordered Benavidez to stop and get on the ground but Benavidez ignored all commands. Vannatter ordered Golveo to move forward and fire less lethal munitions at Benavidez.<sup>3</sup> Golveo warned Benavidez that he could be injured and that he (Golveo) was going to fire his 40 mm launcher. Benavidez moved west up the length of a residential driveway and disappeared out of sight on the north side of the residence. Golveo did not fire his weapon at this time. Sauer and Lebron were standing on the driver's side door of their police vehicle as Benavidez ran out of sight, and Sauer saw that Benavidez was armed with a pistol and called this out to both Lebron and other officers.

Sauer moved to the passenger side of his vehicle and took a two-handed shooting stance over the hood of the vehicle. Golveo took cover behind the right front fender of Castro's vehicle. Benavidez suddenly stepped out from the north side of the residence. Benavidez was holding a pistol in his right hand and a knife in his left hand. Benavidez was holding the pistol with his elbow bent at ninety degrees, his forearm parallel with the ground, and with the muzzle of the pistol pointed directly at the officers in the cul-de-sac.

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<sup>3</sup> Vannatter believed that Golveo was armed with a bean bag shotgun, however Golveo was actually armed with a 40mm launcher.



Residential surveillance video depicting Benavidez pointing his pistol at officers in the cul-de-sac on Shoshone Avenue

Sauer yelled, “Hey. Drop the gun. Drop the gun.” Benavidez did not respond to Sauer’s commands. Sauer fired three rounds at Benavidez from approximately fifty feet away. At least two rounds struck Benavidez in his lower back.

Golveo stated that he feared that Benavidez was going to force entry into the residence and fired his 40 mm launcher at approximately the same time that Sauer fired his third round. Golveo reloaded his launcher and fired a second round.<sup>4</sup> Golveo stated that he believed that both rounds struck Benavidez in the lower front torso. Neither round appeared to have any effect on Benavidez.

Benavidez continued south and approached the front door of the residence. Benavidez attempted to open the front door but found it locked. Benavidez then unsuccessfully attempted to force his way into the house by using his pistol as a striking device against the glass windowpane on the residence’s front door.

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<sup>4</sup> According to Golveo, he believed he fired both 40 mm projectiles before Sauer fired his weapon and that Benavidez was in front of the garage when the 40 mm projectiles were fired. An analysis of the BWV determines that Golveo fired his first 40 mm round almost simultaneously with Sauer’s third round, and that Benavidez had moved south of the garage.



Residential surveillance video depicting Benavidez trying to open the front door of the residence on Shoshone Avenue

Knife

Gun



Residential surveillance video depicting Benavidez standing in front of the residence on Shoshone Avenue armed with a knife in his left hand and pistol in his right hand





Residential surveillance video depicting Benavidez about to strike the front door of the residence on Shoshone Avenue with his pistol in his right hand

Lebron moved to the rear of her police vehicle as Benavidez moved towards the front porch from the garage. Benavidez walked away from the front door of the residence southbound alongside the front of the residence. Benavidez momentarily paused and appeared to point his pistol in the direction of Lebron. Lebron fired one round from her weapon.<sup>5</sup>

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<sup>5</sup> It is unclear if the round Lebron fired struck Benavidez. Benavidez's medical records reflect that Benavidez was struck by three rounds. Both Lebron and Sauer used identical ammunition in their firearms. Whether or not Lebron's round struck Benavidez does not change the analysis.

Lebron's hands pointing her pistol

Benavidez



Lebron's BWV depicting Lebron in two-handed shooting stance as Benavidez appears to points his pistol in her direction

Benavidez continued moving south towards a gate at the south end of the residence. Benavidez opened the gate and entered the backyard out of sight.

Over the next approximately four hours and twenty minutes officers attempted to persuade Benavidez to surrender. Due to the inability to see if Benavidez was still armed and the tactical difficulties in approaching Benavidez because of his location in a residential backyard, officers used a number of different tactics to attempt to take Benavidez into custody and to render medical aid. Officers warned Benavidez that another 40 mm round would be fired, and, when Benavidez did not respond, two 40 mm rounds were fired, one round hitting Benavidez in the

right leg and the second hitting him in the right knee. The second round caused Benavidez to begin to move. On officers' BWV an officer states that Benavidez is manipulating his waistband and possibly removing an item. One bean bag round was fired at Benavidez, striking him in the right leg. Benavidez ignored further commands to surrender and instead began to break a wooden fence that was next to him. Benavidez then crawled under the fence into a small area with high walls that was later determined to house pool equipment.

