

Non-Fatal Officer Involved Shooting of Quentin Durity

Los Angeles Police Department

Officer Ramon Borunda, #38727

J.S.I.D. File #16-0625



JACKIE LACEY

District Attorney

Justice System Integrity Division

August 24, 2020

MEMORANDUM

TO: COMMANDER TIMOTHY NORDQUIST
Los Angeles Police Department
Force Investigation Division
100 West First Street, Suite 431
Los Angeles, CA 90012

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

SUBJECT: Non-Fatal Officer Involved Shooting of Quentin Durity
J.S.I.D. File #16-0625
L.A.P.D File #F081-16

DATE: August 24, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 11, 2016, non-fatal shooting of Quentin Durity and Los Angeles Police Department (LAPD) Officer Ramon Borunda's discharge of his duty weapon. We have concluded that Officer Borunda acted in lawful self-defense and the defense of others when he fired his duty weapon.

The District Attorney's Command Center was notified of this shooting on December 12, 2016, at approximately 12:35 a.m. The District Attorney Response Team (DART) responded to the location, where they received a briefing and walk-through of the scene.

The following analysis is based on investigative reports, radio transmissions and records, digital in-car video system (DICVS) recordings, recorded interviews, crime scene photographs and diagrams, court transcripts, ballistic and other reports submitted to this office by LAPD Force Investigation Division (FID). Borunda's compelled statement was considered in this analysis.¹

FACTUAL ANALYSIS

On December 11, 2016, at approximately 10:30 p.m., LAPD Southeast Area (SOE) Gang Enforcement Detail (GED) Officers Manuel Mendieta and Adan Renteria were on patrol in full uniform in a marked black and white police vehicle.² While on patrol, they observed a large gathering in the 500 block of West 99th Street in the City of Los Angeles. The officers observed several cars double parked, people drinking alcoholic beverages in public, and heard loud music. Mendieta and Renteria were aware the area was claimed by the Hoover Criminals street gang

¹ Borunda's public safety statement to Sergeant Arthur Bedard, as well as Borunda's testimony at a preliminary hearing and a suppression hearing in case TA142040, were also considered in this analysis.

² Mendieta and Renteria were Unit 18 George 45.

and believed the gathering could be gang related.³ Mendieta and Renteria decided to investigate and attempt to identify any gang members present. Mendieta contacted SOE GED Officer Ramon Borunda and his partner, Officer Nicholas Casey, as well as SOE GED Officer Joseph Chavez and his partner, Officer Jacob Rice.⁴ The officers met at a nearby location and formulated a plan to return to West 99th Street for further investigation.

The officers drove to the 500 block of West 99th Street in three marked black and white police vehicles. As they approached the location, people started running. Mendieta observed Bryan J., who was standing on the front porch, grab his waistband and run inside the house. Mendieta recognized the butt of a handgun in Bryan J.'s waistband.⁵ At 10:35 p.m., Mendieta broadcast "man with a gun" and requested backup.⁶ Borunda, Renteria and Casey observed several men holding their waistbands run southbound in the driveway west of the house. Based on their training and experience, Borunda, Renteria and Casey believed the men were possibly armed. Mendieta, Chavez and Rice established containment of the house, while Borunda, Renteria and Casey followed the group of men down the driveway west of the house.

As Renteria chased the group of men into the driveway, he observed a handgun being tossed into the air towards the backyard of the house directly east of the driveway.⁷ Renteria observed Ardis P. throw a second handgun into the air towards the same backyard east of the driveway.⁸ Ardis P. was detained by Renteria and Casey in the driveway. The other men climbed over a closed chain link gate and ran into the backyard. Borunda observed one of the men, Kamal K., drop a firearm on the concrete after climbing over the gate.

As Borunda was standing in the driveway behind the closed gate, he saw a muzzle flash, heard the sound of a gunshot and saw a man holding a handgun.⁹ The man continued moving, then turned back towards Borunda holding the handgun. Believing the man was going to fire at him again, Borunda fired his Glock .40 caliber semiautomatic duty weapon one time at the gunman. It is not clear from the evidence whether the gunman was shot. After hearing a gunshot, Kamal K. dropped to the ground. The gunman ran in a southeast direction, and Borunda lost sight of him behind the detached garage. Borunda observed another man escape over the chain link fence on the west side of the backyard. A Sig Sauer .380 caliber semiautomatic pistol and an expended .380 casing were recovered on the western side of the chain link fence.

