



C A L I F O R N I A

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# DEPARTMENT of JUSTICE

## Report on the Investigation into the Death of Leonel Chavez on September 28, 2021

Los Angeles County AB 1506

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MAY 2023



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# INVESTIGATION OF OFFICER INVOLVED SHOOTING

## BACKGROUND—AB 1506

Pursuant to California Assembly Bill 1506 (AB 1506), the California Department of Justice is required to investigate all incidents of an officer-involved shooting resulting in the death of an unarmed civilian in the state. Historically, these critical incidents in California had been primarily handled by local law enforcement agencies and the state's 58 district attorneys.

AB 1506, signed into law on September 30, 2020, and effective July 1, 2021, provides the California Department of Justice (DOJ) with an important tool to directly help build and maintain trust between law enforcement and the communities they serve by creating a mandate for an independent, statewide prosecutor to investigate and review officer-involved shootings of unarmed civilians across California. The DOJ investigates and reviews, for potential criminal liability, all incidents covered under AB 1506, as enacted in California Government Code section 12525.3. Where criminal charges are not appropriate, the DOJ is required to prepare and make public a written report, like this one, communicating:

- A statement of facts, as revealed by the investigation;
- An analysis of those facts in light of applicable law;
- An explanation of how it was determined that criminal charges were not appropriate; and
- Where applicable, recommendations to modify the policies and practices of the involved law enforcement agency.

Recommendations to modify policies and practices of the involved law enforcement agency will be based on the facts of the incident, any known policies and practices of the relevant law enforcement agency, and the experience and expertise developed by DOJ personnel.

## PRIVACY STATEMENT

This report includes redactions of the names and other identifying information of witnesses and any family members of the decedent. The public interest in such information is limited, as it is not necessary to gain an understanding of the incident. Thus, the interest in nondisclosure clearly outweighs any public interest in disclosure.

For reasons related to privacy, as well as readability of this report, the witnesses and key locations will be identified as follows:

- Witness 1 (W-1), driver whose vehicle was struck by Mr. Chavez
- Witness 2 (W-2), 911 caller who reported a hit and run collision
- Witness 3 (W-3), 911 caller who reported a hit and run collision (tow truck driver)
- Witness 4 (W-4), tow truck driver's supervisor
- Witness 5 (W-5), uncle of Witness 1 who responded to collision scene
- Witness 6 (W-6), Mr. Chavez's mother
- Witness 7 (W-7), Mr. Chavez's brother
- Witness 8 (W-8), employee of adjacent business

## INTRODUCTION

On September 28, 2021, California Highway Patrol Officers Daniel Castaneda and Jennifer Sanchez responded to a report of a traffic collision involving Leonel Chavez (decedent) in an unincorporated area of Los Angeles County. After Mr. Chavez was identified as a hit and run driver, Officer Castaneda attempted to detain him. Mr. Chavez engaged in a physical struggle with the officer and attempted to grab his firearm. After Officer Castaneda deployed his Taser, Mr. Chavez charged toward him. At this point, Officer Castaneda fatally shot Mr. Chavez. The California Department of Justice (DOJ) investigated and reviewed the Officer-Involved Shooting (OIS) pursuant to Government Code section 12525.3 (enacted by Assembly Bill 1506 [2019-2020 Reg. Sess.]). This report is the final step in the DOJ's review of the fatal OIS of Leonel Chavez and is limited solely to determining whether criminal charges should be brought against the involved officer, as well as possible policy and practice recommendations. The review does not encompass or comment on any potential administrative or civil actions. It does, however, include policy and practice recommendations, as required by Government Code section 12525.3, subdivision (b)(2)(B)(iii). Upon thorough examination, and as discussed in detail below, we conclude that no criminal charges will be filed because the evidence is insufficient to prove that Officer Castaneda committed a crime.

***CAUTION: The images and information contained in this report may be graphic and disturbing. Therefore, reader discretion is advised, especially for young children and sensitive individuals.***

## **SUMMARY OF INCIDENT**

Shortly after 3 p.m. on September 28, 2021, Leonel Chavez was driving his mother's grey Honda Civic when he sideswiped a black Chevrolet Camaro at Medford and North Indiana Streets in Los Angeles County. Mr. Chavez attempted to flee but his car was disabled approximately 500 feet away from the crash.

W-4, a supervisor for a towing company was returning to his tow yard when he saw the collision occur. W-4 saw Mr. Chavez flee and parked his truck in front of the Honda, blocking Mr. Chavez's apparent escape route. W-4 called one of his drivers (W-3) and asked him to respond to the collision scene. W-4 was taking a picture of Mr. Chavez's Honda when Mr. Chavez asked him, "What's your problem?" Mr. Chavez then gestured to something in his waistband. W-4 interpreted this as a threat. The Chevrolet's driver (W-1) approached Mr. Chavez and asked for his insurance and registration. Mr. Chavez was hostile and agitated, refusing to respond to the request.

W-2 was walking next to her recreational vehicle (RV), which was parked near the intersection of Medford and North Indiana Streets, when she heard the sound of a traffic collision. She looked up and saw a "car accident" between a grey Honda and a black vehicle. CHP records show that she reported the collision to the California Highway Patrol (CHP) at 3:14:25 p.m. W-2 rode her bicycle to visit her boyfriend after reporting the collision and did not return to the scene until after the shooting.

At 3:23:11 p.m., W-3, a tow truck driver, arrived at the scene and also called 911, reporting that Mr. Chavez was attempting to flee.

CHP Officers Daniel Castaneda and his trainee, Officer Jennifer Sanchez, were dispatched to the collision at 3:21:20 p.m. Officer Castaneda had been on the job for five years. Officer Sanchez was still in training and had been on the job for approximately three months. Both officers were in full uniform. Officer Sanchez was driving their marked CHP patrol car and Officer Castaneda was in the front passenger seat. While the officers were on the way, the call was upgraded to a hit and run.

The officers arrived on Medford Street at 3:31:44 p.m. and drove up to W-3's vehicle. He pointed to Mr. Chavez, who had abandoned his Honda and was walking back toward the collision scene, away from the officers. W-3 told them that Mr. Chavez had been involved in the collision and had attempted to flee. He described Mr. Chavez's behavior as "agitated" and described Mr. Chavez "nudging his hip," which W-3 took as a threat.



WMVARS Frame 1699 (lightened). The officers approached Witnesses 3 and 4, the Honda, and W-3 and 4s' work vehicles. Mr. Chavez was observed ahead walking in a westerly direction within the roadway adjacent to the north sidewalk of Medford Street. The officers came to a stop near the location of W-3 and W-4 for approximately 25 seconds.<sup>1</sup>

Officer Sanchez drove the patrol car toward Mr. Chavez who was near the intersection of Medford and Indiana Streets. Officer Castaneda decided to detain Mr. Chavez to investigate the hit and run, a misdemeanor.<sup>2</sup> He stopped the patrol car and got out of the car. Officer Sanchez also got out of the patrol car. Mr. Chavez was walking toward the Chevrolet, and Officer Castaneda ordered Mr. Chavez to stop three times. Mr. Chavez stopped, turned around and walked toward the officer with his hands in the air without being told to do so. Officer Castaneda walked toward Mr. Chavez. Mr. Chavez placed his hands behind his head and turned his back to Officer Castaneda.

1 The WMVARS system is a recording system installed in CHP patrol cars. The video recording operates automatically, but the sound recording capabilities must be activated by the CHP officer using the patrol car must manually activate the sound recording capabilities of the system. In this instance the sound recording capabilities were not activated until after the officer involved shooting occurred. The photographs of the OIS in this report are still images from the officers' WMVARS

2 The driver of any vehicle involved in an accident resulting in damage to any property, including another vehicle, is required to stop their vehicle and provide the owner of the damaged property with their driver's license and registration. The failure to do so is a violation of California Vehicle Code section 20002(a), a misdemeanor.





WMVARS, Frame 3,067 (lightened). Displayed Time 3:33:26 p.m. Mr. Chavez ceased walking and turned facing in an easterly direction toward Officer Castaneda, who appears in the right portion of the frame from the right side of the patrol car.



WMVARS, Frame 3,428 (cropped and lightened), Displayed Time 3:33:38 p.m. Officer Sanchez is to the right of Officer Castaneda and Mr. Chavez. Mr. Chavez 's hands are behind his head, and he is turned to face away from Officer Castaneda.

Based on the information he had received from W-3 that Mr. Chavez had “nudged his hip,” Officer Castaneda intended to frisk Mr. Chavez to make sure he was not armed. As Officer Castaneda reached for Mr. Chavez’s hands, Mr. Chavez suddenly turned toward his right and faced the officer. Before Officer Castaneda could issue any further commands, Mr. Chavez’s hands came down and he reached for the officer’s holstered firearm. According to Officer Sanchez, Mr. Chavez gripped Castaneda’s firearm. Officer Castaneda was able to break Mr. Chavez’s grasp on his firearm; Mr. Chavez then reached for the officer’s firearm a second time.



WMVARS, Frame 3,460 (cropped and lightened), Displayed Time 3:33:39 p.m. Officer Castaneda placed his left hand and then his right hand on Mr. Chavez’s hands. Officer Sanchez’s hand remained on her firearm.





WMVARS, Frame 3,513 (cropped and lightened), Displayed Time 3:33:41 p.m. Mr. Chavez rotated clockwise facing in an easterly direction toward Officer Castaneda. Mr. Chavez's head and torso leaned backward and downward, and he separated his feet, widening his stance. The elevation of Mr. Chavez's and Officer Castaneda's hands then lowered.



WMVARS, Frame 3,525 (cropped and lightened), Displayed Time 3:33:41 p.m. Mr. Chavez continued his clockwise rotation and moved his left hand toward Officer Castaneda's right side in the vicinity of Officer Castaneda's departmentally issued firearm (red circle). Mr. Chavez's legs were to the left of Officer Castaneda. Mr. Chavez's right arm was over the left shoulder of Officer Castaneda.

Officer Castaneda was able to break free from Mr. Chavez, but Mr. Chavez reached in a second time, this time getting a firmer grip on the officer's firearm. Officer Castaneda felt Mr. Chavez yank and pull at his firearm's grip.



WMVARS, Frame 3,535 (cropped and lightened), Displayed Time 3:33:43 p.m. Mr. Chavez continued to rotate clockwise. Officer Castaneda started to rotate clockwise away from Mr. Chavez.

Officer Castaneda stated that he was dragged around like a “rag doll” by Mr. Chavez as he (Officer Castaneda) struggled to retain his firearm. Officer Castaneda was able to break free from Mr. Chavez and retain his firearm. The officer backed away from Mr. Chavez. Then both officers backed away from Mr. Chavez and put their hands on their firearms.



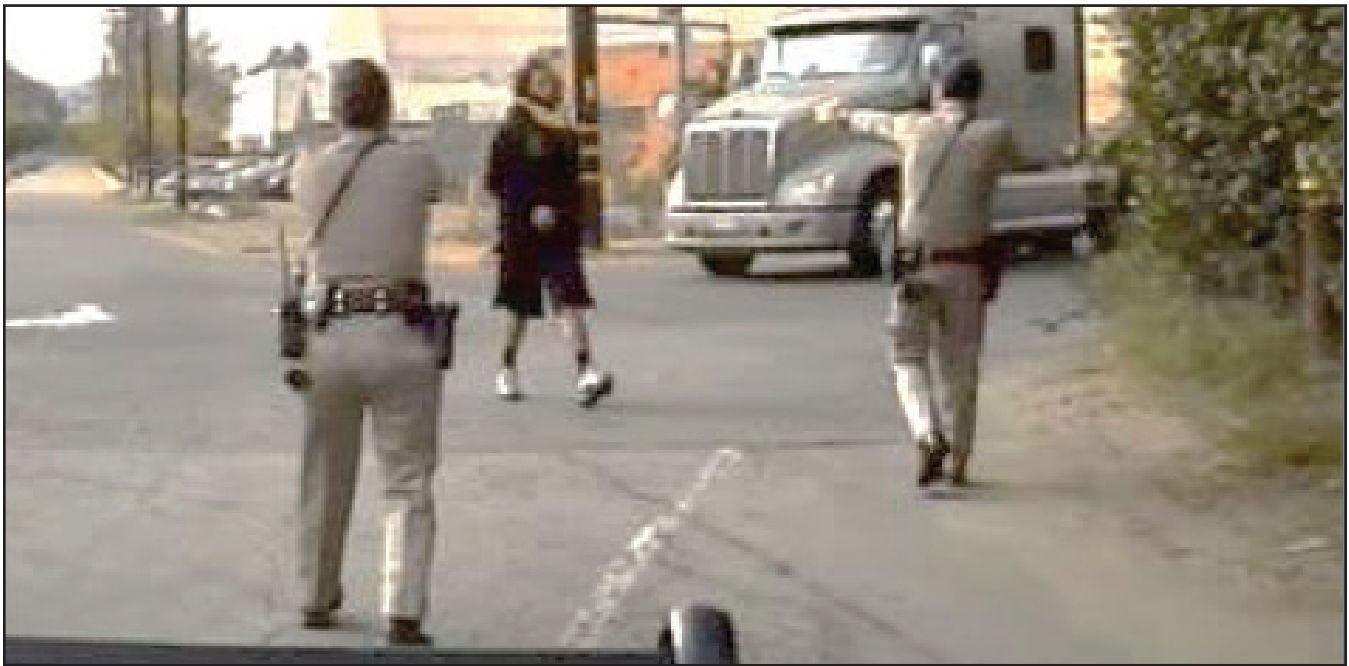
WMVARS, Frame 3,562 (cropped and lightened), Displayed Time 3:33:42 p.m. Officers Castaneda and Sanchez with their right hands on their respective firearms.