After establishing containment on this smaller area, officers sent in a robot to open a line of communication with Benavidez. Officers used the robot to speak to Benavidez in both English and Spanish, however their efforts were unsuccessful.

Officers next used a flameless tri-chamber gas cartridge by first warning Benavidez of its use should he fail to surrender, and then, when receiving no response, by tossing the cartridge over the wall into the area where Benavidez was concealed. Benavidez immediately responded to the introduction of the gas cartridge and followed officers' commands to walk around the pool to an open gate and get down on his knees. Officers then took Benavidez into custody.

Benavidez was searched and provided medical treatment by Los Angeles Fire Department (LAFD) personnel, and then transported by ambulance to Northridge Hospital Medical Center. Benavidez was treated for three gunshot wounds to his lower left back.

Investigators recovered Benavidez's pistol and knife within the fenced-in area containing pool equipment where Benavidez had concealed himself. The pistol was a 4.5mm Daisy Powerline 426 CO2 Air Pistol. The pistol was black and measured approximately six inches in length along the top rail. The knife recovered was black and measured approximately twelve inches in length.



The semi-automatic Daisy Air Pistol recovered from the fenced-in area where Benavidez was hiding



The knife recovered from the fenced-in pool area where Benavidez was hiding

Sauer was armed with a department-authorized 9 mm Glock Model 17 semi-automatic pistol with an attached Surefire X300 tactical light. Sauer fired three rounds during the incident.

Lebron was armed with a department-authorized 9 mm Smith and Wesson Model M&P semi-automatic pistol. Lebron fired one round during the incident.

Investigators examined the clothing Benavidez was wearing at the time of the incident. Nine defects were observed on Benavidez's jacket and t-shirt. Three defects were observed in the outer lining of the jacket, three defects were observed on the inner lining of the jacket, and three defects were observed on the t-shirt.

Benavidez was struck by three bullets. Analysis determined that two of the bullets struck Benavidez in the left lower back and one bullet struck him in the middle-lower back.

## **OFFICER WITNESS STATEMENTS<sup>6</sup>**

### LAPD Officer Michael Roll

Roll gave a recorded statement. Roll stated that he and his partner Smiley responded to a radio call regarding a "415 man."<sup>7</sup> Roll stated that he was the passenger in a LAPD police vehicle and that Smiley was driving. Roll stated that he observed a man matching the description given in the radio call (later identified as Benavidez) on Albers Street east of Amestoy Avenue. Roll stated that a civilian driving a white SUV pointed at Benavidez and stated, "That's him." Roll stated that he and Smiley followed Benavidez westbound on Albers Street. Roll stated that Benavidez was "fast-paced walking or jogging" and looking over his shoulder. Roll stated that Benavidez then travelled southbound on Ostrom street. Roll stated he observed Benavidez drop

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<sup>6</sup> All of the LAPD officers' statements were recorded and compelled. This office chose to review those compelled statements, excepting those of Sauer and Lebron, as none of the officers were the subject of the officer involved shooting.

<sup>7</sup> See footnote 1, *supra*.

an item on the ground.<sup>8</sup> Roll stated that Smiley stated, “Hey, he has a knife.” Roll stated that he observed Benavidez make contact with a civilian in front of a residence on Ostrom Street. Roll stated that the civilian was holding what appeared to be grocery bags in her hands, that Benavidez was one to two feet away from her, and that she looked shocked and stunned. Roll stated that Smiley drove closer to Benavidez in an attempt to draw him away from the civilian. Roll stated that Benavidez “took off” southbound on Ostrom Street, alternatively running, walking and fast-paced jogging. Roll broadcast an update for a backup for a “415 male with a knife.” Roll stated that he and Smiley both followed Benavidez on foot. Roll stated that Benavidez continued southbound on Ostrom Street and then made a left turn onto Weddington Street. Roll stated that he continued to broadcast updates on their location. Roll stated that Benavidez turned southbound on Andasol Avnue and that he briefly lost sight of Benavidez. Roll stated that he observed a dark image or a shadow going into a residential gate on Andasol Avenue and heard the sound of a gate creak. Roll stated that he went back to Weddington Street. Roll stated that approximately 30 seconds to two minutes later Benavidez emerged from a side gate of a residence on Weddington Street and travelled westbound on Weddington Street. Roll stated that other LAPD officers arrived and attempted to make contact with Benavidez but stated he did not know if they were successful.

