



C A L I F O R N I A

DEPARTMENT of JUSTICE

**Report on the Investigation into the  
Death of Daniel Hernandez on April 22, 2020**

Los Angeles County

---

DECEMBER 2022



# TABLE OF CONTENTS

<b>Introduction and Scope of Report .....</b>	<b>3</b>
<b>Privacy Statement .....</b>	<b>3</b>
<b>Executive summary .....</b>	<b>5</b>
Factual Summary of OIS Incident .....	5
Scene Description.....	19
Evidence Recovered .....	20
Law Enforcement Witness Statements .....	21
Civilian Witness Statements.....	26
Medical Examiner’s Findings.....	42
Summary of Report by Dr. William J. Lewinski, Ph.D., Executive Director of Force Science Institute .....	43
DOJ Findings .....	46
<b>Applicable Legal Standards .....</b>	<b>48</b>
<b>Analysis .....</b>	<b>51</b>
<b>Conclusion.....</b>	<b>54</b>



# INVESTIGATION OF OFFICER INVOLVED SHOOTING

## Introduction and Scope of Report

On August 4, 2020, the California Attorney General’s Office – Department of Justice (DOJ) accepted this fatal officer involved shooting (OIS) investigation based on a request from then-Los Angeles County District Attorney Jackie Lacey due to a conflict of interest.<sup>1</sup> This report is the final step in the DOJ’s review of the fatal OIS of Daniel Hernandez on April 22, 2020. The DOJ’s review is limited solely to determining whether criminal charges should be brought against the involved officer(s). The review does not encompass or comment on any potential administrative or civil actions.

The Los Angeles Police Department’s Force Investigation Division (FID) conducted a thorough investigation of the OIS (case no. F014-20). On January 27, 2021, FID submitted a 26-page report to the DOJ with extensive supporting evidence from the investigation. The FID report included various photographs of the OIS scene, hyperlinks to digitally recorded audio and video, the Medical Examiner’s report, a crash data report, related reports, and a diagram of the OIS scene with hyperlinks to corresponding video footage. The submission included interview transcripts of eight police officers and approximately 29 civilian witnesses. The combined transcripts are approximately 914 pages in length, representing approximately 13 and a half hours of digitally recorded interviews. The interviews were independently reviewed by the DOJ and are summarized herein. Additionally, the FID submission included the following evidence: 14 recorded 911 calls, six Body Worn Videos (BWV), three Digital In-Car Video System (DICVS) videos, and 714 photographs of the traffic collision/OIS scene, the decedent, and vehicles. This additional material was provided by FID in a digital file titled, “Attorney General Discovery.”

The DOJ also utilized the expert services of Dr. William J. Lewinski, Ph.D., executive director of the Force Science Institute. Dr. Lewinski’s final report was received by the DOJ on January 21, 2022.

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

## Privacy Statement

This report includes redactions of the names and other identifying information of witnesses and victims. Specific addresses of witnesses, victims, and family members are not provided in this report. 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 victims will be indexed as follows:

- Witness 1 (“W-1”), Pedestrian standing in area of Jefferson Boulevard and San Pedro Street, saw Hernandez’s speeding pickup truck and subsequent traffic collisions.

<sup>1</sup> The Los Angeles City Council also made a request for the Attorney General to assume responsibility for this review after the DOJ had accepted District Attorney Lacey’s request.

- Witness 2 (“W-2”), Pedestrian standing in area of Jefferson Boulevard and San Pedro Street, saw Hernandez’s speeding pickup truck and subsequent traffic collisions.
- Victim 1 (“V-1”), Driver of white Kia Forte rear ended by the black pickup truck driven by Hernandez.
- Victim 2 (“V-2”), Driver of gray Chevrolet Silverado pickup truck sideswiped on the left side by the black pickup truck driven by Hernandez.
- Victim 3 (“V-3”), Driver of gray Nissan Altima struck head on by the black pickup truck driven by Hernandez.
- Witness 4 (“W-4”), Driver of the gold-colored Toyota Camry traveling south on San Pedro Street.
- Witness 5 (“W-5”), Nearby resident who heard a loud crash and rushed to the traffic collision scene.
- Witness 6 (“W-6”), Nearby resident who heard a loud explosion-type noise and rushed to the traffic collision scene.
- Witness 7 (“W-7”), Driver of a truck who heard the traffic collisions, parked nearby, and walked to the scene.
- Witness 8 (“W-8”), Nearby resident who heard a loud noise and rushed to the traffic collision scene.
- Witness 9 (“W-9”), Nearby resident who heard a collision and rushed to the traffic collision scene.
- Witness 10 (“W-10”), Driver of a vehicle traveling south on San Pedro Street who witnessed the traffic collisions and stopped to render aid.
- Witness 11 (“W-11”), Occupant of the parked RV that Hernandez’s black pickup truck crashed into and came to a stop.
- Witness 12 (“W-12”), Nearby resident who heard a loud crash and rushed to the traffic collision scene.
- Witness 13 (“W-13”), Pedestrian standing near the corner of 32nd Street and San Pedro Street, saw Hernandez’s speeding pickup truck and subsequent traffic collisions.
- Witness 14 (“W-14”), Nearby resident and daughter of W-6 and W-12, who heard a loud crash and rushed to the traffic collision scene.
- Witness 15 (“W-15”), Nearby resident and daughter of W-6 and W-12, who heard a loud noise and rushed to the traffic collision scene.
- Witness 16 (“W-16”), Passenger in a car driven by her mother (W-17) who saw Hernandez’s pickup crash into the parked RV.
- Witness 17 (“W-17”), Driver of a car traveling south on San Pedro Street who observed Hernandez’s pickup truck collide with a car and crash into the parked RV.
- Witness 18 (“W-18”), Passenger in a car driven by her mother (W-17) who saw Hernandez’s pickup crash into the parked RV.
- Witness 19 (“W-19”), Driver of a truck with W-20 and traveling south on San Pedro street came upon the traffic collision scene.
- Witness 20 (“W-20”), Passenger in a truck driven by W-19 and traveling south on San Pedro Street came upon the traffic collision scene.
- Witness 21 (“W-21”), Nearby resident who heard a loud noise and rushed to the traffic collision scene.

## Executive summary

### Factual Summary of OIS Incident

#### I. Daniel Hernandez caused a major traffic collision, involving multiple vehicles that resulted in several injuries, then armed himself with a utility knife and appears to have attempted suicide

On the afternoon of April 22, 2020, 38-year-old Daniel Hernandez left his family's home in Los Angeles without telling anyone where he was going. More than two hours later, around 5:30 p.m., W-1 and W-2 were standing in the area of Jefferson Boulevard and San Pedro Street when they saw a black 2004 Chevrolet Silverado pickup truck driven by Hernandez speeding north on San Pedro toward 32nd Street. The location was not far from Hernandez's family's home where he was last seen by any available witness. W-1 commented to W-2, "Wow, he's going really fast." W-2 responded, "He's going to crash."



Demonstrative Image 1: Approximate locations of principal vehicles as Hernandez's Black Chevrolet Silverado truck traveled northbound.

*This and the following Google Earth satellite map images have been annotated by DOJ with graphics to help demonstrate the sequence of the traffic collision caused by Hernandez as captured by a nearby security video camera, described by eyewitness, and detailed by LAPD's traffic collision investigation reports.*

V-1 had stopped a block away in her white Kia, facing north in the number one lane of San Pedro Street and waiting to turn left onto 32nd Street. As Hernandez continued north on San Pedro Street, he accelerated, with his truck's throttle at 99 percent, and collided into the back of V-1's Kia while traveling 70 miles per hour (mph). The collision spun V-1's car around and forced it onto the east sidewalk of San Pedro Street as Hernandez's truck continued north into oncoming traffic.



Demonstrative Image 2: Hernandez’s pickup truck collided with the rear of V-1’s white Kia Fonte stopped at 32nd Street to turn left

Hernandez then struck the left side of V-2’s gray Chevrolet Silverado pickup truck as she traveled south on San Pedro Street and was passing 32nd Street. V-2 pulled to the west curb, south of 32nd Street. Hernandez continued north, crossing into the southbound lanes, and collided with the front of V-3’s car. The force of the impact caused V-3’s vehicle to spin 180 degrees across the northbound lanes and onto the east sidewalk, near V-1’s wrecked Kia.



Demonstrative Image 3: Hernandez’s pickup truck collided with the left side of V-2’s gray Chevrolet Silverado pickup truck



Demonstrative Image 4: Location where the white Kia came to rest on the east sidewalk of San Pedro Street as Hernandez's truck continued north on 32nd Street into oncoming southbound traffic



Demonstrative Image 5: Hernandez's pickup truck collided with V-3's gray Nissan Altima