Casey took Ardis P. into custody. Borunda and Renteria climbed over the chain link gate. Borunda took Kamal K. into custody and identified the pistol that Kamal K. dropped. Renteria

³ It was later determined the gathering was a vigil for Davion G., an alleged Inglewood Family gang member, who was shot on December 10, 2016, and died from his wounds.

⁴ Borunda and Casey were Unit 18 George 39. Chavez and Rice were Unit 18 George 47.

⁵ Based on this incident, Bryan J. was charged in case TA142040 with possession of a firearm by a felon, in violation of Penal Code section 29800(a)(1), possession of ammunition by a felon, in violation of Penal Code section 30305(a)(1), and receiving a large capacity magazine, in violation of Penal Code section 32310(a). Bryan J. was acquitted at trial.

⁶ Mendieta and Chavez also observed another man wearing a red sweater jump over the fence in an eastbound direction. At 10:36 p.m., Chavez broadcast the description of a suspect wearing a red sweater running eastbound.

⁷ Officers were unable to identify the person who tossed the first handgun.

⁸ Chavez recovered three handguns from the backyard directly east of the driveway where Renteria and Borunda observed an unidentified person and Ardis P. toss two handguns.

⁹ Renteria, Casey and Ardis P. were standing in the middle of the driveway a few feet behind Borunda.

recovered the Masterpiece Arms .45 caliber semiautomatic pistol (“Mac-10”) near a discarded backpack. Rice checked on the officers in the driveway and informed Mendieta that the officers had been fired upon. Officers broadcast they had been fired upon and called for backup.¹⁰

Officer Jeremy Paiz and Officer Mayra Ugarte responded to assist setting up a perimeter. As they drove northbound on Hoover Street approaching West 99th Street, Paiz and Ugarte observed Quentin Durity walking westbound on West 99th at a fast pace, approximately .2 mile from where the shooting occurred.¹¹ Durity had his hands inside the pockets of a blue hoodie.¹² Ugarte observed him pull the hood over his head as officers approached. Ugarte exited the police vehicle and instructed Durity to show his hands. After Ugarte started a pat down search, Durity told her he had been shot in the arm.¹³ When the officers asked Durity what happened, he said, “I was standing in front. The police came. I got shot, and I just started running down here.... I seen the police coming, and I started running, and I heard shots. I fell.”¹⁴ A few minutes later, Durity told Ugarte, “The car shot, and I fell, got up, seen all the police, and started running.” Durity was unable to describe the car of the person that shot him or the direction the car was driving. Durity was transported to the University of California, Los Angeles (UCLA) Harbor Medical Center, where he was treated for his injuries.

¹⁰ At 10:38:19 p.m., an officer, who is identified as Borunda in the FID report, broadcast, “18 George 39, due to further information, we have a male wearing grey sweater, grey sweats, possibly armed, shot at officers.” At 10:38:39 p.m., Mendieta broadcast, “George 45, we are going to need, it’s going to be a help call. Two suspects fired at officers.” At 10:39 p.m., another officer broadcast, “outstanding subject shot at officers, wearing a white sweatshirt.” The investigation determined only one suspect fired at officers.

¹¹ Paiz and Ugarte encountered Durity less than a minute after officers broadcast the calls for assistance.