Mr. Chavez stopped and raised his hands above his head. Both officers drew their firearms and pointed them at Mr. Chavez as they backed further away from him. Mr. Chavez advanced directly at Officer Castaneda, who ordered him to stop. Mr. Chavez ignored Officer Castaneda's commands.



WMVARS, Frame 3,583 (cropped and lightened), Displayed Time 3:33:43 p.m. Mr. Chavez with his hands above his head, and Officer Castaneda holding his firearm with both hands, pointed toward Mr. Chavez. Officer Sanchez's right hand is on her firearm.

As Mr. Chavez advanced toward him, Officer Castaneda drew his Taser and pointed it at Mr. Chavez. Officers Castaneda and Sanchez continued to move backward toward the patrol car. Mr. Chavez then raised his hands to his chest and torso area. Mr. Chavez continued toward Officer Castaneda. Mr. Chavez placed his hands to his sides, and then clenched his fists and raised his arms. Officer Sanchez has pointed her firearm at Mr. Chavez.



WMVARS, Frame 3,775 (cropped and lightened), Displayed Time 3:33:49 p.m. Officer Castaneda pointed his Taser in the direction of Mr. Chavez. Officer Sanchez's firearm is drawn and pointed at Mr. Chavez.



WMVARS, Frame 3,788 (cropped and lightened), Displayed time 3:33:50 p.m. Mr. Chavez with raised arms and clenched fists.

At 3:33:50 p.m., Officer Castaneda fired his Taser at Mr. Chavez, but the Taser strike had no effect. Officer Castaneda had backed up as far as he could without backing into a dirt walkway and a fence adjacent to the roadway. At 3:31:51, Officer Castaneda dropped his Taser and placed his hand on his firearm, which he pointed toward Mr. Chavez. Mr. Chavez continued to advance toward Officer Castaneda. Mr. Chavez's left hand came in contact with his clothing at his waist area and was then pulled outward away from his side. As Mr. Chavez advanced, Officer Sanchez moved backward toward the front of the patrol car, while continuing to point her firearm at Mr. Chavez.





WMVARS, Frame 3,832 (cropped and lightened), Displayed Time 3:33:51 p.m. Officer Castaneda dropping Taser and putting both hands on his firearm.

Mr. Chavez then charged at Officer Castaneda. Officer Castaneda told investigators that he believed that Mr. Chavez would tackle him, take his firearm, and shoot both him and his partner officer. At 3:33:51 p.m., Officer Castaneda fired his firearm seven times at Mr. Chavez, stopping at 3:33:53, when Mr. Chavez fell.



WMVARS, Frame 3,836 (cropped and lightened), Displayed Time 3:33:51 p.m. A discharge can be observed from the muzzle area of Officer Castaneda's firearm. Mr. Chavez continued to advance. Mr. Chavez's left hand remained in contact with his clothing. Officer Sanchez continued moving backward toward the patrol car.



WMVARS, Frame 3,844 (cropped and lightened), Displayed Time 3:33:52 p.m. A second discharge can be observed from the muzzle area of Officer Castaneda's firearm 267 milliseconds after the first discharge. Mr. Chavez continued to advance.



WMVARS, Frame 3,851 (cropped and lightened), Displayed Time 3:33:52 p.m. A third discharge can be observed from the muzzle area of Officer Castaneda's firearm 233 milliseconds after the second discharge. Mr. Chavez continued to advance with his left hand in vertical motion and his right hand in a diagonal motion across his waist.





WMVARS, Frame 3,857 (cropped and lightened), Displayed Time 3:33:52 p.m. A fourth discharge can be observed from the muzzle area of Officer Castaneda's firearm 200 milliseconds after the third discharge. Mr. Chavez continued to advance. The Taser landed on the ground.



WMVARS, Frame 3,864 (cropped and lightened), Displayed Time 3:33:52 p.m. A fifth discharge and recoil can be observed from the muzzle area of Officer Castaneda's firearm 233 milliseconds after the fourth discharge. Mr. Chavez began to fall forward.



WMVARS, Frame 3,871 (cropped and lightened), Displayed Time 3:33:52 p.m. A sixth discharge and recoil can be observed from the muzzle area of Officer Castaneda's firearm 234 milliseconds after the fifth discharge.



WMVARS, Frame 3,879 (cropped and lightened), Displayed Time 3:33:53 p.m. A seventh discharge can be observed from the muzzle area of Officer Castaneda's firearm, 266 milliseconds after the sixth discharge.

Mr. Chavez fell onto the roadway and his body bounced slightly. There was a disruption of dirt on the roadway at the head and shoulder area of Mr. Chavez. Mr. Chavez's hands and arms were positioned under his body. After hitting the ground, Mr. Chavez's legs moved once and then remained still. Officer Castaneda continued to move backwards on the right side of the patrol car. After Mr. Chavez fell, Officer Sanchez leaned on the push bumper of the patrol car and later moved around the left side.

Officer Sanchez reported shots fired and called for backup at 3:33:55 p.m. The officers did not know whether Mr. Chavez was armed and waited for backup before they approached him. As Officer Castaneda stated during his interview, "Again, based on everything leading up to this point, I still had absolutely no idea if he did have any concealed weapons on his person, in his pockets. Based on just the intent displayed on his actions, displayed to myself, I did not feel comfortable walking up until there was at least one other person, another set of eyes....I can only watch so much. My trainee can only watch so much. With another set of eyes, it makes everybody safer."

A review of the WMVARS video from Officers Castaneda and Sanchez's patrol car and from Officer McAdams' patrol car supports the following timeline:

- At 3:34:38 p.m., the "W1" display appeared on the upper-right corner of the officers' patrol car video. "W1" indicated that one of the two wireless microphones was activated. Subsequent frames contain audio of Officer Sanchez's command, "Put your hands out" and Officer Castaneda's command, "put your hands out," "Hey get out of the way," "put your hands out to your side, we cannot help you unless you put your hands out," "put your hands out to your side, we are trying to help you." There were also additional commands given.
- As recorded by Officer McAdams' patrol car video, at 3:36:35 p.m., Officer McAdams approached from an easterly direction and came to a stop behind Officers Castaneda's and Sanchez's patrol car. At 3:36:44 p.m., Officer McAdams exited from the driver's door of his patrol car with a long rifle. Officer McAdams proceeded in a westerly direction and approached the right side of Officers Castaneda's and Sanchez's patrol car. According to Officer Castaneda's statement, the officers then formulated a plan of action for safely approaching Mr. Chavez.
- At 3:38:12 p.m., Officers Castaneda's and Sanchez's patrol car video shows Officers Castaneda, Sanchez, and McAdams approached from the right portion of the frame. Officers Castaneda and McAdams pointed their departmentally issued firearms at Mr. Chavez. Officers Sanchez and McAdams were observed wearing blue disposable gloves.
- At 3:38:18 p.m., Officer Castaneda pointed his departmentally issued firearm weapon towards Mr. Chavez. Mr. Chavez was then handcuffed.
- As recorded by Officer McAdams' patrol car video, at 3:38:32 p.m., an unidentified CHP patrol vehicle and CHP motorcycle entered the field of view. The motorcycle then exited on the right side of the video frame.
- At 3:38:46 p.m., Officers Sanchez and McAdams rolled Mr. Chavez onto his back.
- At 3:38:48 p.m., as recorded by Officer McAdams' patrol car video, a second unidentified CHP patrol vehicle and CHP motorcycle entered the field of view. The CHP motorcycle then exited the right side of the video frame. Three CHP officers then exited those vehicles.

- At 3:39:00 p.m., Officer Sanchez stood to the south of Officer McAdams. Officers Sanchez and McAdams lifted Mr. Chavez' clothing, and Officer McAdams produced an instrument and began to cut Mr. Chavez' clothing.
- At 3:39:04 p.m., Officer McAdams' patrol car video shows that Officer Castaneda entered the frame from the left and opened the trunk lid of his patrol car. Officer Castaneda removed an EMS trauma kit and medical supply bag.
- At 3:39:10 p.m., according to Officer McAdams' patrol car video, Officer Castaneda was observed with an EMS trauma kit and medical supply bag which he placed it on the hood of his patrol car. Medical aid was then administered to Mr. Chavez by the officers.
- At 3:41:29 p.m., Officers Castaneda and Sanchez's patrol car recorded Officer Castaneda instructing Officer Sanchez to initiate cardiopulmonary resuscitation if Mr. Chavez' if she could not locate a pulse. Officer Castaneda stated to Officer Sanchez, "we gotta keep rendering aid."
- At 3:41:30 p.m., a Los Angeles County Fire Department (LACFD) vehicle approached. Shortly thereafter paramedics took over lifesaving efforts on Mr. Chavez.
- At 3:47 p.m., Mr. Chavez was pronounced dead by LACFD paramedic Jesse Krygsman.
- At 4:17:31 the Los Angeles County Coroner – Medical Examiner's Office ("Coroner") was notified that Mr. Chavez had died.
- More than 25 CHP units arrived to secure the scene and assist in the investigation. Numerous calls were made to the Coroner; dispatch logs show that requests for updates on the Coroner's arrival were made in the hours following the OIS. Police agencies are required to wait for the Coroner's investigator to arrive, examine and identify the decedent, and remove the body. The Coroner's investigator arrived at 12:55 a.m. on September 29, 2021, and was on scene until 3:15 a.m. She notified Mr. Chavez's mother of his death and Mr. Chavez's mother identified her son's body at 3 a.m. CHP dispatch records show that the scene was cleared at 3:23:40 a.m. on September 29, 2021.

## INVESTIGATION

### DOJ Response

After the officer-involved shooting occurred, California Highway Patrol investigators were notified and responded to the scene. Thereafter, notification was made to California Department of Justice's (DOJ's) California Police Shooting Investigation Team (CaPSIT).

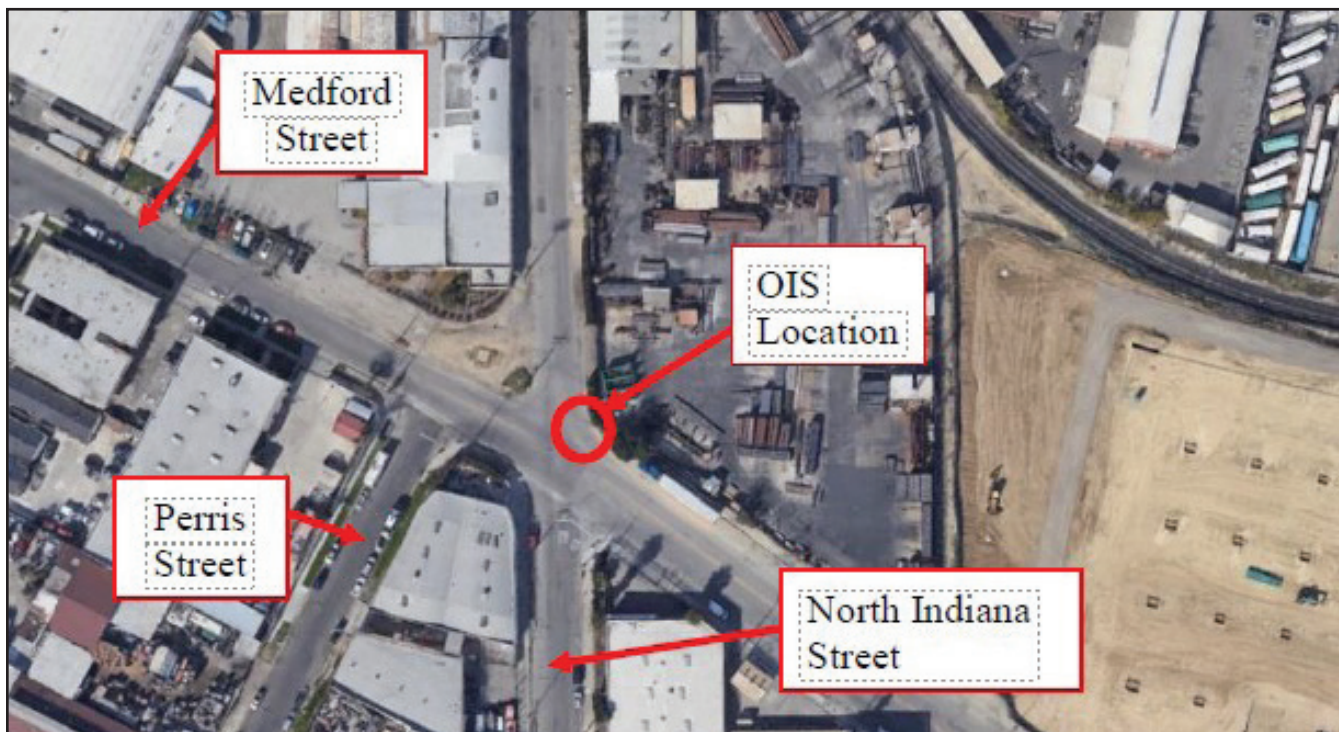
DOJ Special Agents, Special Agent Supervisors, and the assigned Deputy Attorney General responded to the scene of the shooting on September 28, 2021, at approximately 8:30 p.m. DOJ criminalists from the Riverside Office of the Bureau of Forensic Services (BFS) also responded to document the scene and to collect and preserve evidence. The California Highway Patrol's Multidisciplinary Accident Investigation Team (MAIT) responded as well.