Roll stated that he followed Benavidez on foot along with other LAPD officers and that Benavidez turned northbound on Encino Avenue. Roll stated that he heard his supervisor, Vannatter, broadcast that Benavidez was armed with a gun. Roll stated that he had dropped back during the pursuit and lost sight of Benavidez for approximately one minute. Benavidez stated that he followed other LAPD officers westbound onto Margate Street, and then northbound onto Shoshone Avenue which ended in a cul-se-sac. Roll stated that when he arrived in the cul-de-sac on Shoshone Avenue Benavidez was moving westbound across the front of a residence. Roll stated that he observed Benavidez attempt to smash the glass on the residence’s front door. Roll stated that another LAPD officer stated that Benavidez had a gun. Roll stated he reacquired where Smiley was positioned and moved into position behind cover next to Smiley. Roll stated that he heard two “pops.” Roll stated that he did not know if the “pops” were handgun rounds or 40 mm rounds. Roll stated he did not hear any warning or direction given prior to hearing the two “pops.” Roll stated that Benavidez then travelled southbound along the front fence of the residence and made entry into the residential backyard and out of sight.

#### LAPD Officer Dylan Smiley

Smiley gave a recorded statement. Smiley stated that he and his partner Roll responded to a radio call regarding a “415 man.” The description in the call was of a white male with facial hair in his mid-thirties, wearing a black jacket and dark pants, appearing to be under the influence of an unknown substance and walking back and forth from house to house banging on the front doors. Smiley stated that he was driving a LAPD police vehicle and that Roll was the passenger. Smiley stated that he drove his vehicle to the area of Albers Street and Amestoy Avenue and recognized Benavidez as matching the description given in the radio call. Smiley stated that Benavidez was walking westbound on Albers Street towards Smiley’s vehicle. Smiley stated that at approximately the same time [REDACTED] and her family were driving westbound on Albers

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<sup>8</sup> The discarded object was later recovered and determined to be a sheath for a knife.

Street and, as she drove past Smiley, pointed at Benavidez and said, "That's him."<sup>9</sup> Smiley stated that he tried to get Benavidez's attention by saying, "Hey sir," and shined his light on Benavidez but Benavidez did not respond and continued running westbound on Albers Street. Smiley stated he followed Benavidez and saw him transfer a black object from his left hand to his right hand, and then pull a black object off it and throw it to the ground on the side of the street.<sup>10</sup> Smiley stated he then observed Benavidez to be holding a knife, and stated he told Roll, "Hey partner, he has a knife." Smiley stated he parked his vehicle and observed Benavidez approach a civilian in front of a residence on Ostrom Street and appear to speak to her but was unable to hear what was being said. Smiley stated he shouted at Benavidez, "Let me see your hands." Benavidez ignored him and ran away southbound on Ostrom Street. Smiley stated that he and Roll followed in foot pursuit, and that Roll put out a radio call for backup for a "415 man with a knife." Smiley followed Benavidez southbound on Ostrom Street and then westbound on Weddington Street. Smiley stated that he saw an object in Benavidez's right hand that looked like a gun. Smiley stated that he told Roll that Benavidez may be armed with a gun. Smiley stated he followed from Weddington Street to southbound on Andasol Avenue and lost sight of Benavidez when he ran behind a residence.