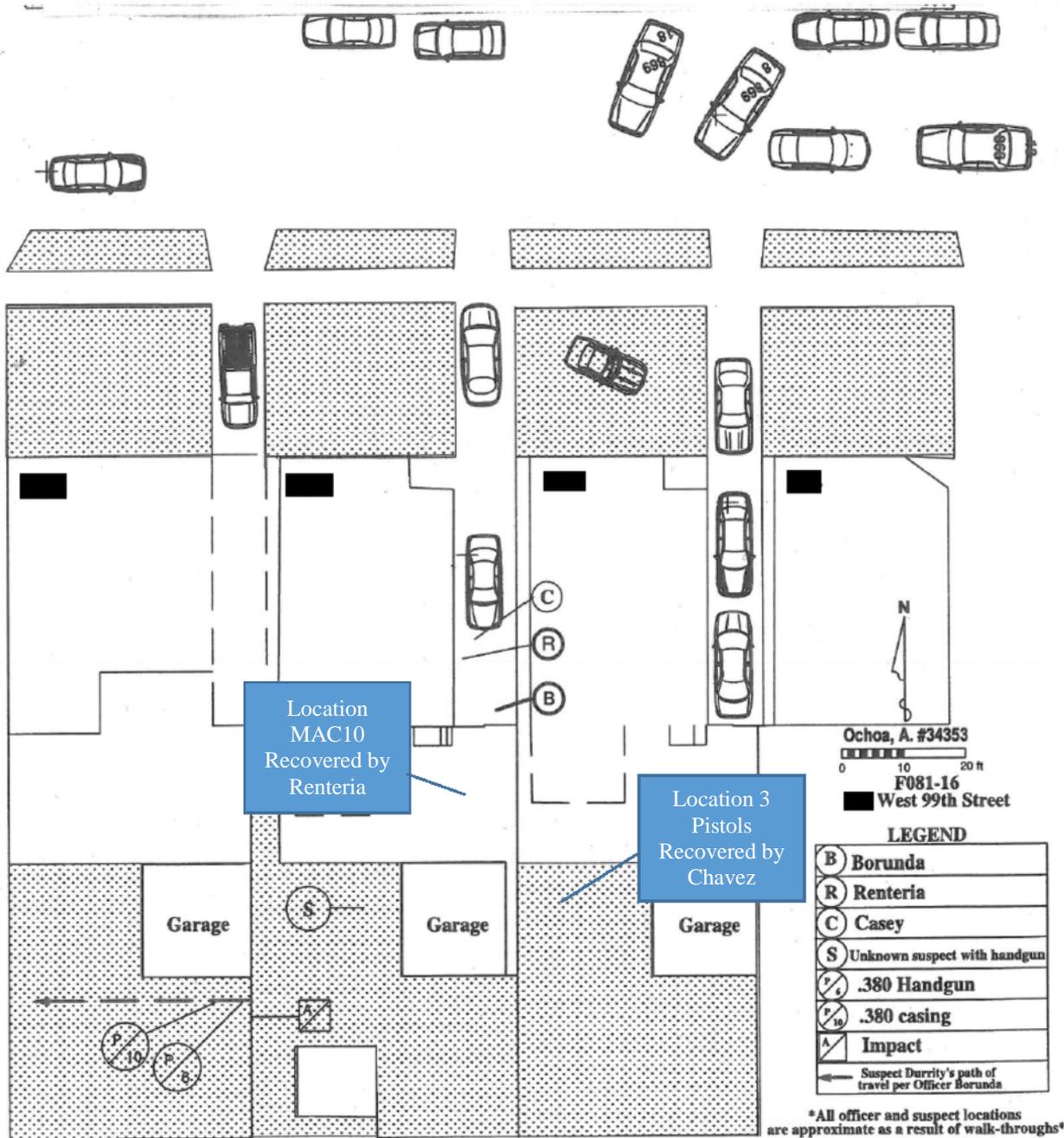
¹² Durity was wearing a blue hoodie, maroon shorts, and white tennis shoes.

¹³ Durity also had a small cut between his thumb and forefinger on his right hand and a cast on his left hand.

¹⁴ Ugarte and Paiz’s Digital In-car Video System (DICVS) captured audio of their encounter with Durity. The camera is directed towards the hood of the vehicle and does not capture video of the officers speaking to Durity.

Diagram of the Scene

500 Block West 99th Street



Compelled Statements

Unlike private citizens, public sector employees can be forced to submit to questioning regarding the performance of their official duties and, so long as they are not required to waive their privilege against self-incrimination, their refusal to submit to such questioning can result in

administrative discipline including termination from public service. *Gardner v. Broderick* (1968) 392 U.S. 273, 278; *Uniformed Sanitation v. City of New York* (1968) 392 U.S. 280, 284-285. Borunda was interviewed by LAPD FID and was ordered to answer questions regarding the incident and use of force.