CHP supervisory personnel walked the DOJ team through the shooting scene. They were shown the location of the decedent and evidence. DOJ investigators participated in the interviews of civilian and sworn witnesses.



On the date of the shooting and in the weeks and months thereafter, the shooting scene was examined, evidence was collected, and the officers' firearms were examined. In-car video was obtained from the officers' patrol car and reviewed by DOJ personnel and by MAIT. Computer assisted dispatch logs and 911 calls were obtained and reviewed. Security videos from businesses in the area of the incident were obtained and reviewed, as were cell phone videos captured by civilian witnesses.

## Scene Description



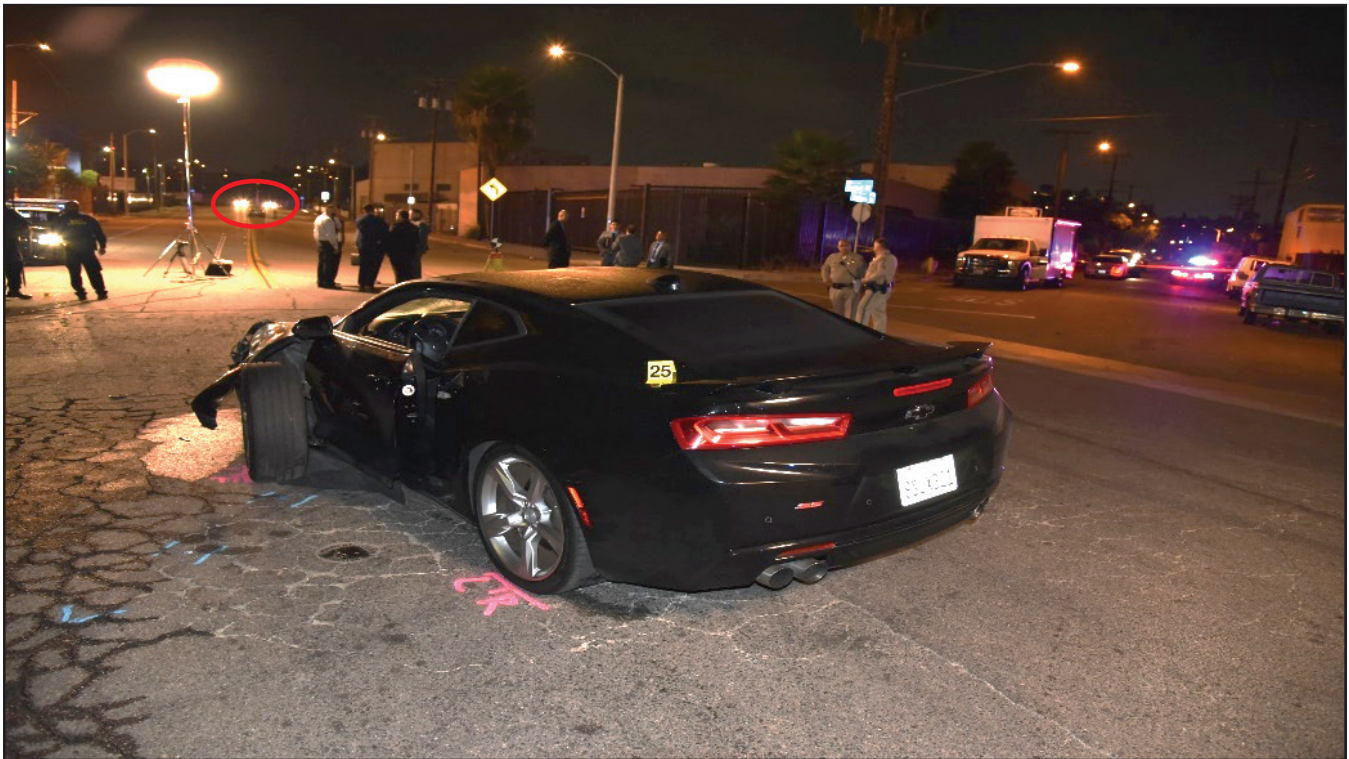
Intersection of North Indiana and Medford Streets (Unincorporated Los Angeles County) (Google Earth Image)

Mr. Chavez was in the intersection of Medford and North Indiana Streets, adjacent to the northeast corner of the intersection, when the officer-involved shooting occurred. The officer-involved shooting occurred during daylight in an industrial area in East Los Angeles, an unincorporated area of Los Angeles County.

## Evidence Recovery – Involved Vehicles

During the investigation, the vehicles involved in the collision were collected as evidence and transported from the scene by Navarro's Towing to their tow yard in Monterey Park. CHP Investigators obtained search warrants for: the Honda Civic driven by Mr. Chavez, including the Honda Civic's Infotainment and Airbag and Powertrain Control System<sup>3</sup>; the Chevrolet Camaro that was struck by the Honda Civic; and Mr. Chavez's phone records.

On October 7, 2021, BFS criminalists processed Mr. Chavez's vehicle and W-1's vehicle at Navarro's Towing in Monterey Park pursuant to a search warrant. No items of significant evidentiary value were located in either vehicle.



W-1's vehicle at the intersection of Medford and Indiana Street - Mr. Chavez's Honda is marked by a red circle

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<sup>3</sup> The 2020 Honda Civic was equipped with an Event Data Recorders (EDR), which is part of the vehicle Airbag Control Module (ACM) and a Telematics System, which also records data from several sensors in the vehicle including the Powertrain Control Module (PCM). The ACM is responsible for analyzing real-time driving conditions and other related variables to perform necessary safety measures in protecting occupants of the vehicle. These safety measures include decisions on whether to activate the vehicle's supplemental inflatable restraints (e.g., the driver and or passenger airbags, and or seatbelt pretensioners). In addition, the ACM communicates with and records data from internal and external sensors that provide data related to the collision to include possibly: engine revolutions per minute (RPM); throttle position; brake switch status; and pre-collision vehicle speed.





Mr. Chavez's vehicle

## 911 Calls and Dispatch Recordings

On September 28, 2021, CHP's Los Angeles Communications Center received a call of a traffic collision at the intersection of North Indiana and Medford Streets in the unincorporated portion of Los Angeles County. The initial 911 call was made by W-2 at 3:14:25 p.m.

At 3:21:20 p.m., CHP dispatch instructed East Los Angeles CHP Unit B82-014, Officers Daniel Castaneda and Jennifer Sanchez, to respond to the scene of a collision at Medford and Indiana Streets.

A second 911 call was made at 3:23:11 p.m. by W-3, a tow truck operator who arrived on scene. He reported that one of the drivers had attempted to flee the scene.

While still en route to the call, at 3:25:52 p.m., Officers Castaneda and Sanchez were advised by CHP dispatch that the traffic collision was being reported as a hit and run.

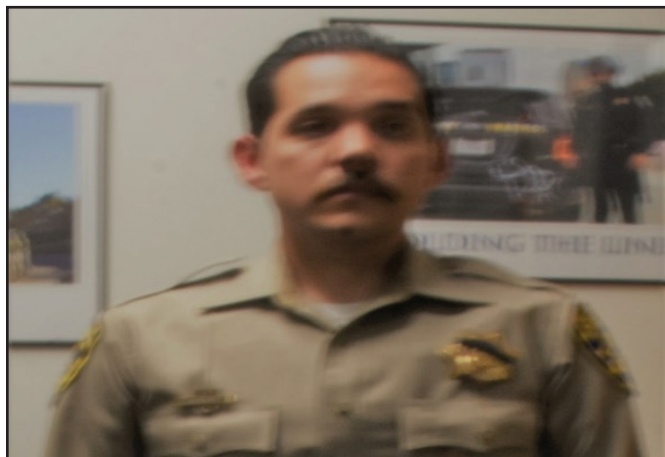
## Surveillance and Patrol Car Video Camera Footage

At the time of this incident, CHP officers were not issued body-worn cameras and there is no body-worn video of the incident. The area of the incident was canvassed, and additional video was recovered from security cameras and from bystanders. These additional videos are referred to as "security video" and "cell phone video," respectively.

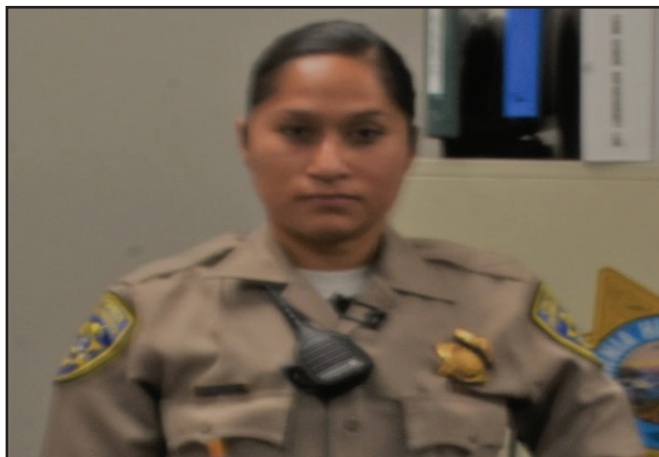
The incident was captured on the patrol car's Wireless Mobile Video/Audio Recording System (WMVARS). Still images from the patrol vehicle's camera are included in the preceding section of this report. WMVARS recordings are saved on the patrol car's internal hard drive. The WMVARS system is

constantly recording video (without audio), even when it is not activated. Officer Sanchez stated she manually activated the WMVARS after the officer-involved shooting occurred.

## Officer Processing



Officer Castaneda



Officer Sanchez

On September 28, 2021, CHP records show that Officers Castaneda and Sanchez were assigned to ELA CHP Unit B82-014. Officer Sanchez was driving the marked black and white CHP patrol vehicle and Officer Castaneda was the passenger. Both were in full uniform. Officer Castaneda had been a CHP officer for five years. Officer Sanchez was a trainee with approximately three months on the job. Neither officer had previously been involved in an officer-involved shooting.

A few hours after the OIS, Officers Castaneda and Sanchez were examined and photographed to preserve information about their appearance at the time of the OIS.

Officer Castaneda was 5'8" and weighed 185 pounds. He wore a tan CHP Officer Class B uniform with CHP patches on the shoulders, a CHP badge on the left upper chest and name tag on the right chest. He carried a Smith and Wesson M&P .40 caliber, semi-automatic handgun, with an attached Streamlight TLR-1 HL tactical weapon light. The handgun was in a holster on the right side of his Sam Browne gun belt. The handgun was loaded with fifteen rounds of ammunition in a fifteen-round capacity magazine. He did not carry a backup handgun. He carried two extra magazines, each loaded with fifteen rounds. He wore a yellow Taser in a pouch on the left side of his gun belt.

Officer Sanchez was 5'2" tall and weighed 132 pounds. She wore a tan CHP Officer Class B uniform with CHP patches on the shoulders, a CHP badge on the left upper chest and name tag on the right chest. She carried a Smith and Wesson M&P .40 caliber, semi-automatic handgun, with an attached Streamlight TLR-1 HL tactical weapon light. The handgun was in a holster on the right side of her Sam Browne gun belt. The handgun was loaded with fifteen rounds of ammunition in a fifteen-round capacity magazine. She did not carry a backup handgun. She wore a yellow Taser in a pouch on the left side of her gun belt.



Officer Castaneda's firearm



Officer Sanchez's firearm and magazine

## Scene Processing

The scene was processed by both the DOJ Bureau of Forensic Services (BFS) in Riverside and the CHP Multidisciplinary Accident Investigation Team (MAIT). In addition, the CHP MAIT report contains video footage (WMVARS and surveillance footage) analysis, scene analysis of the shooting and a scale diagram.

BFS criminalists collected evidence including a projectile, cartridge casings, various Taser parts and medical waste from the efforts to resuscitate Mr. Mr. Chavez. Officer Castaneda's firearm was processed by BFS and found to be in proper working order. Officer Castaneda's uniform, holster, and duty belt were swabbed for DNA, and the swabs were retained in evidence. However, the swabs were not tested because BFS criminalists determined that analyzing those items would be extremely unlikely to yield a conclusive result due to the limited contact Mr. Chavez had with those items.

## MAIT Review and Analysis

During the course of the investigation, CHP and CADOJ investigators canvassed the business area surrounding the crash and shooting scene and identified surveillance cameras at four businesses. In addition, they were also provided three video files from bystanders' cellular telephones which may have captured events leading up to the crash and shooting. The review and analysis was taken from the MAIT report.

Photographs and descriptions of events taken from the MAIT analysis are contained in the "Summary of Incident," above. The sources of information used by MAIT in its analysis are as follows:

- CHP Officers collected video files from ABC Casket Factory, a business located at 1705 North Indiana Street, which was equipped with at least three exterior surveillance cameras. One camera was adjusted to face North Indiana Street, north of Medford Street, and Medford Street, east of the intersection of Medford Street. The surveillance cameras displayed video times. Time comparison and analysis was conducted for one of these videos which depicted events surrounding the officer-involved shooting utilizing a concurrent event shared with the forward-facing camera from the WMVARS video.

