

**Fatal Officer Involved Shooting of Adrian Sanchez
Los Angeles County Sheriff's Department**

Deputy Kenneth Borbon, #601892

J.S.I.D. File #21-0324



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

October 18, 2022

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 Adrian Sanchez
J.S.I.D. File #21-0324
LASD File #021-10950-0688-013

DATE: October 18, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 11, 2021, fatal shooting of Adrian Sanchez by Los Angeles County Sheriff's Department (LASD) Deputy Kenneth Borbon. We have concluded that Deputy Borbon acted in lawful self-defense.

The District Attorney's Command Center was notified of this shooting on August 11, 2021. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports submitted to our office by LASD Detectives Gene Morse and Curtis Brown. The reports include photographs, audio-recorded interviews of witnesses, and radio transmissions.¹ The voluntary statement of Deputy Borbon was also considered in this analysis.

FACTUAL ANALYSIS

The Traffic Stop

On August 11, 2021, at approximately 12:16 p.m., LASD Deputy Kenneth Borbon was on patrol on the northbound U.S. 5 freeway in Castaic near the Whitaker Summit brake check area, a remote area of Los Angeles County.

Borbon exited the freeway at an unmarked exit used primarily by Caltrans to access its maintenance site, and by other government vehicles. It is unusual to see civilian vehicles there, and the access roads are designated, in some areas, for authorized vehicles only. It was Borbon's intention to drive under the freeway and then re-enter the freeway and drive southbound.

Borbon saw a maroon Toyota stopped near the access road leading to the southbound side of the freeway. The car was stopped with its brake lights illuminated. Borbon pulled behind the

¹ There is no video of the incident.

vehicle and the driver, later identified as Adrian Sanchez, drove away. Borbon followed and noticed the registration tab on the vehicle was expired. He conducted a computer check of the vehicle's registration, confirmed it had been expired for over six months, and conducted a traffic stop in the brake check area. A photograph of Sanchez's vehicle, license plate, and expired registration tab is shown below:



Figure 1- Sanchez's vehicle, license plate, and expired registration tab.

Borbon's exit, route, and location of the traffic stop are approximated in the aerial photograph below:



Figure 2- Aerial photo the U.S. 5 freeway, Borbon's route, and the location of the traffic stop.

First Contact with Sanchez

Borbon provided a voluntary statement to investigators. He stated he contacted Sanchez, the sole occupant of the vehicle, and explained the reason for the traffic stop. Sanchez appeared nervous and was stuttering while they conversed. Borbon asked for Sanchez's driver's license or identification. Sanchez turned to the right, concealing Borbon's view of the center console area (where three loaded guns and drugs were later located), as he looked for his identification. Sanchez said his license was in the center console or in the trunk of the car. Borbon believed it was unusual that Sanchez was searching in one area of the car yet directing his attention to another area. Borbon also observed on the floorboard of the car a "torch" lighter, which is sometimes used by drug users. A photo of that lighter is shown below:



Figure 3- Photo of the “torch” lighter on the floorboard of Sanchez’s vehicle.

Based on Sanchez’s behavior, the possibility that Sanchez’s car might need to be towed for the registration violation, the remote area, the presence of possible drug paraphernalia in plain view, the extended time for any backup to reach him if needed, and because he was working alone, Borbon asked Sanchez to exit the vehicle for a pat down search. Sanchez complied and was patted down. Borbon then led Sanchez to the patrol car and put him in the backseat, uncuffed, while he continued his investigation. Borbon entered Sanchez’s biographical information into his Mobile Digital Computer system and learned that Sanchez had a non-extraditable warrant in Texas for marijuana possession. Sanchez acknowledged to Borbon that he had contact with law enforcement in Texas regarding that charge. Borbon also noted that Sanchez had two narcotics violations with expired probation status.²

Borbon Sees a Gun

Borbon left Sanchez in the patrol vehicle and walked back to Sanchez’s car. He looked inside and observed a gun in a holster between the driver’s seat and center console. A photo of that

² Sanchez was convicted in 2014 in case number VA133667 of possession for sale of marijuana and burglary. He was convicted in 2015 in case number NA101426 of possession for sale of methamphetamine.

gun, later determined to be a loaded .380 Sig Sauer semiautomatic handgun, is shown in the photograph below:



Figure 4- Photo of the loaded 9mm Sig Sauer semiautomatic handgun located on the driver's seat near the console.