Borunda, like any individual, possesses a right under the Fifth Amendment of the United States Constitution to be free from being compelled to give testimony against themselves. *Uniformed Sanitation v. City of New York, supra*, at 284-285. Because LAPD ordered Borunda to answer questions which might expose him to criminal liability, LAPD compelled Borunda to participate in the interview. The effect of this legal compulsion is that Borunda's statement cannot be used against him in a criminal proceeding, nor can any material derived from the compelled interview be used against him. *Garrity v. New Jersey* (1967) 385 U.S. 493, 496-497; *Spielbauer v. County of Santa Clara* (2009) 45 Cal. 4th 704, 715.

Compelled Statement of Borunda

Investigators conducted a compelled interview of Borunda on December 12, 2016.¹⁵ When Borunda and the other officers arrived at the location, Borunda observed three to four men running southbound down the driveway west of the original target location. Borunda followed Renteria, who was chasing the men down the driveway. Borunda observed one of the men, Ardis P., toss a handgun over the wall east of the driveway. Borunda observed three other men jump over the driveway gate and run into the backyard. One of the men, Kamal K., dropped a "Mac-10" handgun when he jumped over the gate. Renteria detained Ardis P., while Borunda continued southbound towards the closed gate.

As Borunda approached the gate, he saw a flash, heard a gunshot and saw a man wearing a dark sweater and reddish bottoms turned towards him holding a handgun.¹⁶ Borunda called out "Shots fired!" to his partner to broadcast a help call.¹⁷ The gunman continued moving east, then turned his upper torso towards Borunda holding the handgun.¹⁸ Believing the gunman was going to fire at him again and in fear for his life, Borunda fired his weapon one time at the gunman's upper torso.¹⁹ Borunda did not believe he struck the gunman, because he did not appear to flinch, but was not sure.²⁰ After Borunda fired, Kamal K. dropped to the ground.²¹ The gunman continued running in a southeast direction, and Borunda lost sight of him behind the detached garage.²² Another man wearing a gray or gray-white hoodie and gray-white sweats jumped over the west fence of the backyard.²³ Borunda took Kamal K. into custody, and Renteria recovered

¹⁵ This interview was recorded.

¹⁶ In his public safety briefing, Borunda told Bedard the gunman was wearing a gray hooded sweatshirt.

¹⁷ Borunda said he heard a help call but did not know if it was made by Renteria or Mendieta. Renteria told investigators he did not broadcast a help call. Casey told investigators he broadcast a help call, but later realized he used the wrong channel. The investigator's report identifies Borunda as the officer who broadcast the first help call at 10:38:19 p.m.

¹⁸ Borunda believed the man held the handgun in his right hand but was not certain.

¹⁹ Borunda said he did not have time to take cover. The gunman was 15-20 yards away when he fired his weapon, and the two other men were west of the gunman and not in his line of fire. Borunda said the lighting was dim.

²⁰ In his safety briefing, Borunda told Bedard he believed he struck the gunman but was not certain.

²¹ When Kamal K. dropped to the ground, Borunda thought he may have been struck by his gunfire.

²² In his safety briefing, Borunda told Bedard the gunman was last seen heading west of the location.

²³ Borunda did not see this man with a weapon but recovered a cell phone near the western fence.

the “Mac-10.” Borunda walked Kamal K. to the front of the location and encountered Bedard. Borunda informed Bedard he had been involved in a shooting and gave a public safety statement.²⁴

Statement of Renteria

Investigators interviewed Renteria on December 12, 2016.²⁵ Renteria told investigators when the officers drove up to the location, people immediately started running. As Renteria exited his police vehicle, four to five men ran southbound down a driveway of an abandoned house to the west of the original location. As he chased the men into the driveway, Renteria saw a firearm being tossed into the air. Renteria then observed Ardis P., who was wearing a white sweatshirt, toss another firearm into the air towards the east. Three to four men jumped over a chain link gate into the backyard. Renteria drew his weapon to take Ardis P. into custody in the driveway. As Renteria was turned north facing Ardis P., he heard a gunshot behind him. Renteria turned around and observed Borunda, who was standing three to four feet away from him north of the gate, fire his weapon one time. Renteria said the first gunshot sounded different than Borunda’s. Renteria heard a “shots fired, officer needs help” call broadcast with a description of the suspect. Casey held Ardis P. at gunpoint, while Borunda and Renteria jumped over the gate. Borunda directed Renteria to recover the “Mac-10” lying on the concrete. Borunda took Kamal K., who was wearing black clothing, into custody.