- CADOJ personnel collected video files from Hollywood Licensed Products, a business located at 1650 North Indiana Street, which was equipped with at least three exterior surveillance cameras. Surveillance footage from three cameras was obtained. The surveillance cameras displayed video times. One surveillance camera was adjusted to face North Indiana Street, south of Medford Street and Medford Street, east of the intersection with North Indiana Street. Of these three videos, a time comparison and analysis was conducted on one video which depicted the events surrounding the OIS utilizing a concurrent event shared with the forward-facing camera of the WMVARS video.
- CHP investigators collected video files from A-I Food Corporation, a business located at 1700 North Soto Street, which was equipped with at least four exterior surveillance cameras. The surveillance cameras displayed video times. These videos depicted the movement of Mr. Chavez prior to the crash and officer-involved shooting, and therefore time comparison and analysis were not conducted.
- CADOJ personnel collected video files from Soto Liquor Market, a business located at 1602 North Soto Street, which was equipped with at least four exterior and interior surveillance cameras. The exterior surveillance cameras were adjusted to cover portions of the interior and exterior. The surveillance cameras displayed video times. These videos depicted the movement of Mr. Chavez prior to the crash and officer-involved shooting; therefore, time comparison and analysis were not conducted.
- Investigators obtained three cellular telephone video files depicting portions of the officer-involved shooting. One video (2800 Medford Street video) was taken in a northeasterly direction from within a building through a window. This video depicted Officers Castaneda, Sanchez, and McAdams standing to the right of the patrol car approaching Mr. Chavez who was in a prone position on the roadway. The second video (cell phone video #1) only depicted Officers Sanchez and Castaneda walking toward the Chevrolet. The third video (cell phone video #2) was shot in a northeasterly direction from the southwest corner of North Indiana Street and Medford Street. This video depicted Officers Sanchez and Castaneda pointing their firearms at Mr. Chavez who was prone on the roadway.
- The following items were provided to MAIT by the CADOJ:
  - 11 Surveillance videos from 1650 North Indiana Street
  - 11 Surveillance videos from 1602 North Soto Street
  - 117 Photographs of collected evidence and the scene
- The following items were provided to MAIT by CHP Investigators:
  - Five surveillance videos from 1700 North Soto Street
  - 285 Photographs of collected evidence and the scene
  - Three cellular telephone videos
- The following items were provided to MAIT by the CHP East Los Angeles Area:
  - CHP East Los Angeles Area Traffic Crash Report 9535-2021-12578
  - CHP 180 – Vehicle Report for the Honda and Chevrolet



## Autopsy

On October 6, 2021, Los Angeles County Medical Examiner-Coroner Dr. Brice Hunt performed the post-mortem examination on Mr. Chavez's body. Mr. Chavez was a 24-year-old Hispanic man, five feet and eleven inches tall, weighing 187 pounds. Dr. Hunt's examination revealed that Mr. Chavez sustained seven gunshot wounds, several of which were fatal wounds; five rounds remained in the body. Dr. Hunt also noted Taser probe marks on Mr. Chavez's left leg. A laboratory analysis performed by the coroner's forensic science laboratories showed the presence of marijuana and THC in Mr. Chavez's blood. A sample of Mr. Chavez's urine was sent to NMS Labs to test for anabolic steroids<sup>4</sup>. The testing results were negative for steroids but did show an elevated level of creatinine.

## Interviews of Involved Officers

Investigators conducted interviews of Officer Jennifer Sanchez and Officer Daniel Castaneda. These interviews were voluntary. CHP Officer Gage McAdams, who responded to the scene after the shooting occurred and assisted in handcuffing Mr. Chavez, also provided a voluntary interview.

The following statements are summaries of their interviews, which describe the incident from the point of view of the individual officers. Please note that the interviews contain facts relayed by the officers that may be inaccurate or inconsistent with the facts of this incident as they are currently understood.

### Interview of Officer Jennifer Sanchez

CHP Officer Jennifer Sanchez was interviewed on October 4, 2021, by CHP Investigators Steve Esquivel and Stephen Kimble. Also present were CHP Sergeants Todd Powers and Martin Geller, DOJ Special Agents Sok Kyong, Omar Arreola, and Steve Samano, DOJ Special Agent Supervisors Samuel Richardson and Craig Black, Deputy Attorney General Alix McKenna, and California Association of Highway Patrolmen Labor Union Representatives Jake Johnson and Ramon Silva.

Approximately three months before the shooting, Officer Sanchez graduated from the CHP Academy and was assigned to the East Los Angeles CHP Office. On September 28, 2021, Officer Sanchez had been employed by the CHP for several months and was about to enter her third phase of training. Each phase of training lasts 23 days. She was on day 20 of her second training phase. She had had no experience with anyone whose behavior was uncooperative or aggressive during an enforcement stop.

Officer Sanchez said that she and Officer Castaneda were at the East Los Angeles CHP Office when the call came out regarding a traffic collision at Medford and North Indiana Streets. They responded to the call. When they turned onto Medford Street, the officers spoke with a tow truck driver (W-3). He pointed out a gray Honda that was across from him, stating that it had been involved in the collision. He then pointed to Mr. Chavez and told the officers that Mr. Chavez was the driver of the Honda and had tried to flee. W-3 told the officers that he had advised Mr. Chavez not to leave the scene and Mr. Chavez had replied, "Who's going to stop me?" while gesturing toward his waist in a threatening manner.

Officer Sanchez saw Mr. Chavez walking away. He did not turn around or notice that the officers had arrived. She drove toward Mr. Chavez. As the officers got closer to Mr. Chavez, they got out of their patrol car and started giving him commands. He did not respond to any of the commands. Her partner

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<sup>4</sup> According to his family, Mr. Chavez had lost over 100 pounds since he was a high school student. He spent most of his time at the gym and wanted to become a personal trainer and open his own gym. As a result of Mr. Chavez's reported extensive weight loss, his focus on spending time at the gym, and his aggressive behavior during his encounter with the officers, a determination was made to have his blood tested for steroids.

said, “Hey, stop right there. Hey, stop.” Officer Castaneda identified himself as an officer, and Mr. Chavez still did not turn around. As they got closer, Mr. Chavez finally turned around and appeared to notice the officers’ presence.

When Mr. Chavez turned around, Sanchez saw that he was wearing a big baggy hooded sweatshirt and had the hood up. He was also wearing a yellow, microfiber cloth around his neck. Mr. Chavez had a blank stare.

Mr. Chavez faced Officer Castaneda. Officer Castaneda told Mr. Chavez to turn around, and Mr. Chavez complied. Mr. Chavez put his arms above his head, and Officer Castaneda came in to grip Mr. Chavez’s hands. As Officer Castaneda made contact, Mr. Chavez turned slightly under Officer Castaneda’s elbow. Mr. Chavez used his left arm to reach for Officer Castaneda’s firearm. Officer Sanchez saw Mr. Chavez grab Officer Castaneda’s firearm: “I definitely saw a grip – a grip on the gun handle.”

Officer Sanchez was startled and jumped. She immediately became apprehensive: “I was scared and that’s when – when I saw him grip the gun, I was like, ‘Oh, shoot.’ I stepped back and I drew my weapon at that point.” She believed Mr. Chavez intended to hurt her and her partner: “He (Mr. Chavez) didn’t reach for any other tools on the belt. He reached for a deadly weapon like wanting to hurt us. If he had the opportunity to, he would’ve taken my partner and myself out.” She believed that if Mr. Chavez had obtained Officer Castaneda’s firearm, he would have shot the officers.

She got closer to help her partner. Mr. Chavez lost his grip on Officer Castaneda’s firearm. Officer Sanchez saw Mr. Chavez make several additional attempts to grab Officer Castaneda’s firearm. She saw that, at one point, Mr. Chavez again had a grip on Officer Castaneda’s firearm, but Officer Castaneda was able to break away. Officer Castaneda backed away from Mr. Chavez, and both officers drew their firearms. While they had their firearms pointed toward Mr. Chavez, he made a taunting gesture, threw his arms out in the air, “puckered” his chest, and continued moving toward Officer Castaneda: “He didn’t stop. He continued charging, more toward my partner, ‘cause I was at an angle. Then when he doesn’t stop, he doesn’t say anything. At no point, did he make any comment, anything, he was quiet, he had...a death stare. Like he was just zoned out, blank stare. He didn’t say anything. And our weapons are drawn, and we tell him to stop, and he still continues to charge toward my partner.”

Both officers backed away from Mr. Chavez. Officer Sanchez was getting closer to the patrol car. Officer Castaneda told Mr. Chavez to stop, but he did not stop. Officer Castaneda deployed his Taser, but it had no effect on Mr. Chavez, who kept approaching. The officers continued to back away. Mr. Chavez then “charged” Officer Castaneda. At that point Officer Sanchez backed into the patrol car’s bumper and lost her balance: She “bumped into the bumper of the patrol vehicle and lose my balance and as I come back down the shots go off.” She heard gunshots, looked up, and saw Mr. Chavez on the ground. Mr. Chavez was still moving, and his arms were under his torso. The officers gave Mr. Chavez commands to show them his hands.

Officer Sanchez’s Field Training Officer, Gage McAdams, arrived. He told Officer Sanchez to handcuff Mr. Chavez while her partner provided cover. Once Mr. Chavez was handcuffed, the officers rendered aid to him. Officer Sanchez put pressure on Mr. Chavez’s wounds until the Fire Department and ambulance arrived.



## Interview of Officer Castaneda

CHP Officer Daniel Castaneda was interviewed on October 4, 2021, by CHP Investigators Steve Esquivel and Stephen Kimble. Also present were CHP Sergeants Todd Powers and Martin Geller, DOJ Special Agents Sok Kyong and Alan Oratovsky, DOJ Special Agent Supervisors Samuel Richardson and Craig Black, Deputy Attorney General Alix McKenna, and California Association of Highway Patrolmen Labor Union Representatives Jake Johnson and Ramon Silva.

Officer Castaneda recalled that upon initially arriving on scene, he and Officer Sanchez were flagged down by a tow truck driver (W-3). W-3 was stopped near the north curb, to the right of their patrol vehicle as the officers approached. W-3 stated that he was in the area and heard about the traffic collision. He said that Mr. Chavez, driving the silver Honda that was involved in the collision, had attempted to flee the scene. The Honda became disabled east of the location of the collision. W-3 stated that he tried to make contact with Mr. Chavez and advised Mr. Chavez that he needed to return - otherwise it would be considered a hit and run. When W-3 told Mr. Chavez that he needed to go back, Mr. Chavez started walking toward W-3's truck. Mr. Chavez warned W-3 to stay silent, told W-3 that "he's not going to say shit," and started gesturing toward his waistband. W-3 said he felt threatened because he was not sure what Mr. Chavez was reaching for or gesturing to, so he drove eastbound and away until he saw Mr. Chavez begin to walk toward the west. W-3 then turned his tow truck around, stopped near the second involved vehicle (the Chevrolet), and the officers arrived on scene approximately 10 to 15 seconds after that.

Officer Castaneda was on the passenger side of the patrol car, making most of the conversation with W-3. Officer Castaneda said, "Hey, can you tell me, point out who was driving that car?" "Who was saying these things?" W-3 pointed to Mr. Chavez, who was walking in the roadway, wearing a dark colored hoodie with the hood up. W-3 said, "That's the guy. That's him." Officer Castaneda told W-3 to stay by his truck and the officers would come back and get his information.

Castaneda told Officer Sanchez to drive to Mr. Chavez's location; Mr. Chavez was still walking in the roadway. As they were just east of the intersection of Indiana and Medford, Officer Sanchez stopped the patrol vehicle, so the officers could get out and talk to Mr. Chavez. Officer Castaneda got out of the passenger side and Officer Sanchez got out of the driver's side of the patrol car.

Based on his initial observations, Officer Castaneda believed Mr. Chavez was 6'2" or 6'3" and fairly heavy-set. As far as he knew, Officer Sanchez hadn't been in a situation with an uncooperative person. Due to his partner's size and inexperience, Officer Castaneda decided that he would make contact with Mr. Chavez.

Officer Castaneda first ordered Mr. Chavez, "Hey, Sir, can you come back over here, please?" Mr. Chavez continued walking. Mr. Chavez veered toward the middle of the intersection. As he continued to walk away, Officer Castaneda identified himself: "Hey, Police, you need to stop." Mr. Chavez turned around and Officer Castaneda stated: "Hey, Sir, I need you to come back over here. We need to figure out what's going on with the accident."

When Mr. Chavez turned around and started walking back toward Officer Castaneda, the officer observed that Mr. Chavez was wearing a long-sleeved hoodie which was very baggy on his person, and that his hood was raised, despite it being a very warm day. Officer Castaneda could see that Mr. Chavez had sweat on his forehead and it also appeared that Mr. Chavez was grinding his teeth. Due to his training and experience, Officer Castaneda recognized that Mr. Chavez displayed the signs and symptoms of someone under the influence of a stimulant. Based on Mr. Chavez's size, and the

objective signs and symptoms he had observed, Officer Castaneda continued as the contact officer, and left Officer Sanchez to “cover” him. Because Mr. Chavez had been identified by W-3 as fleeing from the traffic collision, Officer Castaneda intended to make an investigatory detention. This normally starts with a preliminary frisk. Based on Mr. Chavez’s baggy clothing and mannerisms, as well as W-3’s report that Mr. Chavez had gestured at his waistband in a threatening manner, Officer Castaneda felt that frisking Mr. Chavez was necessary.