Noralez and Perla arrived and Smiley stated he informed them that Benavidez was possibly armed with a gun. Smiley stated he went back to Weddington Street. Smiley stated that he heard Roll yell that Benavidez had just exited a residential side yard gate on Weddington Street and run westbound on Weddington Street. Smiley stated he followed Benavidez on foot westbound on Weddington Street, northbound on Encino Avenue, westbound on Margate Street and finally northbound on Shoshone Avenue. Smiley stated that Benavidez attempted to get into a residential gate on the east side of the cul-de-sac on Shoshone Avenue. Smiley stated that he had taken cover behind a LAPD vehicle in the cul-de-sac on Shoshone Avenue. Smiley stated he heard officers give Benavidez multiple commands to "drop the knife" and "drop the gun," but that Benavidez ignored all of the commands. Smiley stated that Benavidez walked southbound across the driveway of a residence on Shoshone Avenue. Smiley stated he observed Benavidez holding the firearm pointed at the officers in cover behind the LAPD vehicle. At that point Smiley heard "two or three pops." Smiley stated that the pops sounded like "a 40 or beanbag." Smiley looked southbound and saw smoke. Smiley stated he heard one more "pop" and then observed Benavidez move to the front door of the residence on Shoshone Avenue and attempt to smash the window to the front door. Smiley stated he then observed Benavidez move southbound across the front of the residence and enter the backyard through a gate in the fence.

#### LAPD Officer Dennis Noralez

Noralez gave a recorded statement. Noralez stated that he responded to a request for backup regarding a man with a knife. Noralez was the passenger in a LAPD vehicle. His partner Perla was driving. Noralez stated they arrived at a residence on Andasol Avenue and exited their vehicle. Noralez stated that he heard a LAPD radio broadcast updating Benavidez's location and that he and Perla got back into their vehicle and attempted to drive in pursuit, however they were unable to do so because of numerous LAPD vehicles blocking the street. Noralez stated he exited his vehicle and began to pursue Benavidez on foot along with multiple other LAPD

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<sup>9</sup> ████████ made the initial 9-1-1 call in this incident.

<sup>10</sup> See footnote 8, *supra*.

officers. Noralez stated that while in pursuit of Benavidez that he observed a knife in Benavidez's left hand. Noralez stated that he heard other LAPD officers state that Benavidez was armed with a gun, however Noralez was unable to confirm whether Benavidez had a firearm. Noralez stated he followed Benavidez to a cul-de-sac on Shoshone Avenue and observed Benavidez unsuccessfully attempt to gain entry to a residence's front gate. Noralez stated he observed Benavidez move southbound and then heard approximately four gunshots from his (Noralez's) left. Noralez stated he looked to his left and saw Sauer pointing his firearm at Benavidez. Noralez stated he later saw shell casings in that area that led him to believe that a firearm had been discharged. Noralez stated he saw Benavidez continue to move southbound and enter the backyard of a residence on Shoshone Avenue through a gate.

#### LAPD Officer Kevin Perla

Perla gave a recorded statement. Perla stated that he was driving a LAPD police vehicle and that he and Noralez, his partner, responded to the request for backup regarding a man with a knife. Perla drove to a residence on Andasol Avenue and exited his vehicle. A LAPD radio broadcast gave an updated location for Benavidez and Perla stated he got back into his vehicle and attempted to drive to the updated location. Perla stated he was unable to do so as the road was blocked by a LAPD vehicle. Perla exited his vehicle and followed Benavidez on foot along with multiple other LAPD officers. Perla stated he observed a knife in Benavidez's left hand. Perla stated he observed Benavidez ignore multiple commands from LAPD officers to stop running, put his hands up, and drop the knife. Perla stated that he observed Benavidez enter a side yard on the north side of a residence on Shoshone Avenue, and that he believed Benavidez was trying to make entry into that residence. Perla stated that Benavidez came out of the side yard and began to pace back and forth in front of the garage of the residence. Perla stated he heard Golveo give warnings that a 40 mm less lethal weapon was going to be used and that Benavidez may be injured. Perla stated that he saw Golveo fire two 40 mm less-lethal rounds. Perla stated he did not know if the rounds hit Benavidez, but, if they did, they had no effect. Perla stated Benavidez moved to the front door of the residence and attempted to gain entry by banging the bottom of the knife against a window next to the door. Perla stated that Benavidez then moved southbound along the fence of the residence and stopped outside a gate to the backyard of the residence. Perla stated he heard one or two gunshots. Perla stated he did not see who fired the gunshots. Perla stated that he observed Benavidez enter the backyard of the residence.

