

**Officer Involved Shooting of Robert Risher  
Los Angeles Police Department**

**Officer Francisco Zaragoza #39188, Officer Joseph Chavez #40894,  
Officer Isaac Fernandez #41058**

**J.S.I.D. File #16-0370**



**JACKIE LACEY**

**District Attorney**

**JUSTICE SYSTEM INTEGRITY DIVISION**

**January 29, 2019**

## MEMORANDUM

TO: CAPTAIN AL PASOS  
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: Officer Involved Shooting of Robert Risher  
J.S.I.D. File #16-0370  
F.I.D. File #F043-16

DATE: January 29, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 25, 2016, fatal shooting of Robert Risher by Los Angeles Police Department (LAPD) Officers Francisco Zaragoza, Isaac Fernandez, and Joseph Chavez. It is our conclusion that Officer Zaragoza used reasonable force in self-defense, and that all three officers used reasonable force to apprehend a dangerous fleeing felon.

The District Attorney's Command Center was notified of this shooting on July 26, 2016, at approximately 12:28 a.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by LAPD Lieutenant Damian Gutierrez.

The following analysis is based on reports, recorded interviews, videos and photographs submitted to this office by the LAPD's Force Investigation Division. The departmentally compelled statement of each of the officers who shot was considered in this analysis.

### **FACTUAL ANALYSIS**

On July 25, 2016, Los Angeles Police Department (LAPD) Officers Francisco Zaragoza and Isaac Fernandez were assigned to a Gang Enforcement Detail. At approximately 11:00 p.m., Zaragoza and Fernandez began a foot patrol of the Nickerson Gardens Housing Development.

After parking the car, the officers walked to the "Mini Field" located to the west of the center court of the development. This area is known to LAPD officers as a hang-out for "Bounty Hunter" gang members. As they approached the Mini Field, Kalib Morgan, a known Bounty Hunter gang member, ran toward the officers, lifted his shirt, and screamed, "Pat me down! Search me!"<sup>1</sup> As Morgan was yelling at the officers, Robert Risher ran north and east with a gun

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<sup>1</sup> Gang enforcement officers recognize this as a common tactic to distract their attention from an armed companion.

in his hand. In response, the officers gave chase to Risher, with Fernandez chasing him directly, and Zaragoza running south and east in order to intercept Risher as he ran.