Sanchez Escapes

After seeing a gun in the car, Borbon returned to his patrol car with the intent to arrest Sanchez for illegal gun possession. Borbon called for backup and ordered Sanchez to put his hands behind his back. Sanchez said, "Why?" Borbon ordered him a second time to put his hands behind his back. Sanchez said, "No," and started banging and yelling in the backseat of the patrol car.

Borbon was concerned that there was static in his radio communications so he was unsure when backup would arrive. Borbon attempted to calm Sanchez and told him to relax.

Sanchez eventually agreed to put his hands behind his back and turned his back toward the door, thereby enabling Borbon to open the door and handcuff Sanchez from behind. Borbon opened the door and Sanchez put one hand behind his back. As Borbon grabbed Sanchez's left hand and was in the process of grabbing his right hand, Sanchez kicked the door, forcing the door open and into Borbon, and causing Borbon to stumble. Before Borbon could close the door or use pepper spray to control Sanchez, he escaped from the back of the patrol car, ran up the freeway, and Borbon lost sight of him.

The Search for Sanchez

Instead of chasing Sanchez on foot, Borbon returned to his patrol car, reversed up the freeway shoulder, and accessed a dirt road that overlooks the brake check area. Borbon intended to establish high ground in an attempt to observe Sanchez and to coordinate incoming backup units for a containment. When Borbon drove down the dirt access road, he saw Sanchez running away from him on the road. When Borbon drove to within approximately 50 feet of Sanchez, Sanchez tripped and tumbled to the bottom of the hill and onto the brake check area. Sanchez stood up and ran up the freeway toward his vehicle, which was still open and with the unsecured gun inside. Those locations are approximated in the aerial photograph below:



Figure 5- Photo of Borbon's patrol car and Sanchez's flight path and fall.

The Race to Sanchez's Car

Borbon stated his immediate concern was the unsecured gun in Sanchez's car. Borbon did not want Sanchez to reach the car, get the gun, and shoot him. Borbon attempted to reverse his patrol car down the access road but there was not enough room to maneuver. He parked and ran down a steep hill and attempted to block Sanchez from reaching his car and the gun inside. Borbon and Sanchez were both running toward Sanchez's car from different directions. Sanchez reached his car first, with Borbon close behind, and entered the driver's side door. Borbon ordered Sanchez to get out of the car. Sanchez replied, "No!" Through the open driver's side door, Borbon attempted to control Sanchez's right hand, which was near the gun. Borbon said he thought Sanchez was going to grab the gun and kill him.

The First Crash Through the Fence

Sanchez put his car in gear and sped away, with Borbon holding onto Sanchez and the steering wheel through the open driver's side door, while trying to reach the gear shifter to put the car in park. Sanchez drove his car serpentine down the brake check area while trying to push Borbon out of the car. Borbon was able to get the car into park and Sanchez slammed on the brakes. Sanchez drove forward again, with Borbon still inside the open driver's side door wrestling with him, and Borbon felt a bump as the car jumped a curb and drove into a chain-link fence that separated the brake check area from the U.S. 5 freeway. The damaged fence and debris from Sanchez's vehicle from the collision, including his damaged front license plate, are shown in the photograph below:

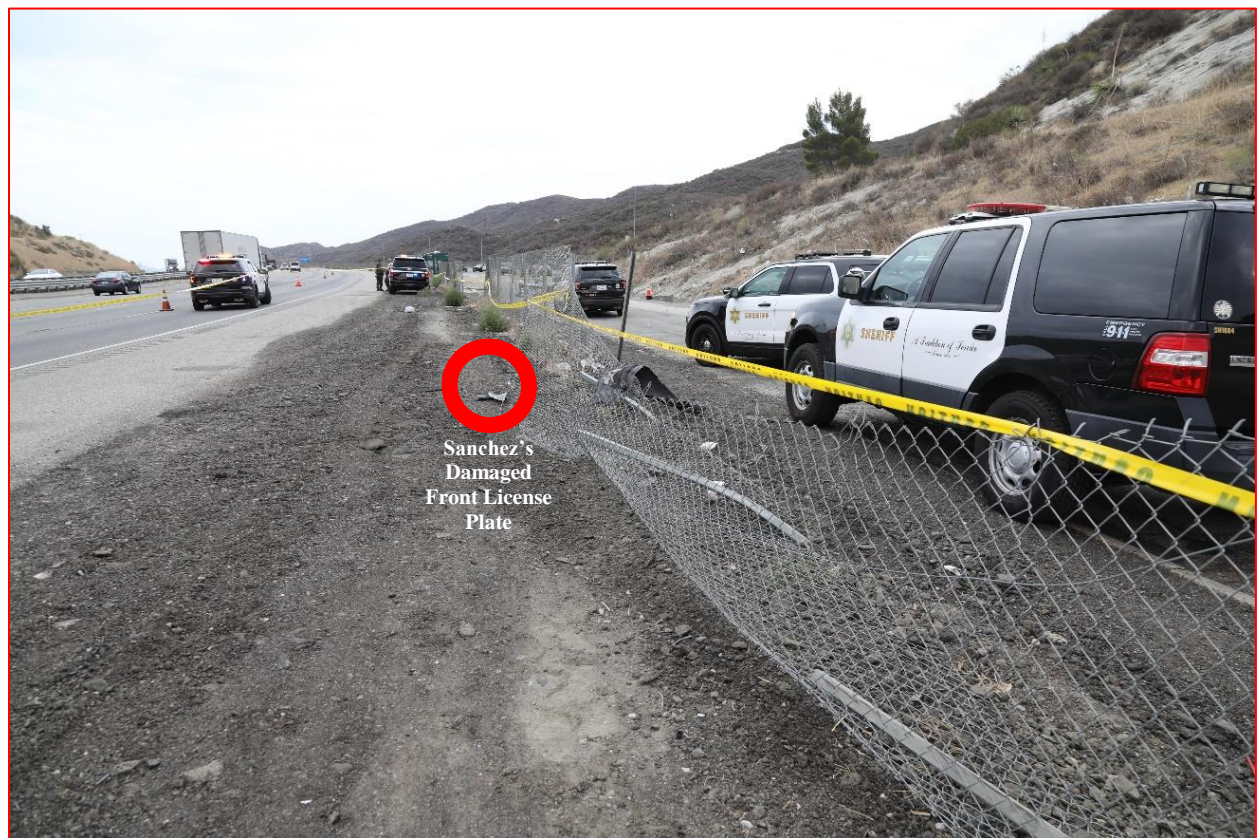


Figure 6- Photo of the damaged chain-link fence with Sanchez's damaged front license plate circled in red.



Figure 7-Photo of Sanchez's damaged front license plate torn from the car when he drove through the chain-link fence.

The Second Crash Through the Fence

Borbon said Sanchez accelerated down the shoulder of the freeway toward the traffic lanes to approximately 30 m.p.h. Borbon did not think he could hold on much longer. His knees were on the door frame and his feet were still dangling outside the open car door. Borbon feared that Sanchez would accelerate to over 100 m.p.h. in the light freeway traffic. Borbon said he did not want to die. He elbowed Sanchez in order to distract him, grabbed the steering wheel, and cranked it hard to the right, back toward the brake check area. Sanchez crashed his car a second time through the chain-link fence, still with Borbon hanging on through the open driver's side door. A photograph of the area where Sanchez crashed through the fence the second time is shown below:



Figure 8 – Photo of the damaged chain-link fence from the second crash.