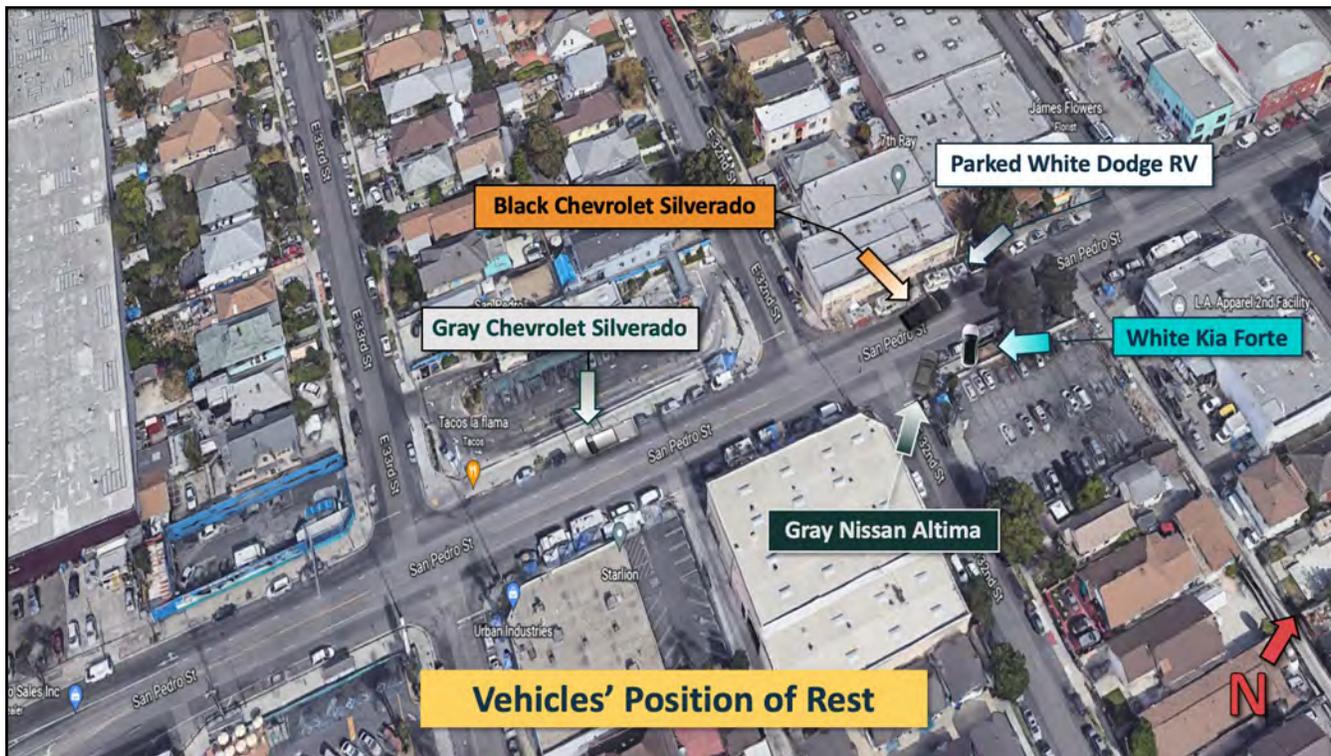


Demonstrative Image 6: Hernandez’s pickup truck collided with and came to rest against the front of an RV parked on the west curb



Demonstrative Image 7: Location of the wrecked gray Nissan Altima stopped on the east curb south of the wrecked white Kia

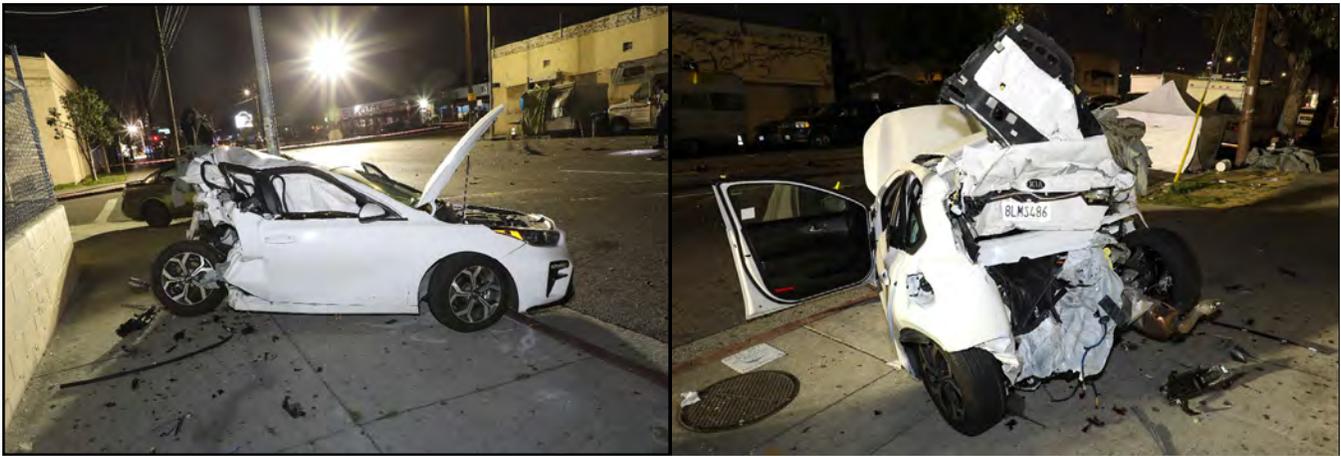
After colliding with the three vehicles, Hernandez continued across the southbound lanes of San Pedro Street. His truck came to rest after colliding with an occupied recreational vehicle (RV) that was parked along the west curb.



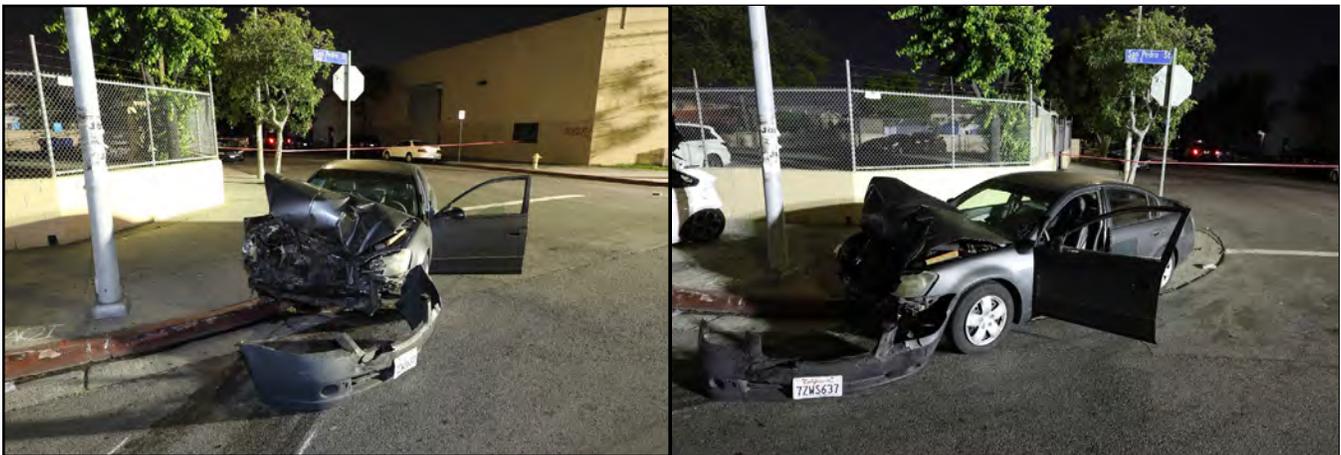
Demonstrative Image 8: Positions of wrecked vehicles after the traffic collision



Photographs of the Hernandez's Chevrolet Silverado at scene



Photographs of the Kia Forte at scene



Photographs of the Nissan Altima at scene

V-1 and V-3 remained incapacitated in their cars. Several bystanders called 911 for help. At 5:35 p.m., the Communications Division broadcast an ambulance traffic collision radio call. V-1 sustained five spinal fractures and injury to her lungs. V-3 sustained a head injury, damage to his right eye, and believes he briefly lost consciousness after the collision. V-2 experienced neck and back pain.

W-4, who was driving her gold-colored Toyota Camry south on San Pedro Street, observed the traffic collision. W-4 stopped her car in the number one lane approximately 19 feet north of Hernandez's disabled truck and called 911. Hernandez attempted to kick open the passenger side door of his truck. When that failed, Hernandez climbed out of the driver's side window. According to W-4, Hernandez appeared to panic upon viewing the accident scene. He then climbed back through the driver's side window and moved to the backseat of his truck. Hernandez slashed his left forearm with a knife. W-4 told the 911 operator to also send the police because Hernandez was armed with a knife.

W-5, who lived nearby, heard a loud crash and ran to the collision scene. He approached Hernandez's truck and saw Hernandez get out. W-5 observed Hernandez take off his white T-shirt. W-5 asked him, "Are you okay?" Hernandez did not respond. Hernandez got back in the truck and moved to the backseat. He grabbed a three-foot long metal object and attempted to break out the truck's windows.

Hernandez then retrieved a “short knife” and held it to his neck, motioning as if he was going to cut himself. W-5 noted that Hernandez looked nervous and desperate, and he again asked Hernandez if he was “ok.” Hernandez told W-5 and other witnesses, “Don’t come near me.” Hernandez again put the knife to his neck. W-5 believed Hernandez wanted to commit suicide. W-5 called 911.

W-6, who also lived nearby, heard the traffic collision and ran to the scene. She approached Hernandez’s truck on the driver’s side. Hernandez told bystanders to get away from him, and he appeared to be cutting himself. W-6 told him to stop and said, “It’s going to be okay.” Hernandez appeared “paranoid” and repeatedly said, “No. They’re going to get me.” W-6 attributed his demeanor to either hitting his head in the accident or being “on some kind of drug.”

W-7 also heard the traffic collision and approached the pickup truck. W-7 saw Hernandez inside cutting his wrists with a knife and believed he was under the influence of drugs. W-7 tried to convince Hernandez to stop cutting himself. Hernandez responded by saying he was “innocent.” Upon hearing the approaching police sirens, Hernandez began cutting himself “faster.” Other witnesses reported seeing Hernandez inside his truck holding the knife to his neck. Hernandez, however, did not sustain injuries to his neck.

## **II. LAPD Officers Toni McBride and Shuhei Fuchigami came upon the traffic collision scene and were informed by witnesses that Hernandez was armed with a knife**

Around the time of the collision, Police Officers Toni McBride and Shuhei Fuchigami were on patrol in the area, driving a marked LAPD black and white Ford Explorer. Officer McBride had two years and five months of service with the LAPD. She was five feet, seven inches tall and weighed 125 pounds. Officer Fuchigami had three years of service with the LAPD. Both officers were wearing BWV cameras and ballistic vests. Each officer had a Department-approved handgun, TASER, Oleoresin Capsicum spray (pepper spray) and handcuffs attached to their equipment belts. The officers had their side-handle batons and a 40-millimeter Less-Lethal Launcher in their vehicle. Additionally, Officer Fuchigami carried a collapsible baton and hobble restraint device.

Officer Fuchigami drove. As they traveled south on San Pedro Street en route to an unrelated additional unit request, they encountered the traffic collision. Officer Fuchigami drove to the scene to assist and also activated the emergency lights and Digital In-Car Video System (DICVS).

At 5:37 p.m., as Officer Fuchigami drove to the scene, Officer McBride can be heard on the DICV asking bystanders if they were hurt.<sup>2</sup> As their patrol vehicle came to a stop, the Communications Division updated the ambulance traffic radio call with the following broadcast:

Central Traffic Units, your ambulance traffic San Pedro and 32nd is now an [Assault with a Deadly Weapon] suspect there now. The suspect vehicle is a black Chevrolet truck, unknown license plate. The suspect is male, armed with a knife. It is now Code Three, Incident 4342 in RD 1333.<sup>3</sup>

Officer Fuchigami parked the patrol vehicle facing south, near the right rear side of W-4’s Camry. Both officers got out of their vehicle.<sup>4</sup> Officer Fuchigami observed approximately 50 people in the vicinity.