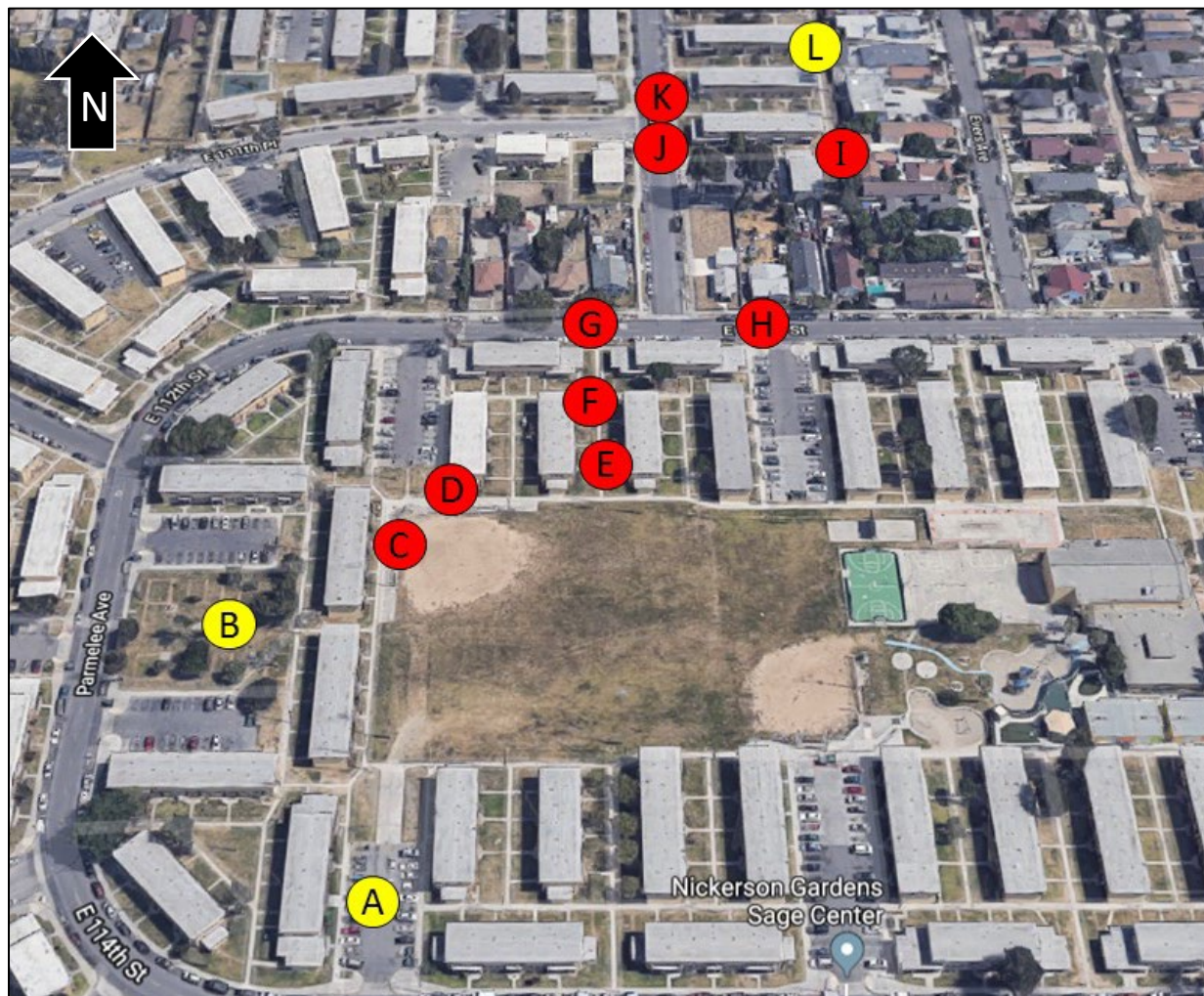


Figure 1: Officers parked their patrol vehicle (A) and approached the "Mini Field" (B) on foot. Risher ran from the officers and opened fire on Zaragoza two times, (D) and (F), and Zaragoza returned fire both times, (C) and (E). Fernandez shot at Risher on 112<sup>th</sup> Street (G) and (H) before Risher ran behind some apartment buildings. Fernandez (I), Zaragoza (J), and Chavez (K) then shot at Risher as Risher was running north. Risher was struck by a bullet fired by Fernandez and fell (L).

Zaragoza ran around the building and started running north toward Risher. As he was running, Risher fired two shots, apparently toward Zaragoza; however, no impacts were located that can be attributed to Risher's gun. Two cartridge casings were located on the sidewalk (D) that match Risher's gun. In response to Risher's shooting, Zaragoza fired 11 shots at Risher. The bullets fired by Zaragoza impacted a building north of (D) and the associated cartridge casings that match Zaragoza's gun were located in the area of (C).<sup>2</sup>

<sup>2</sup> Throughout this memorandum, estimates of the number of shots fired at different locations are made. These estimates are based on the shell casings recovered at that area of the scene. However, investigators experienced, and witnesses reported, significant contamination of the crime scene by members of the public. This contamination, in conjunction with the complexity of the crime scene and number of shots fired, renders a precise calculation of shots fired at any particular moment impossible.



Figure 2: Zaragoza (C) fired 11 shots at Risher (D) after Risher fired two shots.

After the exchange of gunshots, both Risher and Zaragoza ran north and east. As Risher ran north and turned east at the corner of one of the buildings, he was captured on surveillance video. That video showed him carrying a handgun in his right hand as he turned the corner.



Figure 3: A surveillance camera captured Risher running from Zaragoza while holding a handgun, just prior to shooting Zaragoza in the arm. The contrast of the image has been altered to enhance the image.