The Crash into the Hillside

When Sanchez's vehicle went through the chain-link fence the second time, it veered across the brake check area and into the adjacent hillside. A photo of Sanchez's damaged vehicle where it came to rest against the hillside is shown below:



Figure 9-Photo of the front end damage to Sanchez's vehicle and where the car came to rest against the hillside.

Less Lethal Force

Sanchez dragged Borbon approximately 500 feet in total. When the car came to rest, Borbon said he was focused on Sanchez and the gun that was next to him. Borbon was still afraid that Sanchez was going to get the gun and kill him. As Sanchez continued to fight, Borbon ordered Sanchez to exit the car and get on the ground. When Sanchez tried to hit him, Borbon discharged his Taser at Sanchez. The Taser was ineffective. Borbon then punched Sanchez in the face approximately 15 times in order to distract and disorient him so he could not access the gun next to him. Those strikes were also ineffective.

The Fight for Borbon's Gun and the First Shooting

Due to the Taser and head strikes being ineffective, Borbon pushed off Sanchez and drew his service weapon and pointed it at Sanchez. Sanchez grabbed Borbon's gun and said, "Don't shoot me!" Borbon stated he feared that he might lose control of his service weapon and it could be used to shoot him. He also continued to fear that Sanchez could access the gun the was next to his right leg. Borbon commanded Sanchez to let go of his gun and Sanchez did not comply. Borbon fired one round at Sanchez. Borbon thought the round struck Sanchez's left side. Borbon turned to his right and reached toward the gun that was next to Sanchez's right leg.

The Second Shooting

Borbon ordered Sanchez not to reach for the gun and attempted to fire a second round, but his gun jammed. As Sanchez was reaching toward the center console area of the vehicle where the gun was located, Borbon cleared his jammed gun and, in fear for his life, fired five to seven more rounds at Sanchez. A photograph of the live round that ejected from Borbon's gun when he cleared the jam, and was located near Sanchez's open driver's side door, is shown below:



Figure 10- Photo of the live round.

Medical Assistance and Backup Arrives

Borbon held Sanchez at gunpoint and radioed for medical assistance. An off-duty deputy from another county stopped to assist Borbon and held Sanchez at gunpoint while Borbon made the necessary radio communications. Additional deputies arrived and provided medical assistance to Sanchez, as did the fire department. Sanchez was declared deceased at the scene.

Sanchez's .380 Caliber Sig Sauer Semiautomatic Handgun

The handgun located on the driver's seat next to Sanchez was identified as a .380 Sig Sauer semiautomatic. The chamber was empty and there were seven live rounds in the magazine. Sanchez's DNA profile was detected on the slide/frame of the gun, and on the magazine. A photograph of the gun and loaded magazine are shown below:



Figure 11-Photo of Sanchez's loaded .380 semiautomatic handgun located on the driver's seat.

Sanchez's .380 Caliber Smith & Wesson Semiautomatic Handgun

After the shooting, investigators located a loaded .380 caliber Smith & Wesson semiautomatic handgun concealed under the front passenger seat cover. The serial number was obliterated. Sanchez's DNA was on the gun. The location of where that gun was concealed is shown in the red circled area of the photograph below:



Figure 12-Two loaded handguns were located concealed under the seat cover circled in red.

Sanchez's loaded .380 Smith & Wesson semiautomatic handgun is shown in the photo below:



Figure 13-Loaded .380 caliber handgun concealed under the right front passenger side seat cover.

Sanchez's .38 Special Smith & Wesson Revolver

A third gun was in Sanchez's vehicle. Investigators located a loaded .38 special Smith & Wesson revolver concealed under right front passenger seat cover. Sanchez's DNA was on the gun. A photo of that gun is shown below:



Figure 14-Photo of a loaded .38 special Smith & Wesson revolver located under a seat cover on the right front passenger seat.