Statement of Casey

Investigators interviewed Casey on December 12, 2016.²⁶ When officers arrived at the location, Casey saw at least two men, one wearing a white hoodie and one wearing a gray hoodie, run southbound down the driveway west of the location. The two men appeared to be clutching something at their waistbands, which in Casey’s experience was most likely a weapon. Casey exited his police vehicle and followed Renteria and Borunda down the driveway. When Casey caught up to Renteria and Borunda, the man wearing the white hoodie, Ardis P., was on his knees in the driveway. Renteria told Casey, “Hold him. He tossed a gun.”

As Casey held Ardis P. at gunpoint, he heard the sound of a chain link fence rattling, followed by two to three gunshots coming from the backyard. Casey said the second gunshot was much louder and closer to him than the first. Casey looked south and saw Borunda pointing his weapon towards the backyard. He did not know whether Borunda fired. Casey could not see into the backyard because his vision was obstructed by the corner of the house, but believed other suspects fled from the backyard. Casey heard an officer say they had been fired upon and told Casey to broadcast the information. Casey broadcast a request for help on his radio. Casey escorted Ardis P. to the front of the location, where Casey heard an officer informing Bedard about the shooting. Casey realized he had broadcast the help call over the wrong channel. Casey heard an officer broadcast a help call.

²⁴ Bedard arrived at the location at approximately 10:37 p.m., just prior to the broadcast that a shooting occurred.

²⁵ This interview was recorded.

²⁶ This interview was recorded.

Statement of Durity

Investigators interviewed Durity on December 12, 2016.²⁷ Investigators observed Durity had a through and through gunshot wound to his right upper arm, a one-inch laceration on his right hand between his thumb and forefinger and a cast on his left hand.²⁸ After being Mirandized, Durity admitted being a member of the Inglewood Piru gang. On the night of the incident, Durity went to the location for a candlelight vigil for a friend who had been killed. Durity was on the sidewalk in front of the house and became uncomfortable because of the crowd and cars driving by. When the police arrived, Durity started walking slowly westbound.²⁹ Durity saw police officers exit their vehicles and draw their weapons but did not hear them give any commands. When Durity was about one house west of the location, he heard a gunshot, felt pain, fell to the ground and scratched his right hand. Durity realized he had been struck by gunfire but did not know who shot him. Durity told investigators, “But then I know if the police shot me, I don’t want to walk down there.”³⁰ Durity continued walking slowly westbound, until he was stopped by police officers at the corner of the street where he was shot.

When investigators confronted Durity with the physical evidence where the shooting took place, he initially denied being in the backyard. When the investigator asked Durity if it was possible he was shot in a backyard, Durity said, “I don’t know.... I could have been shot anywhere.... I’m telling you it’s possible.” When investigators asked Durity if he cut his right hand when he jumped over the fence, he said he could not “really remember the specifics.” Durity denied having a handgun or firing at police officers.³¹

Statement of Ardis P.

Investigators interviewed Ardis P. on December 12, 2016.³² After being Mirandized, Ardis P. said he was standing in the driveway with four friends when two police vehicles quickly drove up to the location. Ardis P. ran because other people were running but dropped to the ground in the middle of the driveway when he saw the police with guns drawn telling people to get down. While he was on the ground, Ardis P. heard people jumping over the gate and then heard two to three gunshots. Ardis P. heard the first gunshot as one of the officers ran towards the gate but did not know if the first gunshot was from the officer or from someone in the backyard. Ardis P. believed the officer near the gate returned fire, followed by a second officer who also returned fire.³³ Ardis P. said he heard the officers asked each other, “Did you fire any rounds?” and the

²⁷ This interview was recorded.

²⁸ Durity told investigators that he was left-handed.

²⁹ Durity told Paiz and Ugarte that he started running when he saw the police arrive.

³⁰ Later, Durity said, “I don’t know necessarily who did it. That’s what I’m saying. So, I can’t really blame the police.”