After Risher started running east, he turned to his right again and started running south. When he did so, he came face to face with Zaragoza, who was running north between two buildings.

When Risher saw Zaragoza, he shot at him a second time, striking Zaragoza in the left arm. Zaragoza returned fire, shooting approximately seven times at Risher. Two cartridge casings located in this area matched Risher's handgun.



*Figure 4: Risher (F) fired at Zaragoza (E) at least two times, striking Zaragoza in the left arm. Zaragoza fired approximately seven shots from his position.*

M. C., a resident of the housing complex, heard a volley of gunfire in the area of the baseball field. He looked out his front door, which faced east into the courtyard between two buildings, and saw Zaragoza firing north while he was moving backward. At the same time, he heard the sound of gunfire from a different shooter emanating from the area where Zaragoza was shooting. He watched as Zaragoza fell and yelled into his radio. C. A., another resident of the housing complex, heard, but did not see, gunfire from outside the apartment. C. A. looked out her window and saw Zaragoza was “down” and “while he’s getting up and trying to get up, they’re still shooting at him, so he was in a bad situation.” She watched him stand up while clutching his left arm. He called for help on the radio and took cover behind her building.

At 11:01.25 p.m., Zaragoza broadcast over the police radio: “18-George-23! Shots fired! Shots fired! Nickerson Gardens!” Approximately 12 seconds later, he broadcast: “[unintelligible] eastbound just south of 112<sup>th</sup>! I’ve been hit!” These two broadcasts resulted in a massive police response from every available LAPD unit in the area.

Approximately 34 seconds after his last transmission, Zaragoza broadcast, “Antwerp, east of Antwerp, 112<sup>th</sup>! Male black, white, long-sleeved shirt! He’s still going north!” Seconds later, Zaragoza broadcast, “On Antwerp between 111<sup>th</sup> and 112<sup>th</sup>! Have units go east through the parking lot!”

After the exchange of gunfire between the buildings, Risher ran north onto 112<sup>th</sup> Street. Fernandez, who had run north to 112<sup>th</sup> Street, confronted Risher when Risher ran out from between two apartment buildings. Fernandez fired his duty weapon five times at Risher while they were both on 112<sup>th</sup> Street. Risher then ran to [REDACTED] 112<sup>th</sup> Street, jumped the driveway gate, and ran onto the property.



Figure 5: Risher (F) shot Zaragoza (E) then ran north onto 112<sup>th</sup> Street, where he was met by Fernandez (G). Fernandez fired five shots at Risher from that position.

C. M. lives in an apartment across the street from [REDACTED] 112<sup>th</sup> Street. He heard numerous gun shots and looked out his front door. When he did, he saw Risher running at full speed into the yard of [REDACTED] 112<sup>th</sup> Street while holding a semiautomatic handgun in his right hand. He retreated into his apartment and, shortly thereafter, heard numerous gunshots coming from the direction Risher ran.

When Risher entered the property at [REDACTED] 112<sup>th</sup> Street, he ran north through the yard of the house, parallel to Antwerp Street, while still holding his handgun. Fernandez chased Risher to the mouth of the driveway and fired 13 shots at Risher as he ran north, jumped the back wall of the property, and ran into the parking lot north of the house.



Figure 6: Risher ran north through the property of [REDACTED] 112th Street. Fernandez shot at Risher from the mouth of the driveway of that property (H).

After firing at Risher from the mouth of the driveway, Fernandez ran north on Antwerp Street and east into the parking lot that bounds [REDACTED] 112<sup>th</sup> Street to the north.

After Risher jumped the fence on the north side of [REDACTED] 112<sup>th</sup> Street, he ran east and then north, behind several apartment buildings. Fernandez followed Risher east, and fired northward as Risher ran north.

After being shot, Zaragoza trailed behind Fernandez and ran north on Antwerp Street. He was near the intersection of 111<sup>th</sup> Place and Antwerp Street when the first responding LAPD car, occupied by Officers Jacob Rice and Joseph Chavez, arrived.