---

<sup>2</sup> Unless otherwise noted, all statements attributed to Officer McBride are taken from BWV and/or DICV recordings.

<sup>3</sup> “Code 3” references an emergency call with lights and sirens.

<sup>4</sup> Officer McBride activated her BWV camera approximately 11 seconds after arriving at scene. When “powered on” and activated, the BWV camera has a buffering period that records video of the previous two minutes without audio. The audio of Officer McBride’s initial 11 seconds of interaction with bystanders was captured on the DICV.

Officer Fuchigami had switched his BWV camera to the “off” position so that he could use the restroom immediately prior to this event.

Five or six of the bystanders pointed to Hernandez's truck while alerting Officer Fuchigami that there was a "crazy guy" with a knife. Officer Fuchigami asked bystanders for additional information on the suspect's location while directing them to move back. A bystander, wearing a white T-shirt and black shorts (later identified as W-8), pointed to Hernandez's truck and told the officers that "he is in the back."

Officer Fuchigami approached W-4, who was in the driver's seat of her car and still on her cell phone with 911. W-4 told the officers that Hernandez was inside his truck and armed with a knife. She also said that Hernandez was cutting himself, wanted to kill himself, and had caused the accident. Officer McBride unholstered her pistol and directed Officer Fuchigami to request a backup. Officer Fuchigami immediately broadcast the following: "13A85, Code Six on the Code Three call. Can I get a backup for a 415 man with a knife?" Officer McBride instructed W-4 to get out of her car and move to the sidewalk.

Officer Fuchigami scanned the area in and around the truck but did not observe a suspect with a knife. Officer Fuchigami was flagged down by W-8, who said, "We need help here, we need help sir," while pointing to V-1's damaged Kia. Officer Fuchigami saw V-1 in the driver's seat not moving. He ran over to render aid, while Officer McBride continued to cover Hernandez's truck. Officer Fuchigami did not communicate to Officer McBride his intent to redeploy.<sup>5</sup>

Officer McBride directed various bystanders to move away while simultaneously stating, "Partner, right now we need to get cover," and "Partner, do we have less-lethal?" Officer Fuchigami, however, had already gone to render aid to V-1. There was approximately 54 feet between Officer Fuchigami and Officer McBride at this point. Officer Fuchigami observed V-1 bleeding from her mouth, and it appeared as if she was about to lose consciousness. He requested a rescue ambulance.

### **III. Hernandez approached Officer McBride with a knife in his right hand and the shooting occurred**

Approximately one minute after Officers McBride and Fuchigami arrived on the scene, and prior to the arrival of backup officers, Hernandez, shirtless, got out from the driver's side of his truck. Officer McBride stated, "Hey partner, he might be running." Instead, approximately six seconds after Hernandez appeared from behind the truck, he walked toward Officer McBride. She loudly commanded, "Hey man, let me see your hands. Let me see your hands, man." Officer Fuchigami remained with V-1, and he was not aware of Hernandez's presence or Officer McBride's commands.

---

He did not remember to turn his BWV camera back on or activate it until after the OIS, therefore video from his BWV camera for the preceding two minutes does not exist.

<sup>5</sup> Based on the BWV and DICV, it appears Officer McBride was unaware that Officer Fuchigami was no longer with her.



Still image taken from Officer McBride's BWV at the point Hernandez climbs out the driver's side window of his truck

Hernandez was armed with a knife and approximately 43 feet away when he began advancing toward Officer McBride. Both the DICV and BWV show Hernandez holding an object in his right hand. As he closed the distance, Officer McBride commanded, "Stay right there! Drop the knife!" Officer McBride simultaneously gestured with her left hand for Hernandez to stop. Hernandez took large steps and closed the distance between them quickly.



Still image of Officer McBride giving nonverbal direction as Hernandez (circled here in red) advanced

Officer McBride walked backward toward the rear of W-4's car as Hernandez walked toward her with the knife in his right hand. Hernandez lifted his arms up from his sides displaying the knife as he walked in her direction. Hernandez looked agitated, and several witnesses reported that he appeared to be on drugs. As he closed the distance between himself and Officer McBride, he clenched his hands into fists. W-2 and W-1 both described Hernandez's behavior as confrontational. W-1 said that Hernandez stuck out his chest in a confrontational manner toward the officer and "was ready to fight." Another witness, W-9, described Hernandez as having a "crazed look" as if on drugs, and he tapped his chest as he walked toward Officer McBride. From W-9's perspective, Hernandez acted as if he was "immune to anything," "like, a bad ass."

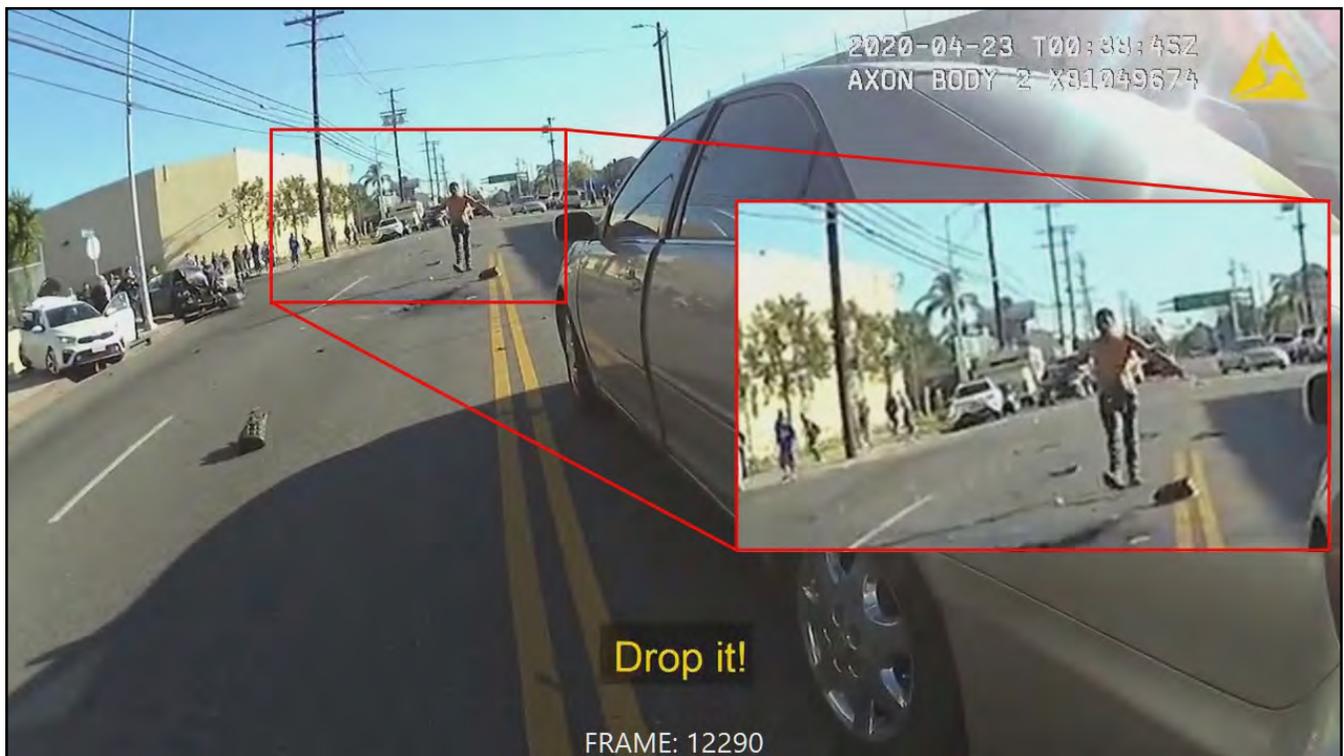
After moving back ten feet, Officer McBride stopped near the rear corner panel of W-4's car and yelled, "Drop the knife! Drop the knife!" W-4 heard Hernandez reply to Officer McBride, "I'm not going to throw it down."<sup>6</sup>

Hernandez continued toward Officer McBride with the knife in his right hand, and he closed the distance to approximately 40 feet while Officer McBride maintained her pistol at a low-ready position pointed toward the ground. As Hernandez continued toward Officer McBride, she raised her pistol. After Officer McBride raised her gun, Hernandez took four additional steps toward her. From an approximate distance of 36 feet, Officer McBride pointed her pistol at Hernandez and yelled, "Drop it!" Five seconds had elapsed between Hernandez emerging from behind the truck and Officer McBride raising her pistol.



Still images from a bystander's cell phone (left) and Officer McBride's DICV (right) as Hernandez approached

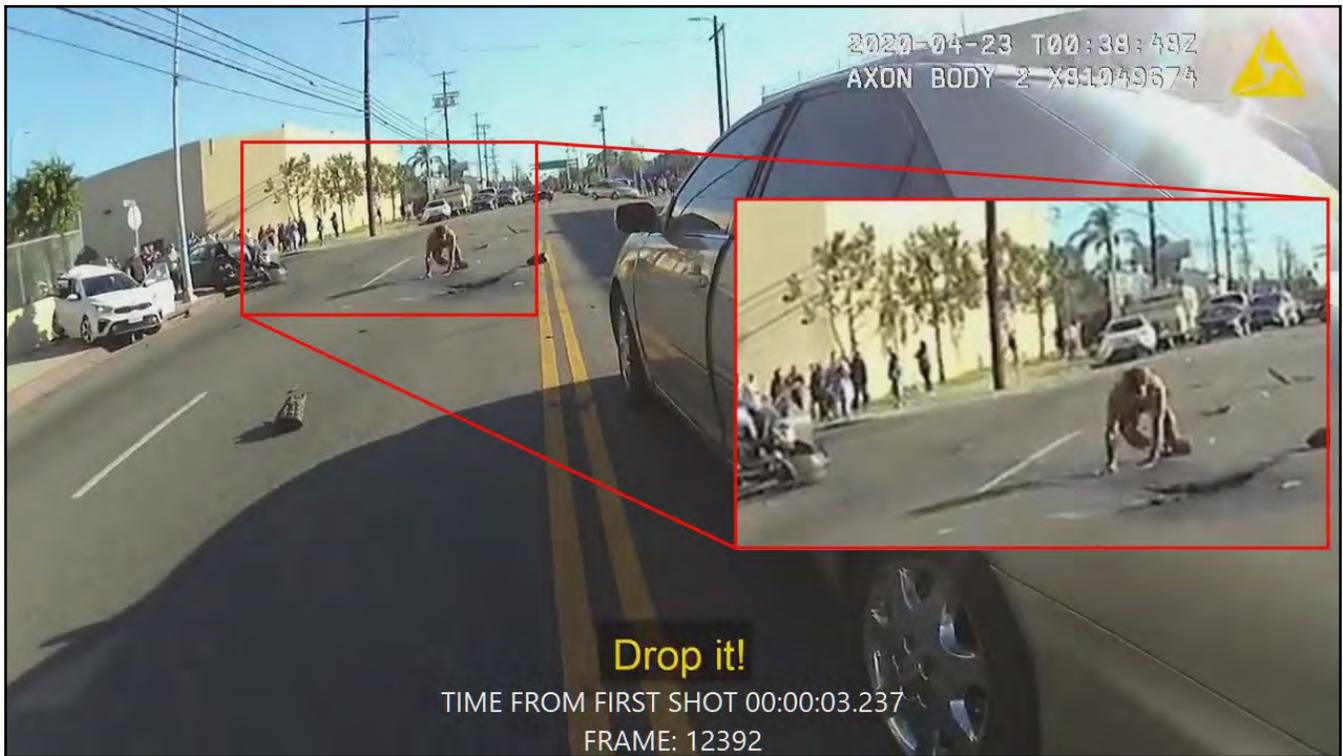
<sup>6</sup> A review of relevant video footage determined that Hernandez was speaking at this time, but the words (as recorded) were unintelligible. Despite additional analysis performed by LAPD Technical Investigation Division Electronics Section, Hernandez's statement remained unintelligible.