As Officer Castaneda started closing the distance between himself and Mr. Chavez, Mr. Chavez turned his side toward the officer, put his hands behind his head and started separating his feet without being instructed to do so. Officer Castaneda recognized this as a “pre-attack indicator,” and began slowing his approach down. Officer Castaneda tried to step behind Mr. Chavez so Mr. Chavez could not watch his approach.

As Officer Castaneda reached in with his left hand to “trap” Mr. Chavez’s fingers behind his head, Mr. Chavez immediately turned to his right and faced the officer, who noticed Mr. Chavez’s hands were clenched. Officer Castaneda recalled when interviewed:

Q: What happened when you went to grab his (Mr. Chavez’s) hands?

Officer Castaneda (DC): So, I don’t know how close I actually was, but as he started to spin, I could feel him start to turn. I remember reaching up with my right arm and trying to lock on to - basically gain control of – I guess it would be his right arm, as well. I remember reaching up and he just kind of spun and took up almost like a fighting stance, like he -

Q: Did he spin towards you? Away from you?

DC: I believe it was to his right, so he spun to his right to turn around and face me. At which point I totally lost control of the arm.

Before Officer Castaneda could react to this, Mr. Chavez bent down, and both of his hands went toward Officer Castaneda’s right side where Officer Castaneda’s firearm was located. Mr. Chavez grabbed Officer Castaneda’s firearm, as Officer Castaneda related:

DC: So, once he turned, before I could say anything or give any commands or do anything he lunged for my gun.

Q: Did he get ahold of your gun?

DC: Initially yes, so not a very good grip but he made contact because I felt my belt start to shift. At which time I tried a retention, I tried to retain it, he momentarily lost grip and as I kinda with my right hand as I kinda swept his hands away he brought them both back up and got a much more firm grip on my pistol grip.

Using his hands, Officer Castaneda tried to “trap” Mr. Chavez’s hands so he could not remove the firearm from its holster. With Mr. Chavez’s hands trapped, Officer Castaneda was able to break Mr. Chavez’s grip and Mr. Chavez let go of the firearm. Officer Castaneda was attempting to sweep Mr. Chavez’s hands away from his firearm and create distance from him when Mr. Chavez reached in a second time. This time, Mr. Chavez got a very firm grasp on the grip of Officer Castaneda’s firearm. As Officer Castaneda tried to trap Mr. Chavez’s hands with his elbow, he felt Mr. Chavez yank and pull on the grip of his firearm. Mr. Chavez swung Officer Castaneda to his (Mr. Chavez’s) right. Officer

Castaneda's feet were dragged across the ground as he tried to prevent Mr. Chavez from removing his firearm from its holster.

The force with which Mr. Chavez spun Officer Castaneda to the right was enough that the officer was able to break free from Mr. Chavez's grip. Officer Castaneda recalled the force used by Mr. Chavez, and his concerns at the time:

DC: On that day, not counting my vest, not counting anything else we were wearing I'm like a hundred eighty-five pounds and he – plus thirty some odd pounds between the gun belt, the vest and everything else and he drug me across the roadway probably a good two or three feet. Which again is very indicative of someone who's under the influence of stims is they kinda get that super strength.

I mean, I guess it's a kind of 'oh shit moment' cause if, if he gets my gun, like I said it's not normal to openly attack a peace officer I understand that. But when you've now multiple times are actively trying to relieve me of my firearm. If he gets ahold of that I'm dead, my trainee's dead, anybody else that shows up on scene. Now he's got access to her weapons, everything in the patrol car, it's just gonna get real bad and like I said if he gets my gun or even if I stay and try an use personal weapons or anything else in his close proximity, I mean he was at least a shoulder and a head taller than I was and by the looks of it probably like close – between eighty and a hundred pounds more than I and just with that one motion like I said he drug me, he spun me in a circle with what appeared to be relative ease. I mean if he gets on top of me, I'm, that's it. I'm worried for myself, I'm worried for my trainee, I'm worried for anybody who's – might look at this guy wrong if he ends up getting ahold of us.

It's not a – a normal mindset to try and relieve a peace officer of his weapon so I can only imagine he had I guess a death wish. I mean cause that's only going to go one of two ways if, either I'm gonna have the gun or he's gonna have the gun, and if he gets it then everybody's dead. I would imagine he would shoot and kill myself and shoot and kill my partner.

Once free of Mr. Chavez's grip, Officer Castaneda backed away from Mr. Chavez. Officer Castaneda then drew his firearm because Mr. Chavez had tried to disarm him twice. As Officer Castaneda recalled:

As soon as we broke free though, like you said, that's when he did and again, I don't know any – I don't know a better way to articulate it other than it was a very primal challenge. As in he brought both his hands up, he kinda tilted his head back and opened his eyes really wide, tapped on his chest and then put his arms like straight out shoulder level and clinched his fists. And again, what I took to be almost like a Tarzan type like primal challenge.

I kind of reset everything in my head, I'm like okay so try and create time and distance, but just know that I didn't really have my direction of escape was very, very, narrow, and very limited. Like I said, I'm giving him commands to stop, to get on the ground, and I briefly glance back, and I see that, like I said I'm rapidly approaching the dirt shoulder or dirt sidewalks, and then followed by that impassible fence. So, again, I'm trying to make as much time and distance before I run out of room.

It was terrifying, because of how easily he was – essentially to manhandle me earlier and now like I said previously, I’ve up until this point I’ve never had to point my service weapon at somebody and have them not immediately – you know – it doesn’t even matter you know it’s kinda universal. If there’s a gun being pointed at you, you know, you follow commands. If not, you’ve already gone through that thought process. You know you already have your intentions are already made clear. So, I was terrified because here he is like I said, a head and a half taller, close to a hundred pounds more than I am. He’s already kind a rag dolled me around the roadway and now he’s walking me down. As in he’s actively walking, walking at me, like I said he’s [sic] fists are clenched you know he’s in and about his pockets and I don’t know like I said if he’s got any more weapons or he’s just gonna essentially rip the gun out of my holster again or out of my hands.

Officer Castaneda continued to back away from Mr. Chavez, giving him orders to, “Get on the ground, stop, stop advancing,” and Mr. Chavez started walking toward the officer with his clenched fists swinging up and down. Officer Castaneda tried not to take his eyes off Mr. Chavez, because Officer Castaneda had not been able to pat down Mr. Chavez, because Mr. Chavez was wearing baggy clothing, and because Mr. Chavez had tried to take his firearm. Mr. Chavez kept approaching and his hands kept coming up near his hoodie pocket and his shorts pockets. Officer Castaneda could not tell if Mr. Chavez was going to retrieve a weapon from his clothing.

As Officer Castaneda was backing away from Mr. Chavez, Mr. Chavez was closing the distance between them. At that location there was no raised concrete curb. It was an industrial area, and the roadway terminated into a rough dirt area that was approximately three feet wide. Beyond that was an eight-to-ten-foot metal gate that surrounded the industrial properties. As Officer Castaneda was backing away from Mr. Chavez and trying to deescalate the situation by giving verbal commands, “Hey stop, you need to get on the ground,” Mr. Chavez started to pick up his pace as he advanced on the officer. Officer Castaneda briefly glanced back and saw that he was rapidly approaching the very narrow dirt sidewalk and the metal gate. Mr. Chavez was still not complying with commands.

The officer had been on the job for five years, and in that time during felony or high risk stops he had never pointed his firearm at someone without them complying. Officer Castaneda pointed his firearm at Mr. Chavez with a two-handed grip, aiming at his chest, his fingers still on the slide, giving Mr. Chavez orders. Officer Castaneda believed Mr. Chavez was “dead set” on trying to take his firearm away from him again.

In a last-ditch effort to try and gain control over the situation, Officer Castaneda drew his Taser with his left hand and turned it on with his thumb, pulling his firearm back into a safe position. The officer then “punched out” his Taser with his left hand. He told Mr. Chavez, “Hey last warning, you need to stop, you need to stop.” Mr. Chavez did not stop, so Officer Castaneda fired one of the Taser cartridges in the hope of incapacitating Mr. Chavez and stopping his advance. Regarding his decision to deploy his Taser, Officer Castaneda stated:

I was hoping to either get full NMI or again Neuro Muscular Incapacitation. Stopping the threat and I could’ve handcuffed him while he was under cycle or while the current was going and then everything would’ve been fine. Well, everything would’ve been better. Or at least get him to maybe he’s just, you know whether it’s because of, you know, stimulants or anything else, just hearing or feeling the pop of the Taser. Even if it doesn’t give me full incapacitation, it could be enough to snap him out, maybe he was

in a trance when he was walking, like when I said he was walking he down. Maybe just hearing the pop of the Taser or the cycling of it, will get him to snap out of it and think, 'Oh, my god, what am I doing?'

Officer Castaneda stated that before using his Taser:

I was continuously telling him. I think once I transitioned, I say, 'Hey stop you're going to get Tased.' So, as I deployed one cartridge, he kind of flinched and I thought maybe, maybe it went through and at that point he kind of ducked his head and started sprinting. And I knew the Taser was ineffective and I didn't have time to attempt the second cartridge. It could have been a flinch, it could have just been him like kind of like hearing the pop and thinking you know but basically as soon as I deployed it, he kind of tensed up like this, brought his fists up and then started to charge. So ideally if you can split the belt line or essentially get it further than four inches apart from both darts, you'll in theory achieve what's called neuromuscular incapacitation or NMI. NMI will, depending on where the probes hit, it will essentially lock those muscles up and you lose all control of it.

When Officer Castaneda saw Mr. Chavez duck his head and start to charge, the officer discarded the Taser, took a two-handed grip on his firearm and discharged rounds until Mr. Chavez stopped advancing. Officer Castaneda reflected upon the factors which caused him to conclude that the use of deadly force was necessary and was his only remaining option:

So, when the – like I said when he put his head down and started to sprint, I remember as I was dropping my Taser, I noticed I was already on the dirt, the dirt sidewalk area and I thought like if he attacks me, I'm going to fall backwards and smash my head on this gate. If he pushes me, I'm gonna go you know, I'm gonna get sprawled out into this gate. Like I said, there's literally nowhere else for me to back up anymore. Even if he falls like I said, if he falls and trips me, I'm going headfirst into this metal wrought– I don't know if it's wrought iron or just like an exterior gate. So, like I said I'm going to go headfirst into it and then now if that doesn't knock me out, I'm going to be messed up and then now he has full access to my weapon again.... I've exhausted every option that I have. If I don't make a decision now, then my partner's not going to make it home, I'm not going to make it home. It was kind of at that moment, when I guess I dropped the Taser and I realized how close I was to that fence, I made the decision that, 'Hey, I'm out of options. I've given this guy every opportunity. I've tried to de-escalate as many times as I could, but he he's dead set on trying to take my gun from me.' And if that happens, like I said, 'I'm dead. He's going to shoot me and kill me. Or shoot me and maim me. And then he's going to turn and shoot and kill her, shoot and maim my partner.' So, based on everything I had available, at that time, I made the decision to discharge my service weapon.

Officer Castaneda stated that he fired six to eight rounds from his firearm. He stopped firing when Mr. Chavez was no longer a threat. After he was done firing, Officer Castaneda retreated to a safer location, moving away from the fence and back toward the patrol car.

At this point Officer Castaneda had no idea where his trainee was, and that became his primary concern. Once he was able to locate Officer Sanchez, they took defensive positions at the patrol car and Officer Castaneda began giving commands for Mr. Chavez to put his hands out because he had

fallen face down and he was laying on top of his hands. People began coming out from the surrounding businesses, and Officer Castaneda was trying to make sure that no one was down range. He continued giving commands to Mr. Chavez, and broadcast over his police radio that shots had been fired. He requested that the fire department and additional units respond. He told Mr. Chavez, "Hey we want to render aid, we want to come and help you, but we can't approach until I can see your hands." He did not know whether Mr. Chavez had any concealed weapons on his person or in his pockets, so he continued pleading with Mr. Chavez, "Hey put your arms out. We want to help you."

Officer McAdams then arrived on the scene. While Officer Castaneda provided cover, Officers Sanchez and McAdams approached Mr. Chavez, grabbed his hands, and handcuffed him. The officers then began rendering aid to Mr. Chavez until Los Angeles County Fire Department arrived and took over.

### **Interview of Officer Gage McAdams**

On October 6, 2021, CHP Officer Gage McAdams was interviewed by CHP Investigators Stephen Kimble and Jimmy Nguy. Also present were CHP Sergeants Martin Geller and Todd Powers, DOJ Special Agent Mike Beavers, and Officer McAdams's representative from the California Association of Highway Patrolmen Justin McTeer.

Officer McAdams was responding to a call to assist Officers Castaneda and Sanchez when he heard a "shots fired" call. He then activated his patrol car's lights and siren. When he got to the scene, he took out a rifle and walked up to where he saw Officer Sanchez by the driver's side and Officer Castaneda at the passenger side of their patrol car. He approached on their passenger side. McAdams observed Mr. Chavez laying on the ground with his arms under his torso. McAdams did not hear Mr. Chavez say anything.