³¹ In case TA142027, Durity was charged with attempted murder of a peace officer, in violation of Penal Code section 664/187; assault on a peace officer with a semiautomatic firearm, in violation of Penal Code section 245(d)(2); possession of a firearm by a felon, in violation of Penal Code section 29800(a)(1), and a gang enhancement, in violation of Penal Code section 186.22(b)(1). The case was dismissed due to insufficiency of the evidence.

³² This interview was recorded.

³³ There is no evidence that any other officer fired his duty weapon.

officer said, “No.” Later, Ardis P. saw his friend in custody who had been shot and thought, “How are you shot if the police didn’t fire any rounds?”³⁴

Ardis P. denied having a handgun that night but admitted holding a friend’s 9mm semiautomatic handgun at another location earlier that day.³⁵ Ardis P. admitted being a former member of the Inglewood Family gang.

Statement of Kamal K.

Investigators interviewed Kamal K. on December 12, 2016.³⁶ After being Mirandized, Kamal K. said he was at a candlelight vigil for his friend who had been killed. Kamal K. was standing outside on the lawn when the police arrived, and everyone started running. Kamal K. ran down a driveway towards the back of an abandoned house with several other people. As the police were chasing him, he climbed over a chain link fence with “a lot” of other people and ran five to six feet. Kamal K. heard gunshots and dropped to the ground.³⁷ Kamal K. saw a gun lying next to a backpack when he was on the ground but denied having a gun or being a member of any gang.³⁸

Statement of Herbert L.

Investigators interviewed Herbert L. on December 12, 2016.³⁹ Herbert L. was driving eastbound on West 99th Street to return to the vigil when he observed two police vehicles arrive at the location from the other direction. Fifty to 60 people in front of the house started running towards the backyard. The officers started chasing people with their weapons drawn and ordering them to stop. Herbert L. exited his vehicle and went towards the house. An officer told him to get down and chased people down the driveway towards the backyard. Approximately ten to 15 seconds later, Herbert L. heard a gunshot. As one of the officers approached the gate, Herbert L. saw two muzzle flashes from the officer’s handgun and heard two gunshots. Herbert L. believed he heard a total of three to four gunshots but did not see who fired first. Herbert L. described the officer who fired his weapon as a Hispanic man with a mustache.⁴⁰

Firearms Evidence

Borunda was armed with a department-issued Glock .40 caliber semiautomatic pistol loaded to capacity with sixteen rounds of .40 caliber Smith & Wesson ammunition. Criminalists recovered one expended .40 caliber Smith & Wesson casing in the driveway of the location where Borunda

³⁴ Durity was held in custody with Ardis P. after the incident.

³⁵ In case TA142040, Ardis P. was charged with possession of a firearm by a felon, in violation of Penal Code section 29800(a)(1), and possession of ammunition by a felon, in violation of Penal Code section 30305(a)(1). Ardis P. was acquitted at trial.

³⁶ This interview was recorded.

³⁷ In the beginning of the interview, Kamal K. said several times he heard “shots,” but then said he thought he heard only one gunshot. Kamal K. did not say who fired the gunshot.

³⁸ In case TA142040, Kamal K. was charged with possession of an assault weapon, in violation of 30605(a), and receiving a large capacity magazine, in violation of Penal Code section 32310(a). Kamal K. was acquitted at trial.

³⁹ The interview was recorded.

⁴⁰ Herbert L. said he was approximately 20 feet away from the officer when he saw him fire his weapon. However, Mendieta was the only officer fitting this description, was not in the driveway at the time of the shooting and did not discharge his duty weapon.

fired his weapon. After the incident, LAPD Detective Phyllis D'Elia examined Borunda's duty pistol and determined it contained fifteen rounds of .40 caliber Smith & Wesson ammunition, which was consistent with Borunda firing one round. Criminalists determined that the expended .40 Smith & Wesson casing had been fired from Borunda's duty weapon. Criminalists were unable to locate any .40 caliber bullet fragments at the location.