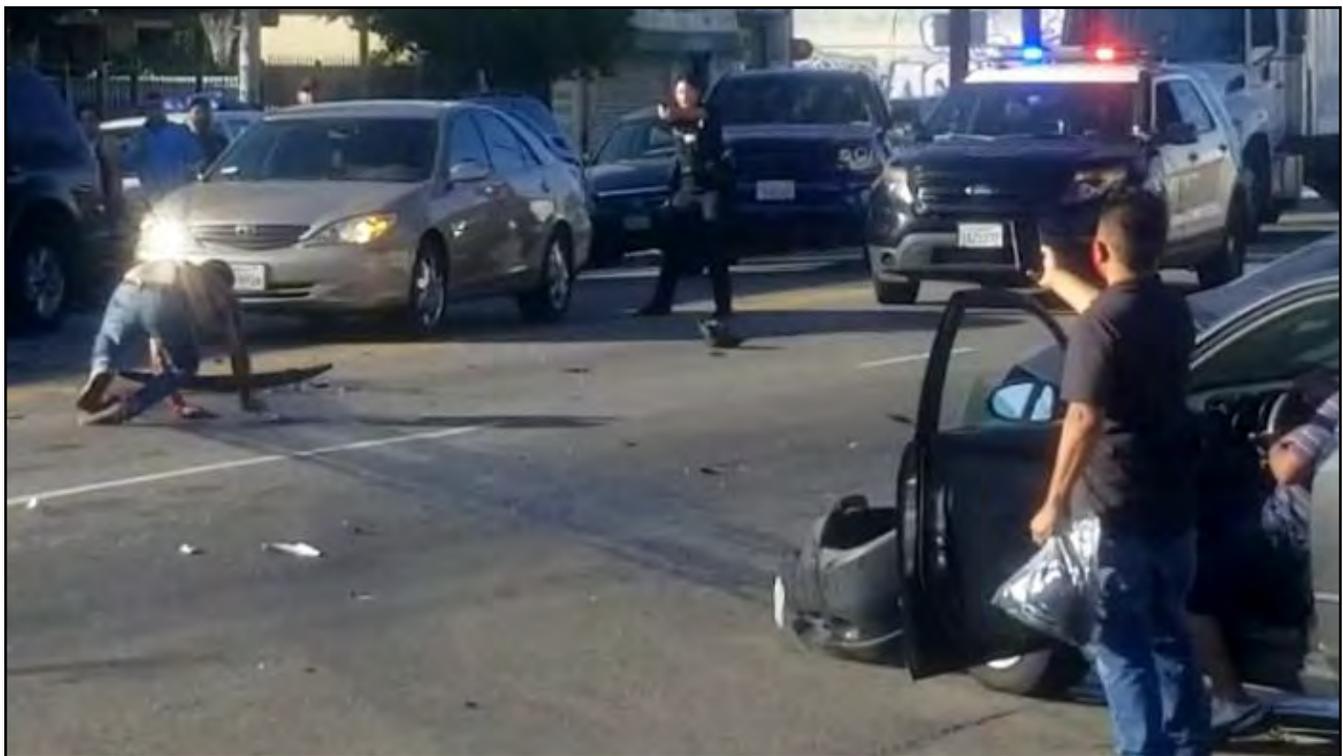
Still image from Officer McBride's BWV prior to first rounds being fired

*Note: Annotations to Officer McBride's BWV added by Force Science Institute.*

Officer McBride fired two rounds. From Officer McBride's BWV, Hernandez can be seen continuing to move toward her at the time she fired. After the second round was fired, Hernandez fell to the ground on his right side. He immediately placed both hands on the pavement, planted his feet and lifted himself into a crouched position—similar to a runner's starting position—while still holding the knife in his right hand. Hernandez appeared as if he was about to charge at Officer McBride.



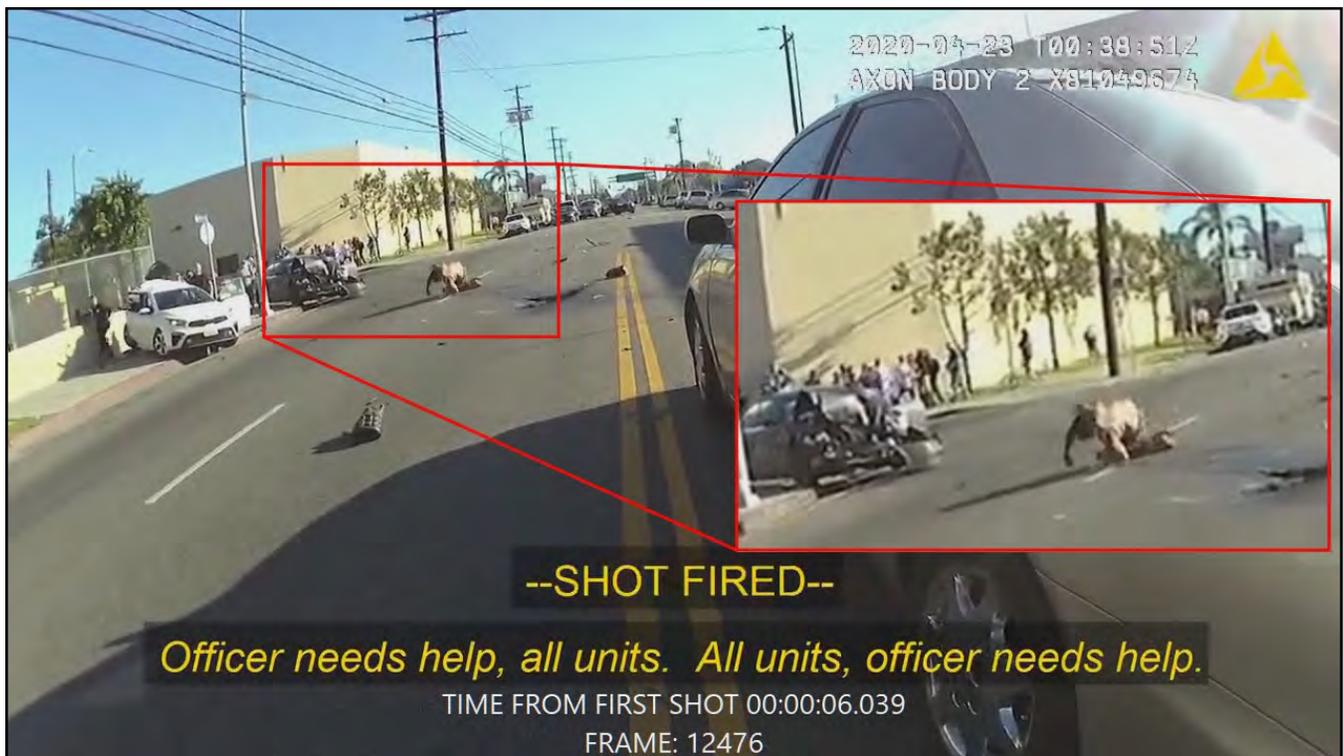
From Officer McBride's BWV of Hernandez raising himself to a crouched position after the first two rounds were fired



Still image from bystander's cell phone video prior to the third round being fired

While Hernandez was in this crouched position, leaning forward, Officer McBride yelled, “Drop it!” She then fired a third round. Hernandez fell laterally onto his right buttock and the right side of his lower back after being struck by the round. Almost simultaneously, Officer McBride fired a fourth round. Despite being struck by all four rounds, Hernandez remained armed with the knife in his right hand. After being struck by the fourth round, Hernandez fell onto his back and immediately rolled onto his left side. At this point, Hernandez was approximately 26 feet away from V-1, who remained incapacitated in her car. Several other bystanders can also be seen on Officer McBride’s BWV near the corner of 32nd Street and V-1’s car, not far from Hernandez.

As Hernandez rolled to his right (east), Officer McBride fired a fifth round. Hernandez continued rolling to his right and planted his left elbow on the ground. He lifted himself onto his left leg and left knee before collapsing onto his stomach as Officer McBride fired her sixth and last shot. At that point, Hernandez was approximately 18 feet away from V-1.