#### LAPD Officer Kyle Golveo

Golveo gave a recorded statement. Golveo stated that he arrived near the intersection of Shoshone Avenue and Margate Street in response to a call for backup for a man with a knife. Golveo stated that he was driving a marked LAPD police vehicle and when he arrived at the scene a foot pursuit of Benavidez was in progress. Golveo stated he followed the pursuit in his vehicle for a short distance and then exited the vehicle in front of a residence near Shoshone Avenue and Margate Street. Golveo stated he saw Benavidez in front of the residence with a knife in his hand. Golveo stated that he returned to his vehicle to retrieve a 40 mm less-lethal launcher. Golveo stated he returned to the front of the residence and saw Benavidez move to the side of the house and out of sight. Golveo stated that Benavidez reappeared from the side of the residence and began to move alongside the residence towards the front door. Golveo stated that he warned Benavidez to stop moving and that he would be shot with a 40 mm projectile. Golveo



stated he fired a 40 mm round at Benavidez and struck Benavidez in the abdomen.<sup>11</sup> Golveo stated that Benavidez continued to move towards the front door of the residence. Golveo stated he fired another 40 mm round. Golveo stated he believed that Benavidez would break into the residence and possibly cause injury to the occupants. Golveo stated that the second 40 mm round struck Benavidez in the abdomen area. Golveo stated that as Benavidez moved along the front of the residence towards the front door that Benavidez was facing the officers in the street at a 45 degree angle. Golveo stated that after he fired the second 40 mm round he heard one or two gunshots. Golveo stated he did not see who fired the gunshots. Golveo stated that Benavidez was trying to make entry to the rear of the residence when Golveo heard the gunshots.

#### LAPD Officer Jae Kim

Kim gave a recorded statement. Kim stated that he was the passenger in a LAPD police vehicle driven by his partner Golveo. Kim stated that he and Golveo responded to a call for backup for a man with a knife. Kim and Golveo drove westbound on Weddington Avenue and passed Smiley and Roll jogging after Benavidez. Kim stated that he parked his vehicle on Weddington Street facing westbound and exited his vehicle. Kim stated that he told Golveo to get their 40 mm less-lethal launcher from their police vehicle. Kim stated that when he exited his vehicle he saw a knife in Benavidez's left hand and an object in Benavidez's right hand that he believed could be a handgun. Kim stated he told Golveo that Benavidez might have a gun. Kim stated that it was very dark. Kim stated that as he pursued Benavidez he gave Benavidez commands to stop and get down on the ground and that he heard other officers giving Benavidez similar commands. Kim stated that Benavidez did not respond to any of the commands. Kim stated that he, along with other officers, followed Benavidez into a cul-de-sac on Shoshone Avenue using a police vehicle as cover. Kim stated that he observed Benavidez attempt to enter a residence by trying to open the front door but was unsuccessful. Kim stated that Benavidez then attempted to force his way into the residence by banging on the window and attempting to break the glass. Kim stated that he told Golveo to "shoot him" with the 40 mm less-lethal launcher that Golveo was using. Kim stated that he heard the firing of the 40 mm less-lethal launcher and that immediately afterwards he heard two or three gunshots. Kim stated he did not see who fired the gunshots. Kim stated that he heard a second 40 mm less-lethal round being fired. Kim stated he observed Benavidez walk southbound along the wall of the residence and enter the backyard.

#### LAPD Sergeant Matthew Vannatter

Vannatter gave a recorded statement.<sup>12</sup> Vannatter stated he was driving a LAPD police vehicle when he responded to a call for backup regarding a man with a knife. Vannatter stated that when he arrived at the intersection of Encino Avenue and Weddington Street he saw Benavidez running towards him. Vannatter stated he exited his vehicle and unholstered his pistol. Vannatter stated that he saw Benavidez holding an object in his hand and that based on the comments in the radio call he believed it was a knife. Vannatter stated that as Benavidez ran past he thought the object in Benavidez's hand was a gun. Vannatter stated that he asked his

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<sup>11</sup> Golveo stated that he fired the first 40 mm round when Benavidez was in front of the residence's garage. BWV analysis shows that Benavidez had moved southbound nearer to the front door of the residence when Golveo fired the first 40 mm round, at approximately the same time as Sauer fired his third round.