An LAPD K-9 unit located a Sig Sauer .380 caliber semiautomatic pistol on the eastern side of the chain link fence separating the location of the shooting from the property to the west. The hammer of the Sig Sauer pistol was cocked, and one live round was located in the chamber. The pistol was loaded with a magazine containing five live .380 rounds. Criminalists recovered one expended .380 casing stamped "SPEER 380 Auto" next to the Sig Sauer pistol, which was consistent with the ammunition loaded inside the pistol. Criminalists determined the expended .380 casing had been fired from the recovered Sig Sauer pistol. Criminalists were unable to locate any .380 caliber bullet fragments or related impacts at the location.



Sig Sauer .380 caliber pistol recovered in the backyard west of the shooting incident.

Criminalists located an impact on the fence above where the Sig Sauer pistol was recovered that tested positive for lead, indicating a bullet impact. Criminalists determined the bullet path of the impact was consistent with a bullet travelling north to south and east to west, which would be consistent with the direction Borunda fired into the backyard.

Renteria recovered a Masterpiece Arms .45 caliber semiautomatic pistol near Kamal K. Chavez recovered one Taurus 9mm semiautomatic pistol, one Taurus .40 caliber semiautomatic pistol, and one M & P Smith & Wesson 9mm semiautomatic pistol in the backyard east of the shooting incident.⁴¹ Criminalists recovered a loaded Colt Model King Cobra .357 caliber revolver under a car parked on the 500 block of West 99th Street. Criminalists recovered a loaded Ruger 9mm

⁴¹ Renteria and Chavez placed the four weapons they recovered in the trunk of Bedard's police vehicle until the location was secured.

semiautomatic pistol under a mattress, a loaded Taurus .38 Special caliber revolver from inside a barbeque, and a .22 caliber rifle in the garage of the residence east of the shooting incident.

Criminalists were unable to obtain sufficient amounts of DNA from the Sig Sauer pistol for testing. Criminalists were also unable to obtain latent prints from the Sig Sauer pistol.

No gunshot residue (GSR) was detected on Durity's hands. The test was inconclusive as to whether Durity was in the environment of a discharged firearm.

Medical Records



LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right of self-defense or the defense of others actually and reasonably believed that she or others were in imminent danger of great bodily injury or death. Penal Code section 197; *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; *see also* CALCRIM No. 505.

In protecting himself or another, a person may use all the force which she believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. A police officer may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance of a person the officer has reasonable cause to believe has committed a crime. Penal Code section 835a. An officer “may use all the force ‘that appears to him as a reasonable man to be necessary to overcome all resistance, *even to the taking of life,*’ ... the resistance must be such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him.” *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146 (quoting *People v. Bond* (1910) 13 Cal.App.175, 189-190). The officer may use no more force than would appear necessary to him as a reasonable person. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147.

The evidence supports the conclusion that Borunda fired his duty weapon one time in lawful self-defense and the defense of others. Borunda observed several men running down a driveway while clutching their waistbands. Several men jumped over the driveway gate and ran into the backyard. As Borunda approached the gate, he saw muzzle flash, heard a gunshot fired in his direction and saw a man holding a handgun. Believing the man was going to fire at him again, Borunda fired at the man's upper torso one time. Renteria told investigators he heard one gunshot prior to observing Borunda fire one round. Other witnesses described hearing at least

two distinct gunshots. Criminalists identified an impact that tested positive for lead on the western fence of the location, which was consistent with the direction Borunda discharged his weapon. A Sig Sauer .380 pistol and a discharged casing were found adjacent to the western fence, providing corroboration to Borunda's belief that he had been fired upon.

The evidence is inconclusive whether Durity was the man who fired at Borunda or was the other man who escaped from the backyard after the shooting occurred.⁴² However, the totality of the evidence supports the conclusion that Borunda reasonably believed he was in imminent danger of great bodily injury or death and acted in self-defense and the defense of others when he fired his duty weapon.

CONCLUSION

We find that Officer Borunda acted in lawful self-defense and the defense of others when Borunda fired his duty weapon. We are closing our file and will take no further action in this matter.

⁴² Durity gave conflicting descriptions of the circumstances under which he was shot. When Paiz and Ugarte encountered Durity nearby minutes after the shooting, he provided several different explanations and said someone shot him from a car.

██████████ Durity initially told investigators he was shot walking away in front of the location after the police arrived, but later conceded he may have been shot in the backyard. Durity said he did not know whether he was shot by the police. Borunda was uncertain whether he struck the man who fired at him.