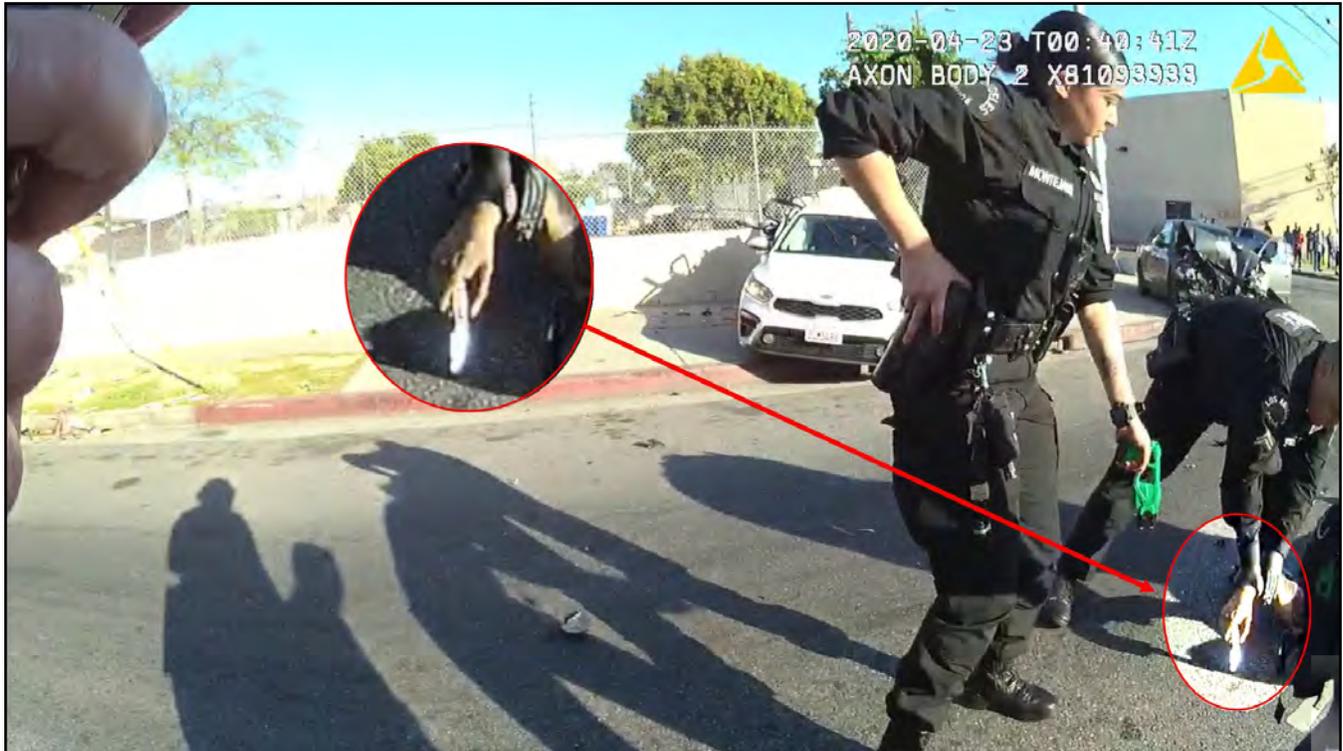
From Officer McBride’s BWV of Hernandez falling to the east as rounds five and six were fired

Immediately prior to the shooting, Officer Fuchigami stood next to V-1’s car. On the DICV and Officer McBride’s BWV, Officer Fuchigami is seen stepping back from the car and looking west as Officer McBride made first verbal contact with Hernandez. Officer Fuchigami broadcast, “Let me get. Let me get a help call. Shots fired. Shots fired. Officer needs help.” After a review of the Communications Division audio, DICV and Officer McBride’s BWV footage, FID determined Officer Fuchigami began his broadcast immediately prior to Officer McBride firing her first round. As he continued broadcasting, Officer McBride’s first, third and fourth rounds can be heard in the background. Officer Fuchigami then ran north along the sidewalk to join her.

Officer Fuchigami saw Hernandez fall to the ground after the second round. He saw Hernandez attempt to get up and take a step toward Officer McBride. Officer Fuchigami heard Hernandez screaming in

an “aggressive matter,” but could not understand what he said. Officer Fuchigami also recalled seeing Hernandez holding a knife with approximately a two-inch blade in his right hand.

An LAPD analysis determined that Officer McBride fired the six rounds in 6.18 seconds. Despite being shot by all six rounds, Hernandez still clutched the knife in his right hand.



Still image from BWV showing Hernandez holding the knife after being shot six times

#### **IV. Hernandez was pronounced dead at the scene**

The first two backup officers arrived as Officer McBride fired the last shot, and two additional officers arrived shortly thereafter. A plan was formulated to approach and handcuff Hernandez, who still held the knife in his right hand. After Hernandez was handcuffed, firefighter paramedics arrived and determined at 5:50 p.m. that Hernandez was deceased.

Hernandez was a male Hispanic, who was 5 feet, 8 inches tall and weighed 171 pounds. It was later determined that Hernandez had prior arrests for obstructing or resisting a public officer, theft, and multiple occurrences of driving under the influence. Hernandez had no prior contact with the LAPD Mental Evaluation Unit, and he was not on parole or probation at the time of this incident.

#### **V. An interview with Hernandez’s family members revealed that he had a prior drug addiction problem and may have relapsed**

FID investigators interviewed Hernandez’s parents and siblings. According to family members, on the day of the incident, Hernandez left their residence at approximately 3:30 p.m. and there was no indication of a problem. They did not know where he went or if he had met with anyone after leaving the house. The family said Hernandez had previously attended a one-year drug rehabilitation program, but he may have started to relapse.

## Scene Description

This incident occurred on San Pedro Street, north of 32nd Street, during daylight hours. San Pedro Street is an undivided, four-lane roadway that runs north and south with additional room for parking on either side. The roadway measures approximately 56 feet from curb to curb. Adjoining the roadway are concrete sidewalks on the east and west sides that each measured approximately 12 feet wide.



A south facing Google Maps image depicting San Petro Street north of 32nd Street

## Evidence Recovered

Forensic Science Division Firearms Analysis Unit criminalists recovered and booked 22 items of evidence in conjunction with this investigation, including Hernandez’s utility knife and six discharged cartridge cases.



Photograph of Hernandez’s utility knife taken at the scene

Five discharged casings were collected near Officer McBride’s firing location. A sixth discharged casing was found by a bystander near the south curb of 31st Street, west of San Pedro Street. The bystander said the casing had been brought to that location by an unknown person.

On the afternoon of April 30, 2020, FID detectives canvassed the 3100 block of San Pedro Street for additional witnesses to the OIS. The statements of all witnesses were recorded, transcribed, and are contained in the FID report.<sup>7</sup>

The LAPD Multi-Disciplinary Collision Investigation Team completed a post-collision download of the computer system in Hernandez’s truck. The information was documented in a Crash Data Retrieval report and indicates Hernandez was traveling 70 mph, was not wearing his seatbelt, and did not apply the brakes when he collided with V-1’s vehicle.

---

<sup>7</sup> There were two additional individuals who only heard shots. The number of shots heard ranged from four to six. Copies of their “Heard Only” forms were retained in the FID casebook.

## Law Enforcement Witness Statements<sup>8</sup>

The following statements are summaries of law enforcement interviews, which describe the incident from the point of view of the individual officers. 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.

### Statement of Officer Shuhei Fuchigami

Officer Fuchigami was interviewed about the OIS at the Newton Police Station on April 23, 2020, at 1:27 a.m.<sup>9</sup> Officer Fuchigami viewed the digital in-car video from his patrol car in the presence of FID officers prior to the interview. He did not review any other videos, news reports, or social media content regarding the OIS.

On April 22, 2020, Officer Fuchigami was partnered with Officer McBride. Their patrol unit designation was 13-A-85, they were in uniform, and they drove a marked patrol vehicle. Officers Fuchigami and McBride had previously worked together two or three times, with the last time occurring about six months earlier. Prior to going on patrol, they did not discuss tactics or designate roles for each other on their shift. Officer Fuchigami drove the patrol car and Officer McBride was in the passenger seat.

Around 5:40 p.m., Officers Fuchigami and McBride were responding to an “additional unit request” call in the area of 48th Street and San Pedro Street when they came upon a traffic collision on San Pedro Street. A few vehicles had collided and there were approximately 50 bystanders.

Officer Fuchigami “observed a few bystanders pointing out [a] black truck saying there’s a crazy guy out there or there’s a guy with a knife. And there [were] . . . quite a few people, probably five, six people [were] telling us.” The black truck faced north on San Pedro Street. A woman in a brownish Camry, that was stopped facing south on San Pedro, also told the officers about a “crazy guy” in the truck with a knife. Officer Fuchigami broadcast a request for backup. He did not see anyone inside the truck.

A man standing on the east sidewalk of San Pedro Street called out to Officer Fuchigami that they needed help at a wrecked white car, located approximately 10 feet north of the intersection of 32nd Street and San Pedro Street. The back section of the white car was on the sidewalk and the woman in the driver’s seat was not moving. Officer Fuchigami ran to the car to render aid. He was aware that Officer McBride was “still covering the black . . . truck.” The woman in the white car was bleeding from her mouth and it appeared she was about to become unconscious. Officer Fuchigami requested a rescue ambulance. He also saw a damaged black sedan on the northeast corner of the intersection.

Officer Fuchigami, who was facing toward the driver’s side of the white car, heard two gunshots.<sup>10</sup> He looked west and saw Officer McBride standing next to the Camry with her gun drawn and a shirtless, Hispanic male (Hernandez) falling to the ground in the middle of the street. Hernandez was approximately 25 to 30 feet from Officer Fuchigami. Hernandez started to get up and took a step toward Officer McBride. Simultaneously, Officer Fuchigami heard Hernandez scream something at Officer McBride in an aggressive manner. Hernandez was holding a knife with a two or three-inch blade. Officer Fuchigami heard another three or four shots and saw Hernandez down on the ground.

---

<sup>8</sup> All interviewed police officers declined to give voluntary statements and were ordered to give statements and answer questions by FID officers. Officer McBride’s statement was not considered because it was not voluntary and therefore could not be considered as part of the criminal investigation. (See, e.g., *Lybarger v. City of Los Angeles* (1985) 40 Cal.3d 822, 827, citing *Lefkowitz v. Turley* (1973) 414 U.S. 70, 77-79, *Garrity v. State of New Jersey* (1967) 385 U.S. 493, 500.)

<sup>9</sup> The interview was conducted by Sergeant Jess Falk and Detective Sean Foote, both assigned to the FID. Also present was Sergeant Ali Kaspian of the Officer Representative Section.

<sup>10</sup> Prior to the OIS, Officer Fuchigami did not hear Officer McBride giving oral directions to Hernandez.

Officer Fuchigami requested help by broadcasting, “Shots fired. Shots fired. Officer needs help.” He ran back toward Officer McBride. The backup officers arrived as Officer Fuchigami moved back to Officer McBride’s position. Hernandez remained on the ground. Two additional responding officers arrived. Officer Fuchigami drew his weapon and held it at the low ready position once he was behind the responding officers because he saw that Hernandez was still holding the knife in his right hand.