Sanchez's Fixed Blade Knife

A six inch fixed blade knife was located between Sanchez's driver seat and the driver's door, as shown in red circled area of the photograph below:



Figure 15-Photo of fixed blade knife in a sheath, concealed between the driver's seat and door.



Figure 16-Photo of a fixed blade knife concealed in Sanchez's car.

Smoking Pipes and Methamphetamine – Passenger Side Floorboard

Two smoking pipes and methamphetamine were located concealed in a sunglass case on the right front passenger seat floorboard, as shown in the photo below:



Figure 17-Photo of smoking pipes and methamphetamine.

Methamphetamine – Center Console

Methamphetamine was located in a plastic storage container located in the center console of Sanchez's car, as shown in the photo below:



Figure 18- Photo of methamphetamine located in the center console.

Methamphetamine and Marijuana – Rear Floorboard

Methamphetamine and marijuana were located in a plastic storage container located on the rear floorboard of Sanchez's car, as shown in the photo below:



Figure 19-Photo of marijuana and methamphetamine located on the floorboard.

Marijuana – Rear Floorboard

Marijuana was located in a zippered pouch found on the rear floorboard of Sanchez's car, as shown in the photo below:



Figure 20-Photo of marijuana located on the floorboard.

Marijuana and Psilocybin – Backpack

Substances resembling marijuana and psilocybin were located in a backpack located in the trunk of Sanchez's car, as shown in the photo below:



Figure 21- Photo of marijuana and Psilocybin located in the trunk of Sanchez's car.

Marijuana and Methamphetamine – Driver’s Side Door Pocket

Marijuana and pills containing methamphetamine were located in the driver’s side door pocket of Sanchez’s car, as shown in the photo below:

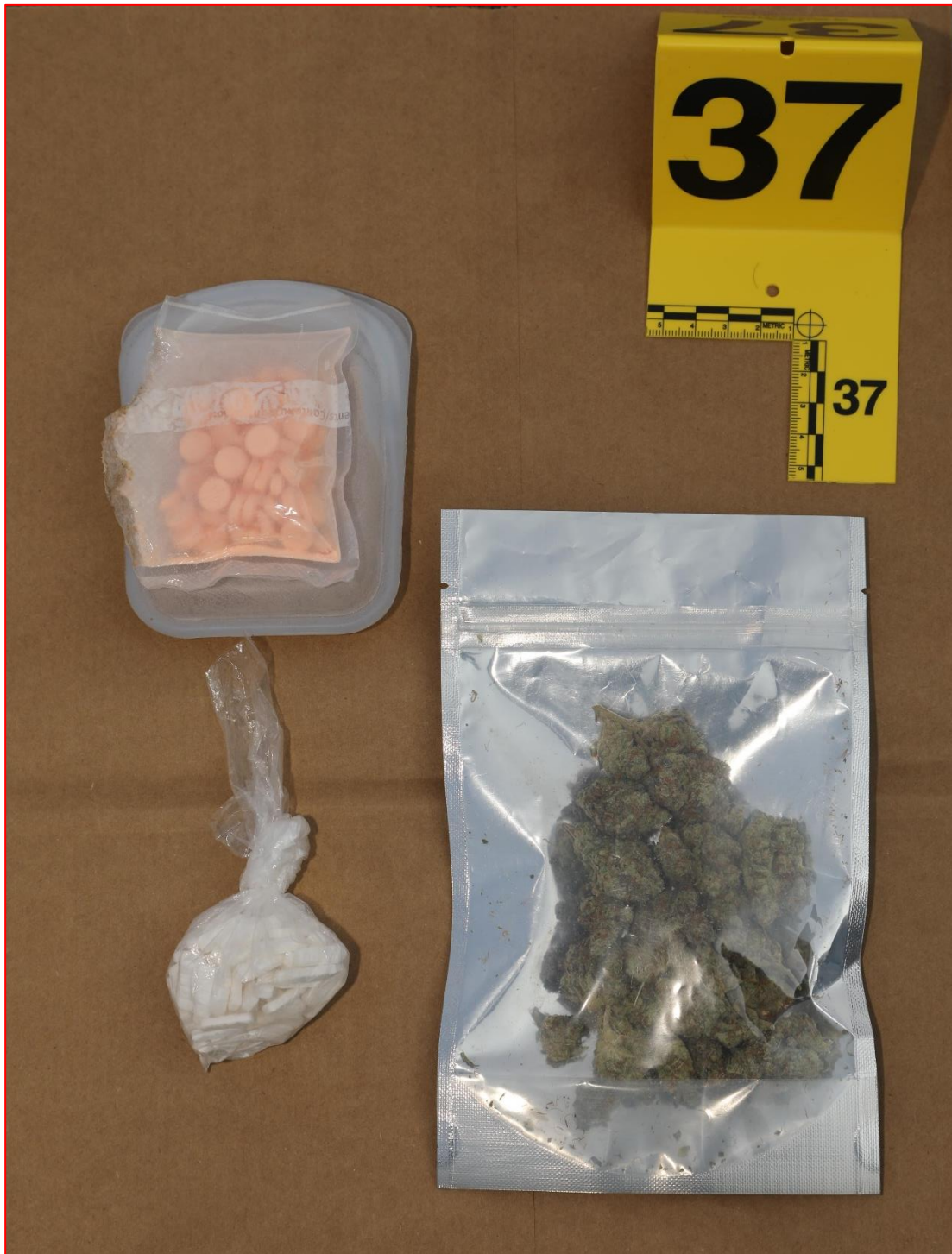


Figure 22-Photo of marijuana and pills located in the driver’s side door pocket of Sanchez’s car.

U.S. Currency

Rubber-banded U.S. currency and a bag of rubber bands in a zippered pouch were located on the left rear floorboard of Sanchez's car, as shown in the photo below:



Figure 23-U.S. currency and rubber bands located in Sanchez's car.

Pay/Owe Sheets

Handwritten notes appearing to be a recipe and “pay/owe” sheets were located in the trunk, as shown in the photo below:



Figure 24-Photo of written notes located in Sanchez's car.

Digital Scale

A digital scale was located on the left rear floorboard of Sanchez's car, as shown in the photo below:



Figure 25-Photo of the digital scale located in Sanchez's car.

The Autopsy

On August 18, 2021, Deputy Medical Examiner Richard Ou, M.D. performed a postmortem examination of Sanchez and determined that he had eight gunshot wounds to the chest, biceps, and pelvis. The direction of each gunshot wound was front to back. The cause of death was multiple gunshot wounds. A toxicology analysis was performed and showed the presence of methamphetamine and marijuana in Sanchez's blood at the time of his death.

Borbon's Injuries

Borbon was treated at the hospital for abrasions to his right leg.

Video Evidence

There is no body worn video, dash camera, or surveillance video of the shooting.

Borbon's Service Weapon and Firearms Evidence

Eight 9mm fired cartridge casings and one live 9mm round were located at the scene, consistent with Borbon firing his service weapon eight times.

Sanchez's DNA profile was detected on the slide/frame of Borbon's service weapon.

██████'s Statement

██████. was a passenger in a car driven by her husband, ██████, who is a deputy sheriff from another county. As they drove northbound on the U.S. 5 freeway, ██████. 's attention was drawn to the southbound side of the freeway where she saw a maroon colored car crash into a fence and a deputy, later identified as Borbon, at the door of the car. She told ██████. she believed Borbon was involved in a fight and the car was trying to drive away. She told ██████. to turn the car around and she attempted to call 9-1-1. ██████. called 9-1-1 approximately six times but the calls did not go through. They turned around and drove into the brake check area where they saw Borbon standing next to the crashed maroon car. Borbon was pointing his gun at the car. ██████. retrieved his badge and gun and went to assist Borbon. ██████. stayed in the car. ██████. identified himself to Borbon and also pointed his gun at the car. ██████. returned to the car a short time later, after backup deputies arrived, to get Borbon some water.