Officer Castaneda set up a plan. He had Officer Sanchez come to the passenger side of their patrol car and had Officer McAdams put the rifle in the patrol car. Officer Castaneda directed Officer Sanchez to take Mr. Chavez's right hand and McAdams to take the left. The officers took Mr. Chavez's hands from under him and Officer Sanchez handcuffed Mr. Chavez. Officer Castaneda then got his personal medical bag from his patrol car. The officers rolled Mr. Chavez over and Officer McAdams used his knife to remove Mr. Chavez's jacket and shirt so that they could assess where Mr. Chavez's wounds were.

Officer Castaneda gave Officer McAdams and Officer Sanchez gauze. Officer Sanchez applied pressure to Mr. Chavez's chest and Officer McAdams applied pressure to the wound on Mr. Chavez's right side. They held pressure there, to try and stop the bleeding. Mr. Chavez had a light pulse, light breathing, and gasping breaths.

Firefighters arrived on scene and took over from the officers shortly after McAdams began rendering medical aid. They pronounced Mr. Chavez dead shortly thereafter.



## **Interviews of Civilian Witnesses**

### **Statement of Witness 1**

Witness 1 (W-1), who was driving a black Chevrolet Camaro, stopped at the intersection of North Indiana and Medford Streets and prepared to make a left turn. Mr. Chavez, driving a grey Honda Civic, sped up, driving into oncoming traffic lanes, and sideswiped W-1's car. W-1 pulled over. Mr. Chavez attempted to drive off, but his vehicle was disabled due to the damage it sustained in the collision. Mr. Chavez got out of the Honda and W-1 approached him, asking for Mr. Chavez's driver's license and insurance documents. Mr. Chavez responded that he didn't have anything. He appeared to be on drugs, and W-1 was concerned for his own safety. W-1 called his uncle (W-5) who arrived a short time later. W-5 approached Mr. Chavez and again asked for his information. Mr. Chavez said that he did not have anything and asked, "What are you going to do about it?" A driver (W-4) saw the collision and blocked Mr. Chavez's car from leaving. He took a picture of Mr. Chavez's license plate.

The officers arrived, got out of their patrol car, and told Mr. Chavez to stop as he was walking away from them. They told Mr. Chavez to put his hands behind his back. As the male officer tried to "grab" him, Mr. Chavez attacked the officer by swinging at him. After that, Mr. Chavez kept "going at" (approaching) the officer. The officer Tased Mr. Chavez and it had no effect. Mr. Chavez "did not look like a normal person." The officer shot Mr. Chavez.

### **Statement of Witness 2**

An initial 911 call was placed to CHP by Witness 2 (W-2) at 3:14:25 p.m. regarding the traffic collision. W-2 was later interviewed and stated while she saw the initial traffic collision, she did not see the officer-involved shooting that occurred thereafter.

### **Statement of Witness 3**

Witness 3 (W-3) is a tow truck driver and witness 4 (W-4) was his supervisor. W-3 was returning to his "shop" when he was contacted by W-4, who told him there was an accident at Medford and North Indiana and asked W-3 to respond to the scene. W-4 asked him to call 911 because one of the parties in the collision was acting "kind of weird."

W-3 responded quickly and saw an argument going on. He was told that Mr. Chavez was just "going crazy." The driver of the Chevrolet was trying to get Mr. Chavez's information and Mr. Chavez was acting "dumb," just staring at the driver. W-4 told Mr. Chavez he was taking a picture of Mr. Chavez's license plate, to which Mr. Chavez responded, "So what are you going to do about it?" W-4 responded, "Nothing," and told Mr. Chavez to do the right thing and give the Chevrolet driver (W-1) his information. Mr. Chavez "did not like it" and kept arguing with the other people.

W-3 parked behind Mr. Chavez. Mr. Chavez kept looking at W-4's truck because it was running, and W-4 took the keys out of the truck. Then Mr. Chavez looked at W-3's tow truck so W-3 took the keys from his tow truck as well. W-3 called 911 and the dispatcher agreed to send officers to the scene.

Mr. Chavez was wearing a black sweater and he had a beard. He had a "I don't give a fuck" look. W-3 felt that Mr. Chavez wanted to fight with somebody. He was putting his right hand down as though he had "something." He was walking up and down as though he was going to run, and he looked at the trucks to see if they were running, which made W-3 concerned that Mr. Chavez might try to steal one of the trucks to get away.

Mr. Chavez kept walking around and the guy with the Chevrolet (W-1) was shaken up. W-3 saw Mr. Chavez walking around and grabbing himself; W-3 told Mr. Chavez he needed to get checked out by paramedics. Mr. Chavez ignored him and kept putting his hoodie up, looking around at people and taking his mask on and off.

As they waited for the police, Mr. Chavez started to walk away. When the first patrol car arrived the officer asked W-3 what was going on and W-3 told him that Mr. Chavez was involved in the collision and was walking away. He told the officers that Mr. Chavez had gestured as though he might be armed. The officers drove toward Mr. Chavez and got out of their patrol car. W-3 heard the officers yell to Mr. Chavez, "Hey, turn around, turn around." When the officers got close Mr. Chavez turned around and swung at the officers. The officers backed up and took out their Tasers. W-3 observed one of the officers use his Taser on Mr. Chavez, but the Taser did not work, and it was as if nothing happened. He saw Mr. Chavez make a gesture, then speed up and close the distance to the officer. W-3 heard five gunshots. After that he heard the officers tell Mr. Chavez to put his hands behind his back.

#### **Statement of Witness 4**

Witness 4 (W-4) is a tow truck supervisor. At the time of the collision, he was driving at Indiana and Medford Streets. He saw a Chevrolet stopped at the intersection. Mr. Chavez's Honda came from behind, sideswiped the Chevrolet and spun out. W-4 took a picture of the Honda's license plate. The driver of the Honda (Mr. Chavez) took off. He could not go too fast because his back wheel was damaged. W-4 used his truck to cut off Mr. Chavez's escape route. Mr. Chavez got out of the Honda and said, "What's your problem?" The driver of the Chevrolet (W-1) asked Mr. Chavez for his insurance, but Mr. Chavez became agitated and did not respond. W-4 called his tow truck driver (W-3) and asked him to come to the accident scene and call the police. W-3 arrived in his tow truck and called 911.

W-4 thought Mr. Chavez was going to take his (W-4's) truck, so he turned the truck off, took the keys, and walked away from the vehicle. Mr. Chavez was agitated and kept looking at W-4. Mr. Chavez's behavior made W-4 feel unsafe.

The CHP officers arrived and spoke with W-3. Mr. Chavez had walked down the street. The officers told Mr. Chavez to turn around and he did. One of the officers approached and Mr. Chavez swung at the officer. The officer backed up and Mr. Chavez advanced on him. The officer used his Taser and Mr. Chavez "swarmed" at the officer who backed up toward the patrol car. W-4 heard the gunshots.

#### **Statement of Witness 5**

Witness 5 (W-5) was contacted by W-1, his nephew, and responded to the collision scene from his home, which was two blocks away. He saw his nephew, who pointed out Mr. Chavez. He took his nephew in his (W-5's) white Acura and drove to Mr. Chavez's location. His nephew approached Mr. Chavez and asked him for his license and insurance. Mr. Chavez had a blank stare. Mr. Chavez said he had no insurance and did not need medical care. Mr. Chavez just stood there with a blank face.

W-5 spoke with W-4 who had seen the collision. A tow truck arrived (W-3); the driver called the police. W-5 obtained his nephew's (W-1's) insurance and registration. He heard the patrol car arrive and saw that Mr. Chavez had walked away. The officers told Mr. Chavez to stop. The officers got out of the patrol car. As the male officer approached Mr. Chavez, he put his hands in the air. Mr. Chavez and the officer "tussled." Mr. Chavez swung his arm away from the officer and turned around and then the male officer backed up. The officers backed away as Mr. Chavez advanced on them. The male officer told

Mr. Chavez to stop and then pulled out his yellow Taser. Mr. Chavez kept approaching the officer, who then shot him. The officer went to his firearm because it looked like Mr. Chavez was going to charge him. W-5 believed the officers feared for their safety. After Mr. Chavez was shot the officers asked him to spread his arms so they could get him medical attention. After they cuffed him, the officers attempted to revive Mr. Chavez.

### **Statement of Witnesses 6 and 7**

Witness 6 is Mr. Chavez's mother. Witness 7 is Mr. Chavez's brother. They were interviewed together in the presence of their attorney. They stated that Mr. Chavez had no history of mental illness and did not use drugs. He lived at home and had worked as a security guard prior to the pandemic. Mr. Chavez had lost a lot of weight by working out and had become a fitness advisor to others. He went from weighing 300-325 pounds to "220 pounds of muscle." He spent a lot of time at the gym and planned to become a personal trainer. He did not drink alcohol to their knowledge. Mr. Chavez was driving his mother's car at the time of the collision.

### **Statement of Witness 8**

Witness 8 is the owner of a business located on Medford Street. He was contacted by investigators during a canvass of the OIS area for witnesses who had background information, who had seen the OIS, or who might have had video of the OIS. Witness 8 did not witness the OIS, but he did have prior dealings with Mr. Chavez. He recalled that Mr. Chavez tried to start a fight with one of his employees approximately two months prior to the officer-involved shooting. Mr. Chavez was standing in the street and stated, "Nobody fucks with me." W-8 tried to calm Mr. Chavez down. Approximately one month prior to the officer-involved shooting, Mr. Chavez threw Santa Muerte candles (votive candles in glass jars) in front of one of the businesses' trucks while stating, "I see death in you." Mr. Chavez appeared to be coming down from a drug, possibly "meth."

## **MR. CHAVEZ'S LEGAL HISTORY**

Leonel Chavez had no criminal history and no driver's license.

## **APPLICABLE LEGAL STANDARDS**

Homicide is the killing of one human being by another. (People v. Beltran (2013) 56 Cal.4th 935, 941.) There are two types of criminal homicide, murder and manslaughter.

### **Murder**

Murder is the unlawful killing of a human being with malice aforethought. (Pen. Code, § 187, subd. (a).) Murder is divided into first and second degrees. A willful, deliberate, and premeditated killing is murder of the first degree. (Pen. Code, § 189; People v. Hernandez (2010) 183 Cal.App.4th 1327, 1332.)

Second degree murder is the unlawful killing of a human being with malice aforethought but without the additional elements of willfulness, premeditation, and deliberation that would support a conviction of first degree murder. (People v. Knoller (2007) 41 Cal.4th 139, 151.) The malice required for second degree murder may be express or implied. (Pen. Code, § 188; Hernandez, supra, 183 Cal.App.4th at p. 1332.) Malice is express when there is an "intent to kill." (Pen. Code, § 188; People v. Delgado (2017) 2 Cal.5th 544, 571.) Malice is implied "when the killing results from an intentional act, the natural

consequences of which are dangerous to life, which act was deliberately performed by a person who knows that his [or her] conduct endangers the life of another and who acts with conscious disregard for life.” (People v. Dellinger (1989) 49 Cal.3d 1212, 1215.)

A homicide may also be reduced to second degree murder if premeditation and deliberation are negated by heat of passion arising from subjective provocation. If the provocation precludes a person from deliberating or premeditating, even if it would not cause an average person to experience deadly passion, the crime is second degree murder. (People v. Padilla (2002) 103 Cal.App.4th 675, 678.)

### **Voluntary Manslaughter**

Manslaughter is an unlawful killing without malice. (Pen. Code, § 192; People v. Thomas (2012) 53 Cal.4th 771, 813.) Several factors may preclude the formation of malice and reduce a killing that would otherwise be murder to voluntary manslaughter including: (1) heat of passion, and (2) imperfect self-defense. (People v. Moyer (2009) 47 Cal.4th 537, 549.)

Imperfect self-defense is the killing of another human being under the actual but unreasonable belief that the killer was in imminent danger of death or great bodily injury and that the use of deadly force is necessary to defend against that danger. Such a killing is deemed to be without malice and thus cannot be murder. (People v. Cruz (2008) 44 Cal.4th 636, 664.) The doctrine of imperfect self-defense cannot be invoked, however, by a person whose own wrongful conduct (for example, a physical assault or commission of a felony) created the circumstances in which the adversary’s attack is legally justified. (People v. Booker (2011) 51 Cal.4th 141, 182.)

### **Self-Defense**

A homicide is justified and lawful if committed in self-defense. Self-defense is a complete defense to a homicide offense, and, if found, the killing is not criminal. (People v. Sotelo-Urena (2016) 4 Cal. App.5th 732, 744.) When a person is charged with a homicide-related crime and claims self-defense, the prosecution must prove beyond a reasonable doubt that the homicide was not committed in self-defense. (People v. Winkler (2020) 56 Cal.App.5th 1102, 1167.)

Penal Code sections 196 et. seq. set forth the law of self-defense in homicide cases. Penal Code section 196 provides that a homicide committed by a peace officer is justified when the use of force complies with Penal Code section 835a. (Cf. Pen. Code, § 197 [listing circumstances where homicide committed by “any person” is justifiable, which includes self-defense or the defense of others].)