Zaragoza ran to the northwest corner of an apartment building and fired five rounds in an eastward direction as Risher ran north. Chavez ran to the same opening between buildings where Zaragoza was shooting, and, immediately after Zaragoza stopped shooting, fired five rounds in an eastward direction. Surveillance cameras in the housing development captured the positions of both Zaragoza and Chavez when they fired these shots. However, the camera did not capture Risher's position at the time the officers shot.

The patrol car driven by Rice and Chavez was equipped with a dashboard camera. That camera captured Zaragoza running across Antwerp Street just before a significant volley of gunfire erupts. Despite surveillance video depicting Chavez and Zaragoza firing volleys at different times, the audio recording from the dashboard camera indicates all three officers who fired did so nearly simultaneously in one prolonged volley.



Figure 7: Fernandez ran west on 112th Street, north on Antwerp Street, and east through a parking lot before shooting at Risher from the southeast corner of an apartment building (I). Zaragoza shot at Risher from the northeast corner of that same building (J). Chavez shot at Risher from a position just north of Zaragoza (K). Risher fell on the sidewalk east of the apartment buildings (L).

Risher continued running north as the officers fired their weapons. He dropped a 9mm, semiautomatic handgun and fell approximately 30 feet north of the handgun.

At 11:03:00 p.m., Rice broadcast, “He’s running – he’s running northbound. He’s gonna be behind the unit east of Antwerp.” At the same time, numerous LAPD units and dozens of citizens began to arrive at the scene of the shooting. At 11:04:10 p.m., an unknown officer asked the dispatcher to “hold the frequency” as they were taking Risher into custody. Thirty seconds later, an officer requested a rescue ambulance for Risher and described him breathing but unconscious. Los Angeles Fire Department paramedics responded and pronounced Risher dead at the scene.

Zaragoza was transported to the hospital with a gunshot wound to his left forearm.

Surveillance camera footage shows a chaotic situation during and after the shootings as various members of the public flooded the various crime scenes. During the investigation, witnesses told

investigators they watched as people from the neighborhood apparently collected and removed evidence.



*Figure 8: Zaragoza (circled in red) fired five rounds in an eastward direction as Risher ran north. Chavez was exiting his patrol vehicle as Zaragoza was shooting.*



*Figure 9: Chavez (circled in red) fired five rounds in an eastward direction after Zaragoza stopped shooting. After firing this volley of shots, Zaragoza (circled in yellow) ran north on the sidewalk adjacent to Antwerp Street, parallel to Risher.*

The handgun dropped by Risher was examined and found to be operable and loaded with one cartridge in the chamber and two cartridges in the magazine. The handgun was swabbed for

DNA, and swabs from both the grip of the handgun and the magazine inserted in it were tested and found to match the DNA of Risher.

Four shell casings collected at the crime scene were matched to Risher's weapon.



*Figure 10: Risher's handgun was located thirty feet from where he fell.*

### Autopsy

Deputy Medical Examiner Dr. Scott Luzi conducted an autopsy on Risher. He documented two separate gunshot wounds. Risher suffered a gunshot wound to the back that passed through his heart and exited his chest; it was a rapidly fatal wound. Risher also suffered one gunshot wound on his right hand.

### Shooters' Compelled Statements

Each of the officers who fired his weapon provided a statement to investigators after the shooting. Those statements were compelled.<sup>3</sup> The interviews were conducted by Detectives Dante Palacio, Francisco Alvelais, and Ron Granados.