Officer Fuchigami assisted the responding officers in placing Hernandez under arrest and handcuffing him. Officers Fuchigami and McBride next went to Hernandez’s truck to confirm that no one else was inside. He holstered his gun after confirming the truck was clear.

A police supervisor who arrived at the scene gave Officer Fuchigami the Public Safety Statement and admonishment not to discuss the OIS with any other people.<sup>11</sup>

### **Statement of Officer Amanda Orefice**

Officer Amanda Orefice was interviewed at the Newton Police Station on April 23, 2020, at 4:27 a.m.<sup>12</sup> Officer Orefice viewed her BWV and the digital in-car video from her patrol car in the presence of FID Officers prior to the interview.

On April 22, 2020, Officer Orefice’s watch began at 3:45 p.m., and she worked with her regular partner Officer Montejano. Their unit designation was 13-X-94 and they drove in a marked patrol SUV.

On that day, Officer Orefice and her partner drove to the scene on “Code 6” (an out-of-car investigation) based on a radio call for “ambulance [traffic collision] with a man cutting himself.” They traveled south on San Pedro Street in the direction of 28th Street. As they arrived at the scene, Officer Orefice observed a shirtless, Hispanic, male (Hernandez) charging toward Officer McBride. Hernandez’s hands were clenched and he appeared to be “running at [Officer McBride] in an aggressive manner like he was going to cause injury to her.” Officer Orefice heard approximately three gunshots, with pauses between each shot. She did not see the shots fired.

---

<sup>11</sup> Following an OIS incident, a Public Safety Statement (PSS) is obtained from all substantially involved officers by responding supervisors to quickly identify immediate public safety concerns. (See LAPD Administrative Order No. 21.) Supervisors are to ensure that each officer gives his or her individual PSS separately and apart from any other involved officers. Prior to the PSS, each involved officer is instructed to stop recording of their BWV and DICV. The supervisor then instructs the involved officer as follows: “Officer, I am ordering you to give me a Public Safety Statement. Due to the immediate need to take action, you do not have the right to wait for representation to answer these limited questions.”

The following questions are then asked of the involved officer at the OIS scene: Were you involved in an officer-involved shooting or other Categorical Use of Force?; Approximately where were you when you used force? Is anyone injured? If so, where are they located?; Are you aware of any witnesses, or victims? If so, what is their description and location?; Are there any outstanding suspects? If so, what is their description, direction, and mode of travel? How long have they been gone? What crime(s) are they wanted for? What weapons, if any, are they armed with?; Are there any weapons or evidence that need to be secured/protected? Where are they located?; Approximately how many rounds did you fire and in what direction did you fire them?; Do you know if any other officers fired any rounds?; Is it possible the suspect fired rounds at you, and if yes, what direction were those rounds fired?; Approximately where were you when you fired the rounds?; Is there any other information available that would ensure the safety of officers and the public, and/or assist in the apprehension of any outstanding suspect(s)?

After obtaining sufficient information, the supervisor continues to maintain the individual separation and monitoring of involved officers and order them not to discuss the incident with anyone other than the assigned investigators and each officer’s representative. The supervisor directs each involved officer not to view any media coverage, recordings, or reports of the incident, DICV, BWV, social media, or any video or audio from any source; or, to communicate information regarding the incident via email, phone, text, Mobile Data Computer or social media until authorized by the assigned FID investigator or representative.

In accordance with LAPD procedures, an involved officer is be allowed to view his or her own BWV and/or DICV video footage prior to being interviewed by FID.

All of the officers who were witnesses to the OIS were given the Public Safety Statement and same admonishment.

<sup>12</sup> Sergeant Falk and Detective Foote conducted the interview. Sergeant Kaspian of the Officer Representative Section was also present.

The officers got out of their car and approached Officer McBride. Officer McBride was in a shooting stance facing south toward Hernandez's position. Officer McBride was approximately 15 to 20 feet from where Hernandez lie on the ground. Officer Orifice had drawn her weapon before she got out of the patrol car, but she holstered it when she delegated roles to other officers.

Officer Orefice observed that Hernandez still had an edge weapon in his right hand. The officers formulated a plan to take Hernandez into custody, and he was handcuffed. Hernandez appeared to be deceased.

Officer Orefice observed an injured woman in a car on the east side of the street. A crowd had formed in the area. Officer Orefice requested rescue ambulances for Hernandez and the injured woman in the car. She also made a radio call for additional units for crowd and traffic control.

### **Statement of Officer Patricia Montejano**

Officer Patricia Montejano, who worked in the Newton Division for approximately one year, was interviewed at the Newton Police Station on April 23, 2020, at 2:57 a.m.<sup>13</sup> She viewed her BWV and the digital in-car video from her patrol car in the presence of FID officers prior to the interview. She did not view any other media regarding this incident.

On April 22, 2020, Officer Montejano's watch began at 3:45 p.m. She was in uniform and drove a marked patrol SUV, unit 13-X-94. Her partner, Officer Orefice, sat in the passenger seat. The officers had been partners for approximately five directed patrols. They previously discussed tactics and their respective roles while on duty.

The officers were in the area of the multiple-vehicle crash and responded to a radio call for an ambulance. As they drove south on San Pedro Street, a radio call from another unit went to "Code 6." That unit then made a "Code 3 call, man with a knife."

Upon arriving at the scene, just past 30th Street, Officer Montejano saw the amber lights of another patrol car. She saw Officer McBride standing to the side of the patrol car and facing a Hispanic male (Hernandez) who was holding a knife in his right hand. She saw Hernandez walk toward Officer McBride. From Officer Montejano's perspective, Hernandez appeared to be approximately eight feet from Officer McBride. Officer Montejano heard one shot. Her partner said something to the effect that "they just shot, fired." Hernandez fell at the same time she unholstered her firearm and got out of the patrol car. Officer Montejano heard approximately two more shots. She did not hear any additional shots as she approached Officer McBride. She did not see Officer McBride fire her gun, but she recalled hearing a pause between each shot. She estimated that four shots were fired. Hernandez was lying on the ground. Officer Fuchigami came from the east side of the street, crossing in front of Officer Montejano from her left. At that point, Hernandez was approximately 14 to 16 feet from her position. Officer Montejano observed a crowd of 40 to 45 people forming southeast of the shooting location.

Officer Montejano saw an injured female driver in a wrecked white car on the southeast side of the street. Additionally, a male driver was in a wrecked dark-colored car approximately 20 feet south of the white car. Officer Orefice moved next to Officer McBride. Officer Montejano observed ammunition casings on the ground near the west the side of Officer McBride's patrol car.

Officer Orefice directed the formation of the arrest team to handcuff Hernandez. Officer McBride said, "Hey, we have time. Just make sure you put [on] your gloves." Two other officers arrived and Officer

---

<sup>13</sup> Sergeant Falk and Detective Foote conducted the interview. Sergeant Kaspian was also present.

Orefice assigned them to handcuff Hernandez. Officer Montejano was assigned the role of less lethal; she holstered her firearm and removed her TASER. Officer McBride maintained her role as the lethal officer. The officers approached Hernandez. One of the officers who handcuffed Hernandez removed the knife from his right hand and pushed it toward Officer Montejano. Officer Montejano used her left foot to move the knife further away. She described the knife as either a switch knife or a pocketknife with an open blade.

Officer Orefice broadcast a Code 4 (no assistance needed) to indicate that the suspect was in custody. She also requested ambulances for Hernandez and the woman in the wrecked white car.

Officer Montejano directed bystanders to move back as she assisted the woman in the white car until paramedics arrived. The woman repeatedly said she could not breathe.

### **Statement of Officer Jose Solorzano**

Officer Jose Solorzano, a 14-year LAPD officer, was interviewed on May 14, 2020, at the Newton Station, where he had been assigned for over 10 years.<sup>14</sup> He reviewed his BWV and in-car video with FID personnel present. He also saw an Instagram video about the OIS.

On April 22, 2020, Officer Solorzano, who was assigned as a field training officer, was at the Newton Division Station with probationary Officer Jimmy Oregel. While they were completing reports, a call came in requesting additional units because there was a man with a knife at the traffic collision scene. As Officers Solorzano and Oregel left the station in their patrol car to respond to the call, they heard a female voice broadcast that shots were fired and help was needed. Officer Solorzano heard two shots fired in the background of the broadcast. They responded “Code 3” from the station to the scene. Officer Solorzano also heard a call requesting a rescue ambulance for a male who was unconscious and not breathing.

Upon arriving at the scene, Officer Solorzano saw two black-and-white patrol units and four officers lined up. Some of the officers had their guns drawn. Officer Solorzano approached the line of officers and observed Hernandez lying face down on the ground, approximately 20 to 25 feet away, with his head turned toward the officers and a knife in his right hand. Officer Solorzano observed blood on Hernandez’s arms and coming from his mouth. Officers Solorzano and Oregel put on gloves.<sup>15</sup> Officer Solorzano directed one of the other officers to work communications and another who had her gun out to “stay lethal.”

The officers moved in to handcuff Hernandez. Officer Solorzano removed the knife, which was a box cutter-type edge weapon, from Hernandez’s right hand and tossed it just out of reach. Officer Montejano moved the knife with her foot further away. Officer Oregel took Hernandez’s left hand and handcuffed him. Officer Solorzano observed numerous deep, bloody cut marks on Hernandez’s forearms. When the officers turned Hernandez over, Officer Solorzano saw what appeared to be a bullet hole in Hernandez’s abdomen and possibly one bullet hole near his eyebrow/nose area. Hernandez was not responsive. Officer Solorzano did not believe that officers could successfully render aid to Hernandez due to his injuries. Officer Solorzano had Officer Oregel stay with the decedent and direct the rescue ambulance to the location. The responding paramedics determined that Hernandez was deceased.<sup>16</sup>

---

<sup>14</sup> FID Detectives David Bunch and Ubaldo Zesati conducted the interview. Sergeant Kaspian was also present.

<sup>15</sup> Officer Solorzano activated his BWV at this point. The officer had unsuccessfully attempted to activate his BWV earlier when leaving the station.

<sup>16</sup> According to Los Angeles Fire Department records, Hernandez was determined to be deceased at 5:50 p.m.