<sup>12</sup> Vannatter's BWV was not activated until after the officer involved shooting. In his recorded statement Vannatter stated that he turned his BWV off to use the bathroom and forgot to turn it back on.



partner, Liam, “Do you see a gun?” but could not recall Liam giving an answer. Vannatter stated that other LAPD officers ran past his vehicle in foot pursuit of Benavidez and that he joined them in pursuit. Vannatter stated that during the pursuit he believed Kim stated, “I saw a gun.” Vannatter stated that he broadcast, “This suspect’s got a gun.” Vannatter stated that he directed Liam to retrieve their vehicle. Vannatter stated he followed Benavidez westbound on Margate Street and then northbound on Shoshone Avenue into a residential cul-de-sac. Vannatter stated that he directed Golveo to use a less-lethal beanbag.<sup>13</sup> Vannatter stated that he observed Benavidez move along a residential fence line in the Shoshone Avenue cul-de-sac and then move towards the front of a residence. Vannatter stated he tapped Golveo on the shoulder indicating that he should use the less lethal weapon. Vannatter stated that he believed that Golveo fired two rounds. Vannatter stated that he believed Benavidez was struck by the 40 mm rounds based on observing the reaction of Benavidez’s body. Vannatter stated that as Benavidez moved towards the front of the residence he heard additional “bangs” and realized that they were gunshots. Vannatter stated that Benavidez paused, ran along the residential fence line, and went through a gate out of sight.

#### LAPD Officer Kenny Liam

Liam gave a recorded statement. Liam stated that he was the passenger in a LAPD police vehicle that Vannatter was driving. Liam stated that he and Vannatter responded to radio call of a man with a knife, and, when they arrived at Weddington Street, he saw Benavidez approaching their police vehicle. Liam stated that he got out of the vehicle and observed Benavidez holding a gun in his right hand and a knife in his left hand. Liam stated that he followed Benavidez for a short distance until Vannatter ordered him to secure their police vehicle. Liam stated he ran back to the vehicle and parked it at the intersection of Encino Avenue and Margate Street. Liam stated he then proceeded on foot to a residence near Shoshone Avenue and Margate Street. Liam stated that two other police vehicles were already parked in front of the residence. Liam stated that he observed Benavidez walking in front of the garage of the residence and approach the residence’s front door. Liam stated he heard gunshots fired and observed Sauer fire two rounds towards Benavidez. Liam stated he did not see Benavidez turn towards the officers at any time. Liam stated that after he saw Sauer fire two rounds Benavidez walked along the fence line of the residence. Liam stated that Benavidez slashed the fence with the knife and then walked towards a gate in the fence. Liam stated he heard another gunshot but he did not see who fired it. Liam stated he lost sight of Benavidez. Liam stated he believed the gun in Benavidez’s hand was a black semi-automatic firearm.

#### LAPD Officer Laura Gonzalez

Gonzalez gave a recorded statement. Gonzalez stated that she responded to a call for backup for a man with a knife. She stated she was a passenger in an LAPD police vehicle and her partner Castro was driving. Gonzalez stated that she arrived near the intersection of Weddington Street and Margate Avenue. Gonzalez stated that she saw Benavidez jogging westbound on Margate Avenue towards her being followed by multiple other LAPD officers on foot behind him. Gonzalez stated she armed herself with a bean bag shotgun. Gonzalez stated that she observed

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<sup>13</sup> Vannatter mistakenly believed Golveo to be armed with a beanbag shotgun, however Golveo was actually armed with a 40 mm less-lethal launcher.

Benavidez was armed with a knife in his left hand and black handgun in his right hand. Gonzalez stated when she saw Benavidez was armed with a handgun, she yelled out, "He has a gun." Gonzalez stated that she put the bean bag shotgun back in her vehicle and unholstered her handgun. Gonzalez stated she joined the other officers following Benavidez northbound on Shoshone Avenue. Castro had driven the police vehicle into the cul-de-sac on Shoshone Avenue, and Gonzalez retrieved a shotgun from inside the SUV. Gonzalez stated that she racked a round into her shotgun and heard approximately six to seven gunshots from a southwest direction. Gonzalez stated she ducked down behind the police vehicle for cover. Gonzalez stated she did not see who fired the gunshots.