### **Officer Francisco Zaragoza**

[REDACTED]

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<sup>3</sup> The LAPD orders officers who are involved in an officer involved shooting incident to submit to questioning concerning the performance of their official duties, and ordered them to do so in the present case. A police officer, 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 himself. Uniformed Sanitation v. City of New York (1968) 392 U.S. 280, 284-285. Because the LAPD ordered each of the officers who shot to answer questions which might expose them to criminal liability, the officers' participation in the interviews was compelled. The effect of this legal compulsion is that neither the officer's statements nor any material derived from them may be used against him in a criminal proceeding. Garrity v. New Jersey (1967) 385 U.S. 493, 496-497; Spielbauer v. County of Santa Clara (2009) 45 Cal.4<sup>th</sup> 704, 715. Further, because these compelled statements are part of the officer's police personnel file, the statements are confidential and may not be disclosed absent an evidentiary showing and court order. Penal Code section 832.7.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Officer Isaac Fernandez**

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Officer Joseph Chavez**

[REDACTED]

[REDACTED]

[REDACTED]

**LEGAL ANALYSIS**

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer “may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] 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. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. Kortum v. Alkire (1977) 69 Cal.App.3d 325, 333.

An officer has “probable cause” in this context when he knows facts which would “persuade someone of reasonable caution that the other person is going to cause serious physical harm to another.” CALCRIM No. 507. When acting under Penal Code section 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. People v. Mehserle (2012) 206 Cal.App.4th 1125, 1147. And he may only resort to deadly force when the resistance of the person being taken into custody “appears to the officer likely to inflict great bodily injury on himself or those acting with him.” Id. at 1146; *quoting* People v. Bond (1910) 13 Cal.App. 175, 189-190. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

California law permits any person, including police officers, to use deadly force in self-defense or in the defense of others, and, if someone dies as a result, this is a “lawful excuse” which precludes a conviction for murder. Penal Code sections 197, 198; CALCRIM No. 505. This defense is available if the killer actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; CALCRIM No. 505; *see also* People v. Randle (2005) 35 Cal.4th 987, 994 (overruled on another ground in People v. Chun (2009) 45 Cal.4th 1172, 1201); People v. Humphrey (1996) 13 Cal.4th 1073, 1082. In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 505, 3470. Actual danger is not necessary to justify the use of deadly force in self-defense; if the person’s beliefs were reasonable, the danger does not need to have actually existed. CALCRIM No. 505, 3470. The prosecution has the burden of proving beyond a reasonable doubt that the killer did not act in self-defense. Id.

In this case, Zaragoza fired three separate volleys of shots at Risher. In the first volley, Zaragoza shot at Risher after Risher fired two shots in his direction. Therefore, those shots were fired in lawful self-defense. In the second volley, Zaragoza shot at Risher while Risher was shooting at him. Therefore, those shots were fired in lawful self-defense. In the third volley, Zaragoza had flanked Risher, who was still armed with a handgun after he shot Zaragoza, and fired at Risher while Risher was attempting to escape. Because Risher had just shot a police officer, was still armed, and was attempting to escape, Zaragoza had probable cause to believe Risher had committed a forcible and atrocious crime and was a danger to others and his use of deadly force to stop Risher was lawful.

Fernandez, who was acting as Zaragoza’s partner during the incident, fired three separate volleys of shots at Risher during the incident. Fernandez was in a position to hear the exchange of gunfire between Zaragoza and Risher and was privy to Zaragoza’s broadcast that he had been involved in a shooting and had been hit. Because Risher had just shot a police officer, was still armed, and was attempting to escape, Fernandez had probable cause to believe Risher had committed a forcible and atrocious crime and was a danger to others and his use of deadly force to stop Risher was lawful.

Chavez heard Zaragoza’s call for help over the radio. He knew the physical description of the shooting suspect, knew that the suspect was armed with a firearm and had shot Zaragoza. At the time Chavez arrived at the scene he saw Zaragoza running and then saw Zaragoza shooting.

When Chavez rounded the corner of the building and saw Risher, he reasonably and correctly concluded that Risher was the person who had shot Zaragoza. Thus, Chavez' had probable cause to believe Risher had committed a forcible and atrocious crime and was a danger to others. Therefore, his use of deadly force to stop Risher was lawful.

## **CONCLUSION**

We conclude that Officer Zaragoza used lawful and reasonable force in self-defense. We further conclude that Officers Zaragoza, Fernandez, and Chavez used lawful force in the apprehension of Risher, who had shot and injured a police officer, was armed, and was attempting to escape arrest. We are closing our file and will take no further action in this matter.