Officer Solorzano used chalk to circle the ammunition casings on the ground to preserve them as evidence.

### **Statement of Officer Jimmy Oregel**

On May 14, 2020, at 10:15 a.m., probationary Police Officer I Jimmy Oregel was interviewed at the Newton Station.<sup>17</sup> He reviewed his BWV and DICV with FID personnel present. He also saw a video on social media about the OIS.

On April 22, 2020, Officer Oregel was assigned to the Newton Division on Watch 2 with Officer Solorzano. He heard a call requesting officer backup due to a man with a knife, and he heard one gunshot during that broadcast. He and Officer Solorzano drove a short distance to the scene on San Pedro Street. Officer Oregel saw Hernandez on the ground, with his head to the north, and “four officers with their guns unholstered at the low-ready” position. Officers Solorzano and Oregel put on gloves. Officer Solorzano devised a plan to handcuff Hernandez where he would remove the knife from Hernandez’s hand and Officer Oregel would handcuff him.

When Officer Oregel pulled Hernandez’s left hand out from under him, he noticed deep lacerations on Hernandez’s wrists and lots of blood. Officer Oregel moved Hernandez’s left hand to his back. Officer Solorzano moved Hernandez’s right hand to his lower back and Officer Oregel handcuffed Hernandez.

Officer Oregel monitored the shell casings on the ground to ensure that paramedics did not disturb them. He also assisted in putting chalk circles around the casings and later helped to identify witnesses.

### **Statement of Sergeant Jorge Diego**

Sergeant Jorge Diego was interviewed on April 28, 2020, at the Newton Station.<sup>18</sup> He reviewed his BWV and DICV in the presence of the FID personnel. On April 22, 2020, as Sergeant Diego left the station to respond to the traffic collision scene in his capacity as a supervisor, he heard a radio call that an “officer needs help” and “shots fired.” The sergeant heard gunshots in the background of the radio call. He also heard calls for rescue ambulances. By the time he arrived at the OIS scene, Hernandez was on the ground and already handcuffed. The scene was chaotic, with debris from the crashed cars on the street and injured victims.

Sergeant Diego directed Officer McBride to holster her gun. He determined that she was the only shooter. She appeared shaken by the incident. He read her the Public Safety Statement, and Officer McBride reported that she fired six to eight rounds in a southbound direction. She informed the sergeant that Hernandez was armed with a knife. Sergeant Diego sequestered Officer McBride and directed her to turn off her BWV. He took possession of Officer McBride’s BWV. He also ordered her not to talk about the OIS and not to view any kind of social media. Another sergeant then took over the role of monitoring Officer McBride and transported her back to the Newton Station. Sergeant Diego assisted in identifying witnesses and having them transported to the station for interviews.

### **Statement of Sergeant Carlos Savedra**

Sergeant Carlos Savedra was interviewed on April 28, 2020, at the Newton Station.<sup>19</sup> He viewed his BWV and DICV in the presence of the FID personnel. On April 22, 2020, Sergeant Savedra was at the station when he heard a call for back-up and “man with a knife.” As he walked to his vehicle, he heard a “shots fired” broadcast.

---

<sup>17</sup> FID Detectives Bunch and Zesati conducted the interview. Sergeant Kaspian was also present.

<sup>18</sup> Sergeant Falk and Detective Foote conducted the interview. Sergeant Kaspian was also present.

<sup>19</sup> Sergeant Falk and Detective Foote conducted the interview. Sergeant Kaspian was also present.

Sergeant Savedra drove to the scene. He saw two or three police vehicles, officers, Hernandez on the ground, and several cars that had been involved in the traffic collision. Sergeant Savedra issued the Public Safety Statement to Officer Fuchigami and questioned him. Officer Fuchigami confirmed that he was involved in an OIS, but he did not fire any rounds. Officer Fuchigami identified his partner as the shooting officer. He was on the northeast corner of San Pedro Street and 32nd Street when the shots were fired.

### **Statement of Sergeant Roberto Cornejo**

Sergeant Roberto Cornejo was interviewed at the Newton Station on April 30, 2020.<sup>20</sup> Sergeant Cornejo viewed his BWV and DICV. He also viewed other officers' BWV and some social media about the OIS.

On April 22, 2020, Sergeant Cornejo was at the Newton Station and heard a call for "backup, man with a knife." He then heard it "upgraded to a help call, shots fired" and responded to the scene. He was directed by Sergeant Diego to check on a female (V-1) in a car on the east curb of San Pedro Street who was involved in the traffic collision. He also saw that Hernandez was on the ground in the middle of the street and handcuffed. After talking with Sergeants Diego and Savedra, Sergeant Cornejo declared himself incident commander and set up a command post in the area of 29th Street and San Pedro Street. He did not speak with the officers involved in the OIS.

## **Civilian Witness Statements**

Civilian witnesses were interviewed. The following statements are summaries of their interviews, which describe the incident from the point of view of each person. The interviews contain facts relayed by the witnesses that may be inaccurate or inconsistent with the facts of this incident as they are currently understood.

### **Statement of W-1**

W-1 was interviewed at her residence on April 28, 2020.<sup>21</sup> On April 22, 2020, around 5:38 p.m., W-1 and her friend W-2 stood in a line waiting to go inside the Numero Uno store. W-1 heard the sound of a vehicle engine accelerating, which drew her attention to the area around the intersection at Jefferson Boulevard. She saw a black pickup truck traveling north on San Pedro Street at approximately 70 to 75 miles per hour. W-1 commented to W-2, "Wow, he's going really fast." W-2 responded, "He's going to crash." A white car was stopped at 32nd Street waiting to make a left turn. The truck came up behind the white car, but the truck did not slow down or change lanes. The truck crashed into the back of the white car, causing it to spin around. The truck then crashed head-on into another car—a small, grey Altima sedan—that was traveling southbound. The truck came to a stop when it crashed into two RVs parked on San Pedro Street.

W-1 and W-2 went to the accident scene to see if anyone needed assistance. W-1 went to the first car hit by the truck and saw that the woman inside was injured. Another woman, who identified herself as a nurse and wore pink scrubs, attended to the injured female driver. W-1 called 911, asked for paramedics to be dispatched, and handed her cell phone to the nurse.

W-2 went to the crashed truck, but W-2 and others who had gathered around the truck moved away. W-1 asked, "What's going on?" W-2 replied, "He's trying to kill himself." "He has a knife, and he's

---

<sup>20</sup> Sergeant Falk and Detective Foote conducted the interview. Sergeant Kaspian was also present.

<sup>21</sup> FID Detective Tim Grabe and FID Sergeant Falk conducted the interview.

trying to cut his neck,” W-2 explained. From her vantage point across the street, W-1 saw Hernandez moving around inside the truck, but she did not get close enough to see specifically what he was doing.

Around this time, a patrol car stopped just north of the accident scene.<sup>22</sup> W-1 saw the driver of the truck (Hernandez), standing in the middle of the street shirtless and with blood on his neck. She heard someone say, “He’s holding a knife.” W-1 could not see the knife in Hernandez’s hand. She saw Hernandez raise his arms as he approached a female officer. The female officer (McBride) had her gun drawn in a low ready position pointing towards the ground and yelled at Hernandez to “[g]et down on the ground.” W-1 described Hernandez as sticking out his chest in a confrontational manner toward the officer. “He was ready to fight,” observed W-1. Based on the circumstances, W-1 believed Hernandez’s intention was suicide. She heard Hernandez say something to the officer, but she could not hear what he said. W-1 estimated that Hernandez was approximately 20 feet from Officer McBride, and he could have gotten to her in one or two seconds. Officer McBride fired two shots in rapid succession and Hernandez fell to the ground on his knees. W-2, who had an unobstructed view, estimated that she was 20 feet from Hernandez when he was shot. She described Officer McBride as “a Hispanic, petite, female officer. She had her hair . . . tied up, possibly in a bun or possibly in a ponytail.” “She was probably 5’ 4”.”

After the first two shots, W-1 saw Hernandez quickly begin to stand back up and Officer McBride rapidly fire four more shots. Hernandez fell to the ground on his right side. “That was when I actually [saw] him fall down,” W-1 stated. At that point, W-1 and W-2 decided to leave the area.

W-1 suspected Hernandez was “high” on drugs because he was speeding, crashed into other cars, and attempted to hurt himself. W-1 explained, “I don’t even think he felt those [first two] gunshots. Because the way he stood up . . . [t]his guy has adrenaline.”

W-2 used his cell phone to record the incident and posted it on his Instagram account for a short time. W-2 took the video offline, however, when he and W-1 learned that Hernandez was the brother of one of their mutual friends.

### **Statement of W-2**

On April 28, 2020, W-2 was interviewed.<sup>23</sup> On April 22, 2020, around 5:38 p.m., W-2 and W-1 were standing in line to enter the Numero Uno Market located where Avalon Boulevard and Jefferson Boulevard intersect at San Pedro Street. W-2 heard a screeching sound, which drew his attention to a speeding black pickup truck. W-2 estimated the truck was traveling at around 150 miles per hour. Fearing that the driver of the truck would lose control, he told W-1 to “scoot back.” W-2 told W-1, “This guy’s going too fast, he’s going to lose control, and he’s going to hit that white car.” The white car to which Pineda referred was stopped facing north on San Pedro and waiting to turn left onto 32nd Street.

The pickup truck struck the white car in the rear at full speed, and debris from the vehicles flew everywhere. As W-2 and W-1 went to the accident scene, W-2 took out his cell phone and started recording as he walked. He reached the truck and saw the driver (Hernandez) pull off his shirt and put it on the dashboard. W-2 suspected that Hernandez was under the influence of drugs. Hernandez did not appear to have injuries from the crash.

---

<sup>22</sup> W-1 mistakenly recalled that, prior to the shooting, two patrol cars had arrived and two female officers and one male officer gathered together in a “triangle” formation with their guns drawn. She estimated that the officers “stood out with their guns [drawn] for a good . . . moment before” any shots were fired. Based on video evidence, however, the other officers did not arrive until after the OIS was complete.

<sup>23</sup> FID Detective Grabe and FID Sergeant Falk conducted the interview.

Hernandez armed himself with what appeared to be a knife. At first, W-2 thought Hernandez might be trapped and was trying to cut the seatbelt off using the knife. W-2 saw Hernandez move toward the backseat of the truck and he was “grabbing stuff.” Hernandez put the knife to his neck. W-2 noticed that Hernandez was bleeding. W-2 believed Hernandez was trying to commit suicide. W-2 stepped back and warned others who approached the truck, “He’s out of it.”