Under Penal Code section 835a, an officer may use deadly force only when the officer “reasonably believes, based on the totality of the circumstances, that such force is necessary”: (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 who has committed a felony “that threatened or resulted in death or serious bodily injury,” and the officer “reasonably believes that the person will cause death or serious bodily injury” if not immediately apprehended. (Pen. Code, § 835a, subd. (c)(1); see Pen. Code, § 835a, subd. (a)(2) [peace officers may lawfully use deadly force “only when necessary in defense of human life”]; see People v. Randle (2005) 35 Cal.4th 987, 994 [self-defense arises when a person actually and reasonably believes in the necessity of defending against imminent danger of death or great bodily injury], overruled on other grounds by People v. Chun (2009) 45 Cal.4th 1172.)

To determine whether deadly force is necessary, “officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” (Pen. Code, § 835a, subd. (a)(2);

People v. Hardin (2000) 85 Cal.App.4th 625, 629-630 [“only that force which is necessary to repel an attack may be used in self-defense; force which exceeds the necessity is not justified” and “deadly force or force likely to cause great bodily injury may be used only to repel an attack which is in itself deadly or likely to cause great bodily injury”].)

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 to another person. (Pen. Code, § 835a, subd. (e)(2); see People v. Lopez (2011) 199 Cal.App.4th 1297, 1305-1306 [imminent peril is “immediate and present” and “must be instantly dealt with”; it is not prospective or even in the near future].)

“Totality of the circumstances” means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force. (Pen. Code, § 835a, subd. (e)(3).) De-escalation methods, tactics, the availability of less than lethal force, and department policies may be used when evaluating the conduct of the officer. However, when an officer’s use of force is evaluated, it must be considered “from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” (Pen. Code, § 835a, subd. (a)(4); accord, Graham v. Connor (1989) 490 U.S. 386, 396-397 [“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”]; People v. Humphrey (1996) 13 Cal.4th 1073, 1082-1083 [to determine whether use of force is objectively reasonable for self-defense, trier of fact must consider all the circumstances that were known or appeared to the officer as well as consideration for what a reasonable person in a similar situation with similar knowledge would have believed]; People v. Bates (2019) 35 Cal.App.5th 1, 9-10 [knowledge of another person’s prior threatening or violent conduct or reputation for dangerousness may provide evidence to support a reasonable belief in imminent harm].)

Self-defense also has a subjective component. (Humphrey, *supra*, 13 Cal.4th at p. 1082.) The subjective element of self-defense requires that a person actually believes in the need to defend against imminent peril or great bodily injury. (People v. Viramontes (2001) 93 Cal.App.4th 1256, 1262.)

## **Burden of Proof**

A prosecutor bears the burden of proving a criminal defendant’s guilt beyond a reasonable doubt. (Pen. Code, § 1096.) Where an investigation is complete and all of the evidence is available for review, prosecutors should file charges only if they believe there is sufficient admissible evidence to prove the charges beyond a reasonable doubt at trial. (See, e.g., Nat. Dist. Attys. Assn., National Prosecution Standards (3d ed. 2009) Part IV, § 2 pp. 52-53; United States Department of Justice Manual § 9-27.220; Melilli, Prosecutorial Discretion in an Adversary System (1992) B.Y.U. L.Rev. 669, 684-685 [surveying ethical standards used in the exercise of charging discretion by prosecutors]; accord, People v. Catlin (2001) 26 Cal.4th 81, 109 [“A prosecutor abides by elementary standards of fair play and decency by refusing to seek indictments until he or she is completely satisfied the defendant should be prosecuted



and the office of the prosecutor will be able to promptly establish guilt beyond a reasonable doubt,” quotation and internal quotation marks omitted]; *People v. Spicer* (2015) 235 Cal.App.4th 1359, 1374 [explaining that a prosecutor may have probable cause to charge a crime but reasonably decline to do so if they believe there is a lack of sufficient evidence to prove the charge beyond a reasonable doubt at trial]; cf. Rules Prof. Conduct, Rule 3.8(a) [prosecutor should not initiate or continue prosecution of charge that is not supported by probable cause].)

Further, the prosecution has the burden of proving beyond a reasonable doubt that a killing is not justified. It is not a criminal defendant’s burden to prove that the force was necessary or reasonable. (*People v. Banks* (1976) 67 Cal.App.3d 379, 383-384.) Thus, in an officer-involved shooting, the prosecution must prove beyond a reasonable doubt that the officer did not have an actual or reasonable belief in the need for self-defense or the defense of others.

## LEGAL ANALYSIS

The evidence in this case shows that Officer Castaneda actually and reasonably believed that Mr. Chavez posed an imminent threat of death or great bodily injury to Officer Castaneda and his partner, and that Officer Castaneda’s use of deadly force was a reasonable and necessary response to this threat.

Several factors demonstrate that Officer Castaneda actually and reasonably believed Mr. Chavez posed an imminent threat of death or great bodily injury to Officer Castaneda and his partner:

- Officer Castaneda had been told that Mr. Chavez had acted in an agitated and aggressive manner toward the witnesses at the scene;
- W-3 had stated that Mr. Chavez gestured towards his waistband in a threatening manner;
- When the officers first approached him, Mr. Chavez did not initially comply with Officer Castaneda’s commands to stop;
- When Mr. Chavez did stop and allow Officer Castaneda to approach, Mr. Chavez grabbed the officer’s firearm two separate times, and the two struggled;
- Mr. Chavez was much larger and stronger than Officer Castaneda and came close to overpowering the officer;
- Officer Castaneda broke away from Mr. Chavez and drew his firearm – this did not deter Mr. Chavez, who advanced on the officer with his hands clenched in fists;
- Mr. Chavez did not comply with the officers’ verbal commands;
- Mr. Chavez was undeterred by Officer Castaneda’s use of less lethal force, and put his fists up and charged at the officer, and
- Officer Castaneda had backed as far away from Mr. Chavez as he could, and Mr. Chavez continued to charge at him.

Officer Castaneda clearly stated he used deadly force because he believed Mr. Chavez was going to try and take his gun and kill the officers:

I’ve exhausted every option that I have. If I don’t make a decision now, then my partner’s not going to make it home, I’m not going to make it home. It was kind of

at that moment, when I guess I dropped the taser and I realized how close I was to that fence, I made the decision that, 'Hey, I'm out of options. I've given this guy every opportunity. I've tried to de-escalate as many times as I could, but he he's dead set on trying to take my gun from me.' And if that happens, like I said, 'I'm dead. He's going to shoot me and kill me. Or shoot me and maim me. So, based on everything I had available, at that time, I made the decision to discharge my service weapon."

Officer Sanchez's statements show that she also believed that there was an imminent need to use deadly force to prevent Mr. Chavez from killing her and Officer Castaneda. She believed Mr. Chavez intended to hurt her and her partner: "He (Mr. Chavez) didn't reach for any other tools on the belt. He reached for a deadly weapon like wanting to hurt us. If he had the opportunity to, he would've taken my partner and myself out." She believed that if Mr. Chavez obtained Officer Castaneda's firearm, he would shoot both officers.

The use of deadly force was necessary in this case. Mr. Chavez had attempted to take the officer's firearm from him twice. Officer Castaneda broke away from Mr. Chavez and backed away from him, attempting to put distance between himself and Mr. Chavez to deescalate the situation. This was not effective because Mr. Chavez advanced on Officer Castaneda after the officer backed up. Officer Castaneda continued to back up and attempted to deescalate the situation by issuing several commands for Mr. Chavez to stop. None of these tactics worked and Officer Chavez attempted to use less than lethal force by using his Taser. The Taser did not immobilize Mr. Chavez, but instead he put his fists up and charged at the officer. Officer Castaneda had backed up as far as he safely could, and fearing that Mr. Chavez would tackle him, take his firearm, and shoot Officer Castaneda and his partner, Officer Castaneda shot Mr. Chavez. A reasonable officer, in the same circumstances as Officer Castaneda, and with the same knowledge, would have felt that deadly force was necessary to defend against an imminent threat to life. Accordingly, the decision to shoot was objectively reasonable.

The totality of the circumstances suggests that Officer Castaneda held the subjective belief that the use of deadly force was necessary to defend himself and his partner from imminent deadly attack and that this belief was objectively reasonable. Under these circumstances the killing was justified under California law.

## **CONCLUSION**

Based upon the review of the evidence obtained by the Department of Justice, the applicable statutes, legal principles, and totality of the circumstances, Officer Castaneda acted in lawful defense of self and defense of others, when he used deadly force against Mr. Chavez. Therefore, there is insufficient evidence to support a criminal prosecution of Officer Castaneda. As such, no further action will be taken in this case.

## **POLICY AND PRACTICE RECOMMENDATIONS**

The Attorney General is required to include "[r]ecommendations to modify the policies and practices of the law enforcement agency, as applicable" as a component of this report. (Gov. Code, § 12525.3 subd. (b)(2)(B)(iii).) To that end, the DOJ conducts an additional review of the information obtained through the criminal investigation (for example, body-worn camera footage, interview recordings,

video recordings, witness statements and other records) as well as the publicly-available policies of the agency employing the officer who is subject to the criminal investigation. The DOJ uses the review process to identify “applicable” recommendations, including any recommendation to modify policy and practices that may reduce the likelihood that officers use deadly force as well as recommendation to address any other deficiency or concern related to the officers’ conduct or the agency’s response that the DOJ observes. Because of the nature of this process, the DOJ does not generally obtain additional information from the employing law enforcement agency or conduct independent investigation of the agency’s practices outside of the single incident under review, which makes this process different from the DOJ’s formal Civil Code section 52.3 investigations and oversight reviews of local law enforcement agencies. DOJ’s goal is that these recommendations will assist the agency and the officer(s) involved in the incident in understanding, from an independent perspective, improvements that could be made to address what we have observed through this incident.

Pursuant to its obligations under Government Code section 12525.3, subdivision (b)(2)(B)(iii), the DOJ offers the following recommendations:

**1. Activation and Deactivation of Wireless Mobile Video/Audio Recording System (WMVARS):**

CHP Management Memorandum No. 22-014 governs the current policies and procedures regarding the activation of the WMVARS.<sup>5</sup> According to the policy, the use of WMVARS allows for the capturing of audio and video recordings for law enforcement purposes. That policy states, in part:

The WMVARS shall be powered on and ready to record at all times when the vehicle’s engine is running. This includes such times when the vehicle is not being driven in an enforcement capacity.

1. Mandatory Activation. The WMVARS record function shall be activated during the following enforcement actions and activities.
  - a. Enforcement contacts (including pedestrians).
  - b. Pursuits.
  - c. Emergency responses, Code 3.
  - d. Vehicle searches and inventories.
  - e. Assisting disabled motorists.
  - f. Confrontational interactions with members of the public (whether primary or assisting officer), to include civil disturbances, crimes in progress, or other situations in which the employee anticipates encountering a disturbance or uncooperative person(s).
  - g. Pat down frisks or searches.

In addition, the policy requires that “during events in which activation is mandated, employees are required to record the entire event, or at least as much as their involvement will allow. However, it is not the intent to capture video when the public contact has concluded and there is no evidentiary value in continuing the recording (e.g., the time interval after completing a vehicle inventory and waiting for the arrival of a tow truck).”

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<sup>5</sup> DOJ reviewed the current WMVARS policy, and the policy in effect at the time of this incident, Management Memorandum No. 20-027, and the relevant provision cited herein is identical.

In addition to the video, the MWVARS has a microphone, which as described in the policy is to be worn and synchronized to each officer. The policy further states:

Once synchronized the wireless audio will be activated automatically upon enabling the record function. The camera record function and wireless audio can be turned on remotely by depressing the record button on the microphone transmitter. Once WMVARS record function is activated, the audio shall also be activated and shall remain activated during all interactions with the public.

- a. The wireless microphone transmitter does have a functional mute button. The mute button shall only be used if confidential information is being discussed (e.g., tactical communications, field training officer/trainee training communications). Upon conclusion of the dissemination of confidential information, the audio recording shall be resumed without delay.

In the present case, Officers Castaneda and Sanchez's patrol vehicle was equipped with a WMVARS. The video that was provided to the DOJ shows that the audio was not turned on until three minutes after activation of the video. As a result, the shooting of Mr. Chavez was captured only on video. Based upon Officer Sanchez's statement, she manually turned on the microphones after the shooting, which occurs three minutes after activation of the video. After the microphone was activated and the audio was properly working, both Officers Castaneda and Sanchez subsequently muted their microphones.

Both Officers Castaneda and Sanchez can be clearly heard giving commands to Mr. Chavez shortly after the shooting, indicating that their microphones were operational. However, as soon as the first backup arrives at the scene, Officer Castaneda's audio appears to be muted as he is only picked up on audio during the remainder of the video on Officer Sanchez's microphone. And, Officer Sanchez's audio is then intermittently muted and then reactivated. For example, at approximately 11 minutes into the video, Officer Castaneda can be seen pointing and motioning to Officer Sanchez to come toward him; then they move to the side of the patrol car out of view of the camera. At this time, Officer Castaneda can be heard (on Sanchez's audio) forcefully instructing Officer Sanchez, "Don't say shit to anybody." Officer Sanchez then mutes her microphone and then reactivates it later after the conversation with Officer Castaneda is over. In addition, as medical aid is being rendered to Mr. Chavez, a woman, who appears to be a CHP officer based upon her uniform, then instructs Officer Sanchez that she is to "Say nothing. . . Say that you need a rep . . . this could lead to civil liability down the line. So say nothing," to which Officer Sanchez replies, "Okay." Subsequently, Officer Sanchez indicates she is going to "turn off her MVAR" and there is no longer any audio provided after that time at about approximately 16 minutes into the video.