██████. 's Statement

██████. is a deputy from another county. He was driving on the northbound U.S. 5 freeway when his attention was drawn to a patrol vehicle parked on a dirt road overlooking the brake check area. He saw a maroon car parked in the brake check area below the patrol car. ██████. alerted him that she saw Borbon fighting. ██████. turned the car around to assist Borbon. He arrived a few minutes later, retrieved his gun and badge, and exited the vehicle to assist. ██████. identified himself to Borbon as an off-duty deputy, displayed his badge, and offered to help. He asked Borbon if he was shot. Borbon asked him to "cover" the vehicle. ██████. saw a man in the driver's seat of the car who had apparently been shot. ██████. held the man at gunpoint as Borbon communicated on his radio. ██████. asked if they should get the man out of the car. Borbon said, "No. he just 417'd me." (417 is police vernacular for a gun). A backup deputy arrived a short time later and ██████. assisted in getting the man out of the car and rendering aid.

LEGAL ANALYSIS

The Law

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 he 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.

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, are 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).

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397. "What constitutes 'reasonable' action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure." *Martinez v. County of Los Angeles, supra*, 47 Cal.App.4th at 343 (quoting *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347).

The Detention

The evidence reviewed in this investigation shows that Sanchez was in possession of three loaded handguns and was transporting a large quantity of drugs when stopped lawfully by Borbon for a vehicle registration violation. Given Sanchez's nervous behavior, large size, Borbon's observation in plain sight of possible drug paraphernalia in the vehicle, the remote area and therefore backup help being far away, Borbon was reasonable in asking Sanchez to exit the car, frisking him, and then putting him in a locked patrol car, uncuffed, while conducting his investigation.

"(E)ven when a police officer is careful, he is still subject to attack. The judiciary should not 'lightly second guess' an officer's decision to conduct a 'stop and frisk (P)olice officers (are) entitled to protect themselves during a detention: 'This is a rule of necessity to which a right even as basic as that of privacy must bow. To rule otherwise would be inhumanely to add another hazard to an already very dangerous occupation. Our zeal to fend off encroachments upon the right of privacy must be tempered by remembrance that ours is a government of laws, to preserve which we require law enforcement—live ones. Without becoming a police state, we may still protect the policeman's status.' [Citation omitted]" (*In re Richard G.* (2009) 173 Cal.App.4th 1252, 1255.)

Putting a subject into a patrol car, if necessary under the circumstances, may be found to be appropriate and does not necessarily elevate the contact into an arrest. (See *People v. Celis* (2004) 33 Cal.4th 667, 673-676.)

The Use of Deadly Force

Sanchez was transporting a large quantity of drugs and U.S. currency and three loaded firearms, which is consistent with him being a drug dealer. With two prior felony drug convictions, and in possession of a large amount of contraband, Sanchez likely feared he was facing a long prison sentence if Borbon successfully arrested him. The logical inference is that Sanchez was highly motivated to escape from Borbon by using any means necessary, including assaulting Borbon with the car door of the police car while escaping, and ultimately assaulting Borbon with his car by dragging him five hundred feet and crashing through a chain-link fence, twice, with Borbon hanging on for dear life. These actions could have seriously injured or killed Borbon.

In sum, Borbon was reasonable in his attempt to prevent Sanchez from accessing a gun, which he could have used to kill Borbon or to facilitate his escape. In the process of trying to save his own life, knowing Sanchez was within arm's reach of a gun, Borbon tased Sanchez, but that less lethal means was ineffective. As the fight for Borbon's life continued, Sanchez grabbed Borbon's gun and refused to let go (Sanchez's DNA profile was detected on Borbon's gun). Reasonably in fear for his life, Borbon fired his service weapon at Sanchez. When Sanchez then reached toward the center console of the car, where three guns were ultimately located and one gun was plainly visible, Borbon fired another volley, killing Sanchez.

CONCLUSION

Based on a review of the totality of the circumstances in this case, we find it was reasonable and necessary for Borbon to fire his service weapon at Sanchez in self-defense.