#### LAPD Officer Francisco Castro

Castro gave a recorded statement. Castro stated he was travelling in a LAPD police vehicle and responded to a backup request. Castro stated he was directed by a LAPD airship to an ongoing foot pursuit of Benavidez. Castro stated he exited his vehicle and observed Benavidez holding a knife in his left hand and a black handgun in his right hand. Castro stated that Benavidez approached his (Castro's) vehicle and Castro got back inside. Castro stated he drove slowly northbound on Shoshone Avenue while other officers used his vehicle for cover. Castro stated he followed Benavidez and observed Benavidez try to jump over a gate to a residence on Shoshone Avenue. Castro stated Benavidez was unsuccessful. Castro stated that Benavidez proceeded westbound to another residence on Shoshone Avenue at the end of a cul-de-sac. Castro stated he followed, parked his vehicle in the cul-de-sac, exited the vehicle and re-deployed to the passenger side of the vehicle. Castro stated he lost sight of Benavidez and saw an unknown officer fire a 40 mm launcher.<sup>14</sup> Castro stated he heard officers giving multiple commands for Benavidez to stop and drop the weapons. Castro stated he heard one or two additional rounds being fired and believed them to be 40 mm launcher or less-lethal beanbag rounds. Castro stated he believed that Benavidez was possibly under the influence of an unknown substance because it appeared that Benavidez was not comprehending any orders given by the officers.

#### LAPD Officer Ilya Karpman

Karpman gave a recorded statement. Karpman stated that he was the passenger in a LAPD police vehicle driven by LAPD Officer Peter Contreras. They responded to a radio call for backup. He arrived at the scene in front of a residence at Shoshone Avenue and Margate Street. They parked their vehicle behind other police vehicles already parked in front of the residence. Karpman stated he opened his vehicle door and immediately heard gunshots. Karpman stated he heard three gunshots. Karpman stated he then heard another shot which he believed to be a 40mm beanbag being fired. Karpman stated he saw Benavidez holding a gun in his right hand and a knife in his left hand. Karpman stated the gun in Benavidez's hand looked like a black small size semiautomatic or medium-sized revolver. Karpman stated that after he heard the shots and saw Benavidez with the gun and knife that he saw Benavidez walk southbound towards the end of the residence and enter a gate or door in the wall. Karpman ordered Benavidez to stop moving. Benavidez did not respond. Karpman stated that Benavidez was holding the gun on his

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<sup>14</sup> Castro stated he observed the officer fire the 40 mm launcher but could not recall the officer's name.

right side and pointing the gun towards the ground. Karpman stated that he did not see Benavidez point the gun at any officer.

#### LAPD Officer Peter Contreras

Contreras gave a recorded statement. Contreras stated that he responded to a backup call for a man with a knife and responded to a residential cul-de-sac near Shoshone Avenue and Margate Street. Contreras was driving a LAPD police vehicle and Karpman was the passenger. Contreras stated that when he arrived at the scene he exited his vehicle and immediately heard gunshots. Contreras stated he believed the gunshots came from a police unit closer to the front of the residence. Contreras stated he did not see who fired the gunshots. Contreras stated that he saw Benavidez walking westbound in front of a cinderblock wall, holding a knife in his left hand and a handgun in his right hand. Contreras stated he ordered Benavidez to drop the gun but Benavidez did not respond. Contreras stated Benavidez had his hands down at his sides. Contreras did not see Benavidez raise either the knife or the handgun towards any officers. Contreras stated Benavidez made his way westbound along the wall and out of sight.

#### LAPD Officer George Alvarez

Alvarez gave a recorded statement. Alvarez stated that he was travelling in a LAPD police vehicle and responded to the scene of a residence near Shoshone Avenue and Margate Street. Alvarez stated he exited his vehicle and heard what he believed to be a 40 mm launcher being fired.<sup>15</sup> Alvarez observed Benavidez walking southbound along the fence line of the residence. Alvarez stated that he saw Benavidez holding a black handgun in his left hand. Alvarez stated he observed Benavidez holding the handgun “up high” above his shoulder as Benavidez walked southbound along the fence line. Alvarez stated that he did not hear any gunshots other than what he believed was the 40 mm launcher.