The video and audio evidence presented to DOJ raises a concern that the muting of the WMVARS audio could have prevented the collection of valuable evidence at the scene. Therefore, we recommend that CHP conduct a thorough review of this incident in light of the DOJ's findings.

## **2. Body Worn Cameras:**

CHP should move toward equipping all patrol officers with body worn cameras. The DOJ recommends that CHP equip each of its officers with body-worn cameras (BWC). WMVARS alone does not always provide sufficient information to assess an encounter with a member of the public. Indeed, as this incident demonstrates, CHP officers' interactions do not always occur directly in front of a patrol vehicle's WMVARS, and people and items may obscure the view of a CHP's officer's encounter. Here, BWC footage may have given clearer or, at the very least an alternative, visual of Officer Castaneda's

interaction with Mr. Chavez from the time they first meet until after aid was rendered. Generally, this additional visual information would enable CHP, as well as any oversight or investigatory agency, or the DOJ, to more carefully identify legal and tactical deficiencies in the officer's conduct for purposes of any administrative review or criminal investigation. In the same vein, BWC footage may also provide further support for any conduct on the part of the officer that either would exonerate them from allegations of illegal or improper behavior, or that is worthy of commendation. BWC footage would also provide CHP with valuable insight into gaps in training, policy, and procedure. For example, BWC footage in this incident could have potentially provided CHP an additional vantage point to understand how Officer Castaneda's physical struggle could have been handled differently and whether CHP needs to revise its training. Further, BWC may be a useful tool in scenario-based trainings, providing CHP officers real-world examples of how to engage in traffic stops in a way that promotes public safety.

Finally, evaluating BWC may, in the aggregate, provide CHP with valuable insight into patterns that may exist. CHP, which conducts more traffic stops than any other law enforcement agency in the state and likely more stops than most agencies nationwide, is uniquely situated to use BWC to analyze encounters for patterns, including whether discourteous behavior or officer communication and behavior that escalates, rather than de-escalates, the situation is directed at particular racial or identity groups.<sup>6</sup> In short, equipping CHP officers with BWC would promote public transparency and accountability, and, in the long run, improve CHP's – and potentially other agencies in California's – policies, procedures, and tactics.

### **3. Duty to Render Aid:**

CHP's policy requires that, "once officer safety is no longer a concern," officers "shall provide medical care [to an injured person] within their scope of practice and/or arrange for further medical care by emergency medical services personnel or a medical care facility." [CHP Use of Force Policy HPM 70.6] California law requires that all law enforcement policies include a provision for officers who are properly trained to provide medical assistance for a person injured in a use of force, or if not trained to otherwise promptly procure medical assistance for persons injured in a use of force incident, when reasonable and safe to do so. (Gov. Code, § 7286, subd. (b)(14).) CHP's policy should be revised in the following ways.

First, rather than require either the officers to provide medical care or to arrange for emergency medical services, the DOJ recommends that CHP revise its policy to require officers to provide medical care within their scope of practice and training as well arrange for further medical care, as needed. The policy does not make clear to officers that they must provide medical care if they are able and it is safe to do so, and permits them to instead arrange for further medical care, which could take several minutes to arrive.

Second, the DOJ recommends that CHP evaluate any training on this requirement, or to develop such training, to provide officers specific guidance on how to determine when officer safety is no longer a concern so that officers can more promptly provide medical care. This specific incident could serve as an example scenario on how to determine the extent of any risk to officer safety.

Third, the DOJ recommends that CHP's policy and training on how to provide a coordinated approach to rendering medical aid and on how and when to notify for both additional medical care and a CHP supervisor.

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<sup>6</sup> Fan, *Body Cameras, Big Data, and Police Accountability*, (2018) 43 *Law and Social Policy* 1236, 1252 < <https://www.cambridge.org/core/journals/law-and-social-inquiry/article/body-cameras-big-data-and-police-accountability/18F4A081C63893E883123704B04C49C2> > [as of Nov. 29, 2022].



In this incident, approximately four minutes and 25 seconds passed from the time Officer Castaneda last deployed his firearm and Mr. Chavez was handcuffed and rolled onto his back. During that time, Officers Castaneda and Sanchez can be heard repeatedly telling Mr. Chavez to “put his hands up” so officers could help him. Officer McAdams arrives on scene after the shooting while Officers Castaneda and Sanchez are taking cover. Officers Castaneda, Sanchez and McAdams can be heard developing a plan about how to handcuff Mr. Chavez. Officer Castaneda advises them to approach things “slowly.” Mr. Chavez had stopped moving approximately two minutes and 15 seconds before he was handcuffed. The officers began rendering aid approximately 52 seconds after Mr. Chavez was handcuffed.

In short, approximately four minutes and 25 seconds passed between the time Mr. Chavez fell to the ground and the time that officers first approached and handcuffed him, even though Mr. Chavez had not moved for a substantial period of time, and there was no direct evidence that he had a weapon. As a consequence, Mr. Chavez was not provided medical aid for over five minutes. Instead, officers repeatedly yelled commands to Mr. Chavez who lay motionless on the ground.

The law requires that officers render medical aid when safe to do so. (Gov. Code, § 7286, subd. (b) (14).) Although it is unclear, it appears likely that officer safety was no longer an issue some significant period of time before the full five minutes had elapsed. Medical aid to Mr. Chavez may have been coordinated more effectively, and DOJ recommends that CHP review its policies and training of officers to address this issue and to ensure that officers in similar incidents develop a coordinated, effective plan to approach and render aid to the injured person.

#### **4. Communication Among Officers Involved In or Witness to an Officer-Involved Shooting:**

As discussed above, at approximately 11 minutes into the video, Officer Castaneda can be seen pointing and motioning to Officer Sanchez to come toward him so that they can talk. At this time, Officer Castaneda can be heard (on Sanchez’s audio) instructing Officer Sanchez, “Don’t say shit to anybody.” Officer Sanchez then mutes her microphone and then reactivates it later after the conversation with Officer Castaneda is over. Due to the muting of Officers Castaneda and Sanchez’s audio, we do not know what was communicated after that point. While it is not clear who took command of the scene after backup officers arrived, it is clear that no one took measures to ensure that Officers Castaneda and Sanchez were properly separated. Accordingly, the Department recommends that CHP review this evidence and take all necessary remedial action as warranted.

#### **5. Use of Force Policy:**

In reviewing CHP’s Use of Force Policy HPM 70.6, the DOJ notes that the policy was last updated in December 2020. It contains provisions that could be confusing regarding the requirements under Penal Code section 835a for use of deadly force. AB392 makes clear that “a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person” or apprehend a fleeing felon as provided under Penal Code section 835a. In this case, the CHP policy states:

**Deadly Force:** An officer is justified in using deadly force upon another person only the officer reasonably believes, based on the totality of the circumstances, that such force is necessary in defense of human life. In determining whether deadly force reasonably appears to be necessary, officers shall evaluate each situation in light of the particular circumstances of each case. If reasonably safe and feasible to do so, officers shall use other available resources and techniques. (HPM 70.6, 1-7.)

While there is a separate provision in the policy immediately following this paragraph that discusses the statutory requirement that the use of deadly force must only be used if death or bodily injury is “imminent,” that critical component is absent from the above quoted paragraph. As such, to ensure clarity and fully comply with the amended statute, the DOJ recommends that CHP make clear that deadly force is not merely “necessary in defense of human life” rather that the use of deadly force is “necessary to defend against an imminent threat of death or serious bodily injury,” consistent with Penal Code section 835a. We also recommend that CHP modify its definition of “Objective Reasonableness” in its policy, as that indicates that the legal standard to determine lawfulness of a use of force is set forth in “Graham v. Connor” (sic); however, there is no distinction in that definition regarding deadly force under state law which requires that the force be “necessary” as opposed to “objectively reasonable” as stated in that definition. We further recommend that CHP update any trainings that conflate the Graham v. O’Connor standard with the current deadly force standard under California Penal Code section 835a.

#### **6. Officer Training and Tactics:**

Given that there was sufficient time for the officers to develop and communicate a plan for engagement, they should have developed such a plan. Although the tow truck driver did not tell the officers that Mr. Chavez had a weapon, only that he put his hand on his hip and he was agitated, both officers stated that they thought Mr. Chavez might have a weapon. If they believed Mr. Chavez to be armed, then it would be important for them to develop a plan to approach him, but they did not appear to have such a plan in place, and failed to mention that such a plan was ever discussed. Had they formulated a plan, they would have been better able to assess whether immediate engagement was required, since video evidence shows that then they arrived on the scene Mr. Chavez was walking toward his vehicle, alone, and was not a threat at that time.

Similarly, it appears that the two officers failed to communicate with each other during the encounter. Both officers relayed that Mr. Chavez was perceived as physically overpowering – as continuously referenced in the interviews – but it does not appear that a plan to overcome that was in place. And, Officer Castaneda went “hands on” with Mr. Chavez with minimal time to evaluate him, despite his statements that he thought he was on drugs because he was “grinding his teeth” and “sweating.” Furthermore, Officer Castaneda went in for a search and it does not appear that he communicated these concerns about Mr. Chavez’s behavior to Officer Sanchez. Officer Castaneda also states that Mr. Chavez took an “aggressive stance” as he approached him. Officer Castaneda should have taken his own perception of Mr. Chavez’s stance into consideration when approaching Mr. Chavez, while communicating with Officer Sanchez.

Field training officers (FTOs), like Officer Castaneda, who work with trainees, are trained on and aware of how to effectively partner with them. During this interaction, Officer Castaneda took role of “contact officer” to the exclusion of Officer Sanchez, and, it appears, based on their recorded statements, neither one of them discussed a plan of action before engaging Mr. Chavez. Based solely on Officer Sanchez’s smaller size as compared to his size, Officer Castaneda stated that he “decided to forego the normal FTO routine” and approach Mr. Chavez. Such decisions indicate that his plan was not consistent with CHP practices. Moreover, Officer Castaneda repeatedly stated in his interview that Officer Sanchez was an ongoing concern for him during the interaction, indicating that his frame of reference may have been overly focused on a sworn officer rather than Mr. Chavez. This further highlights the need to coordinate tactical decisions. CHP should carefully evaluate its FTO training to ensure that FTOs understand how best to utilize officers under highly-evolving and stressful interactions.

CHP policy and training should ensure that officers always be required to develop a tactical plan prior to engaging a subject, unless developing a plan is not feasible under the circumstances. CHP should also require officers to document why a plan was unfeasible if one was not developed. Training should include the use of a cover officer, use of an electronic control device (ECW) officer and training on what can and should occur in the event of ECW failure. Training should include two-person approach and engagement for control of individuals which did not occur in this situation. The DOJ recommends that CHP evaluate those areas of concern noted here, update and revise any training or policy as needed, and ensure that the involved officers receive any remedial action warranted.

#### **7. Handling of Evidence:**

During the investigation, Officer Castaneda stated that, after he discharged his firearm six times, he then reloaded his firearm, using a technique known to many law enforcement agencies as a “tactical reload.” Officer Castaneda then placed the magazine with the expended rounds into his “top magazine holster.” Officer Castaneda also recounted that Sergeant Madden was the first supervisor on the scene and upon arrival Sergeant Madden relieved Officer Castaneda of the gun he used to kill Mr. Chavez along with the magazine that was expended. In doing so, Sergeant Madden “essentially swapped magazines and firearms” with Officer Castaneda. Officer Castaneda also relayed that Sergeant Madden returned 15 minutes later and then swapped firearms again with Sergeant Madden, who “gloved up” at some later time. Officer Castaneda informed the DOJ investigators that the service weapon he used to shoot and kill Mr. Chavez was not taken from him until “three to four hours or a little bit longer” after the incident. We recommend that CHP review this incident to determine whether policy was followed in this case and evaluate whether training or policy review is warranted.

#### **8. Posting Policies on the Website:**

In October 2018, Senate Bill 978 added Section 13650 to the California Penal Code, which provides:

Commencing January 1, 2020, the Commission on Peace Officer Standards and Training and each local law enforcement agency shall conspicuously post on their Internet Web sites all current standards, policies, practices, operating procedures, and education and training materials that would otherwise be available to the public if a request was made pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

In conducting its review, the DOJ sought to review various policies of CHP that should have been easily located on the CHP website pursuant to Penal Code section 13650; however, these policies were not posted as required by law. Indeed, it was challenging for the DOJ to find these policies. First, the DOJ contacted the CHP information line, was then directed to call CHP headquarters, and then was finally connected to the Public Records Unit who said that a formal Public Records Act request would be required to obtain what should be available on its website. Ultimately, DOJ was able to obtain policies by reaching out directly to its contacts within CHP. As such, it would be extremely challenging and burdensome for a member of the public seeking out information to which they are statutorily entitled access. In light of the mandate that law enforcement agencies be more transparent with the community they serve and specifically that these policies be more accessible to the public, CHP should immediately revise its internet website to comply with state law.