#### LAPD Officer William Tarasoff

Tarasoff gave a recorded statement. Tarasoff stated that he was driving a LAPD police vehicle and responded to a residential address on Shoshone Avenue in response to a call for backup regarding a man with a knife and a gun. Tarasoff stated that he arrived at the scene and parked his vehicle on the east curb of Shoshone Avenue. Tarasoff stated that when he arrived he exited his vehicle and heard one round being fired. Tarasoff stated that it sounded like a 40 mm round. Tarasoff stated that he unholstered his service weapon and observed Benavidez holding a handgun in his right hand. Tarasoff stated that he heard other officers telling Benavidez to drop the gun, but that Benavidez did not comply. Tarasoff stated that he observed Benavidez move southbound across the front of a residence on Shoshone Avenue along a wall, and that he observed Benavidez turn and face towards the officers who were positioned along the street. Tarasoff stated he could not see the gun when Benavidez turned towards the officers because he did not have a good view of Benavidez. Tarasoff stated that he lost sight of Benavidez behind some bushes.

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<sup>15</sup> A review of Alvarez’s BWV indicates that Alvarez likely heard LeBron firing her weapon.

## **BENAVIDEZ’S STATEMENT**

Benavidez made a telephone call while in custody to his father. This call was recorded. Benavidez stated that he was trying to get away from the police and looking for a friend’s house. Benavidez stated that he was “trying to get rid of the stuff that I had on me.” Benavidez denied pointing any object at the police officers. Benavidez admitted to possessing a knife and a BB gun. Benavidez stated that because it was near the Christmas holiday he was giving money away to unknown persons, and that he planned to give the gun and knife “to the people.”

## **CRIMINAL PROCEEDINGS**

Benavidez was charged in case LA089741 with one felony count of Penal Code (PC) section 245(c) – assault with a deadly weapon upon a peace officer, two felony counts of PC 417.8, brandishing a firearm or deadly weapon to resist arrest, and one felony count of PC 245(a)(1), assault with a deadly weapon. Benavidez ultimately pleaded no contest to felony violations of PC 245(c) and PC 245(a)(1).<sup>16</sup> The remaining counts were dismissed. Benavidez received a sentence of three years in state prison.

## **LEGAL ANALYSIS**

According to California law in 2018, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. Penal Code sections 197-198; CALCRIM No. 505.

Actual danger is not necessary to justify the use of deadly 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 merely apparent. *People v. Toledo* (1948) 85 Cal.App.2d 577.

Under California law on the date of this incident, the evaluation of the reasonableness of a police officer’s use of deadly force employs a reasonable person acting as a police officer standard, which enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation. *People v. Mehserle* (2012) 206 Cal.App.4<sup>th</sup> 1125, 1146.

Benavidez led numerous LAPD officers on an extended chase through a residential neighborhood while armed with both a knife and what reasonably appeared to be a handgun. Benavidez ignored multiple commands to drop the weapons and instead attempted to gain access to a residence on Shoshone Avenue by trying to smash through a front window. Benavidez further pointed what appeared to be a handgun at both Sauer and Lebron, as well as the other

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<sup>16</sup> Benavidez was initially granted mental health diversion by the court pursuant to PC 1001.36. Benavidez was unsuccessful in the grant of diversion.

officers in the street on Shoshone Avenue. Video footage, both residential and from officers' BWV, confirms Benavidez attempted to smash a residential front window as well as the gun in his hand pointed in the direction of multiple officers.

Based on these facts, Sauer acted lawfully when he fired three rounds at Benavidez. Benavidez had ignored multiple commands to drop his weapons, had attempted to gain access to a residence through a side yard, and pointed what appeared to be a handgun in Sauer and other officers' direction. The evidence supports a reasonable fear of death or great bodily injury both for Sauer and other surrounding officers, and justified using deadly force in self-defense and defense of others.

Similarly, the evidence shows that Lebron acted lawfully when she fired one round at Benavidez. Benavidez had ignored multiple commands to drop his weapons, had attempted to gain access to a residence first through a side yard and then by trying to smash a residential front window, and pointed what appeared to be a handgun in her direction. These facts support a reasonable belief that Lebron feared death or great bodily injury to herself or surrounding officers, and anyone else who may have been inside the residence on Shoshone Avenue that Benavidez attempted to forcefully enter. Under these circumstances, the use of deadly force was reasonable.

## **CONCLUSION**

Based upon the evidence, we conclude that Officers Sauer and Lebron acted lawfully in self-defense and defense of others when they fired their weapons.