Around this time, Los Angeles police officers arrived. W-2 turned off the video and put his cell phone away. He told W-1, “I think [the police] are going to probably arrest his ass, . . . so he’s going to jail.” W-2 saw a young female officer (McBride) with her Glock pistol drawn.<sup>24</sup>

Hernandez, still shirtless, got out of the driver’s side of his truck. He walked around the back of the truck to the middle of the street. He swung his arms around in a confrontational manner as he walked toward Officer McBride. W-2 noted that he had previously observed people on drugs who made similar gestures with their arms, and “how the[ir] temper would just rise like to the extreme, like you couldn’t even hold them back.” Hernandez yelled at the officer, but W-2 could not hear what he said. The officer loudly instructed Hernandez something to the effect of, “Stop. Put the weapon down.” Hernandez, however, continued to approach the officer.

W-2 recalled that Hernandez was approximately 8 to 12 feet from the officer when she fired the first shot. Hernandez fell to his knees, but he began to stand up and the officer fired another shot. W-2 stated, “[T]hen [Hernandez] rolled, and she shot him again, and that’s it; that’s how it went down.” W-2 estimated it would have taken Hernandez less than five seconds to reach the officer if she had not shot him. W-2 heard about six shots. Hernandez fell to his right side, appeared to try to get up again, and, after the final shots, he rolled over twice and fell face down. Other officers came to Officer McBride after she fired the shots.

W-2 went to a gray car that had been involved in the traffic collision. The driver was injured and bleeding from his eye. W-2 also saw that the woman in the white car that was initially rear-ended by Hernandez was severely injured.

W-2 and W-1 then left the area. When they left, W-2 recalled seeing three female and two male officers at the scene. W-2 posted the video he recorded online, but he removed it when he learned that Hernandez was the brother of one of his friends.

W-2 indicated that he thought Officer McBride’s actions were justified because Hernandez had a weapon and was rushing her. Asked what he thought Hernandez’s intentions were, W-2 replied: “I honestly believe that he didn’t care about anything anymore. He just wanted to punch out his card.”

### **Statement of W-10**

W-10 was interviewed at his residence on April 29, 2020.<sup>25</sup> On April 22, 2020, around 5:40 p.m., W-10 was driving south on San Pedro Street in the number one lane near 32nd Street. W-10 saw a black pickup truck driving north at a high speed from the area of Jefferson Boulevard. The truck passed W-10 at 60 miles per hour or more and hit three or four other cars. A white car was damaged the most. The black truck came to a stop after it crashed into an RV. The driver’s side door of the truck was damaged.

W-10 stopped to help and called 911. A lot of other people gathered at the scene. W-10 stood approximately 12 feet away from the truck. He saw the driver of the truck (Hernandez) move to the

<sup>24</sup> W-2 mistakenly believed that additional officers arrived at the scene prior to the OIS, but he said that those officers left Officer McBride by herself. W-2 did not recall seeing an officer near the white car prior to the shooting. Based on video evidence, however, other officers did not arrive until after the OIS was complete. The video evidence also shows Officer Fuchigami standing next to V-1’s white car.

<sup>25</sup> FID Detectives Zesati and Chris Linscomb conducted the interview.

back seat. Hernandez had a knife in his hand. W-10 and others who gathered around the truck tried to calm Hernandez and spoke to him in both English and Spanish. Hernandez did not say anything to the bystanders. W-10 observed blood on the left side of Hernandez's chest and head. He did not see Hernandez use the knife on himself.

Shortly after the traffic collisions, two officers—a female (McBride) and a male (Fuchigami)—arrived on scene. W-10 saw Officer Fuchigami go over to one of the damaged cars. Officer McBride watched Hernandez in the truck.

Hernandez moved from the backseat to the front and got out of his truck from the passenger side door. He was shirtless. When Hernandez got out of his truck, he clearly held a knife in his right hand. W-10 noted that “you could see [the knife] from far away.” He estimated the blade on the knife was three to four inches long. Hernandez walked toward Officer McBride. Officer McBride shouted at Hernandez to stop and not move. W-10 did not hear Hernandez say anything to Officer McBride.

W-10 estimated that Hernandez was between 12 and 25 feet away from Officer McBride when she fired the first shots. W-10 believed Officer McBride shot Hernandez approximately seven times.<sup>26</sup> After the gunshots, more officers arrived and they handcuffed Hernandez. Hernandez appeared already to be deceased. W-10 took video of the incident using his cell phone.

### **Statement of V-2**

V-2 was interviewed on April 30, 2020, at her residence.<sup>27</sup> On April 22, 2020, V-2 was driving south on San Pedro Street in her gray Chevrolet Silverado truck in the number one lane. As she approached 32nd Street, she saw a black pickup truck and white car collide. She began to move her car to the number two lane in an attempt to avoid a collision with the truck that was traveling toward her. The black pickup struck the left side of V-2's truck, taking off a piece of the side mirror, scratching the side of the truck, and puncturing the back left tire. V-2 drove a short distance and stopped next to the west curb. The black pickup truck came to a stop some distance behind her.

V-2 saw a shirtless man (Hernandez) get out of the crashed truck. Later, V-2 “saw that there were a lot of police and there was a man dead.” V-2 remained in her truck the entire time and did not see the shooting. She also did not hear any gunshots because she was “too nervous.” As a result of the collision, V-2 experienced neck and back pain. She did not seek medical assistance due to the pandemic.

### **Statement of V-3**

On May 27, 2020, V-3 was interviewed at the Police Administrative Building on West 1st Street.<sup>28</sup> On April 22, 2020, around 5:38 p.m., V-3 was driving south in the number one lane on San Pedro Street in his gray Nissan Altima and heard a crash. A black pickup truck driving north then crossed into V-3's lane and collided with the front of his car. The force of the impact caused his Nissan to move across the northbound lanes and onto the east sidewalk at the corner of 32nd Street. His car came to rest facing north.

V-3 believed he was knocked unconscious for a short time. A woman who identified herself as a nurse asked V-3 if he was okay and advised him not to move. V-3 reported that his eye was injured.

---

<sup>26</sup> In W-10's opinion, Hernandez was far away from Officer McBride, and she should not have shot him, but instead first used a TASER (“electrocute him”) or “shot him in the legs.”

<sup>27</sup> The interview was conducted by Detectives Jorge Oseguera and Ana Rivera, both assigned to the Multi-Disciplinary Collision Investigation Team.

<sup>28</sup> FID Detectives Bunch and Timo Illig conducted the interview.

V-3 heard bystanders saying in English and Spanish that a man was trying to kill himself. A couple of minutes later, V-3 heard police sirens. He saw a shirtless man (Hernandez) get out of the driver's side of the truck that hit him, which was stopped directly across the street. Hernandez walked around the back side of his truck and to the middle of the street.

V-3 heard what he believed to be a female police officer yelling at Hernandez. V-3 could not see the police officer because his view was obstructed by the right side of his car's hood, which was pushed up from the impact. Hernandez raised his arms about shoulder height and his right fist was clenched as if he was holding something. Hernandez walked north up the street. V-3 heard a gunshot and saw Hernandez fall. Hernandez immediately began to stand again, and V-3 heard three or four additional gunshots.

V-3 was transported to County USC Medical Center and treated for his injuries.

#### **Statement of W-4**

W-4 was interviewed at the Newton Station on April 22, 2020, beginning at 9:15 p.m.<sup>29</sup> That day, around 5:45 p.m., W-4 was driving a gold-colored Camry south on San Pedro Street and saw a black pickup truck speeding toward her from the opposite direction. The truck had just hit a white Kia that was waiting to turn west on 30th Street, causing it to spin around and hit a green car. Parts of the Kia flew off and hit a car near W-4's car. W-4 held onto her steering wheel and closed her eyes. When she opened her eyes, the black truck had crashed into one of several RVs parked on the street.

W-4 called 911. Many people came out to the street. W-4 ran to the Kia and observed that the woman in the driver's seat was unconscious. W-4 returned to her car and called 911 again. While on the telephone, W-4 saw the driver of the truck (Hernandez) attempt to get out of his truck by kicking the inside of the passenger side door. Hernandez was shirtless. W-4 saw W-7 approach the truck and speak with Hernandez. W-7 asked Hernandez if he was injured. Hernandez told W-7 in Spanish, "I'm innocent." Hernandez climbed out of the driver's side window. Standing outside the truck, Hernandez surveyed the damage he had caused.

Hernandez got back in the truck by climbing through the driver's side window. He appeared to be looking for something and moved to the backseat where he retrieved a knife. Hernandez held the knife in his right hand and slashed at his left forearm. W-4 thought he was going to kill himself. W-4 informed the 911 dispatcher that Hernandez had a knife and was "hurting himself." W-4 suspected that Hernandez was under the influence of narcotics.

A police car arrived and parked next to W-4, who had stopped in the lane closest to the sidewalk. A female officer (McBride) got out of the passenger side of the patrol car. W-4 told Officer McBride that Hernandez was cutting himself with a knife and that they had to be careful. Others in the crowd also shouted that Hernandez had a knife and wanted to kill himself. Officer McBride drew her gun. W-4 heard Officer McBride's partner say, "He has a weapon." Officer McBride directed W-4 to get out of her car and move away from the scene. W-4 crossed the street and stood about 20 feet away. Officer McBride also directed other bystanders to move away. The officer stood next to the driver's side of W-4's car.

Hernandez got out of the truck and circled around the back side to the street. He walked toward Officer McBride. Officer McBride repeatedly told him to put his weapon down. Still holding the knife,

---

<sup>29</sup> FID Detectives Michael Arteaga and Zesati conducted the interview. Detective Jorge Oseguera, assigned to LAPD's Multi-Disciplinary Collision Investigation Team, also participated in the interview.

Hernandez raised his arms parallel to the ground in a defiant stance and replied in English, "I'm not going to throw it down."

Hernandez continued toward Officer McBride as she stepped backwards. W-4 estimated that Hernandez was approximately 15 to 20 feet from Officer McBride. Hernandez was closer to W-4 and the other bystanders near the Kia. W-4 saw that Hernandez had some blood on him, which she assumed was from him hurting himself inside the truck, but she did not see any cuts on his arm. As Hernandez approached, Officer McBride moved backwards and stood near the trunk of W-4's car.<sup>30</sup> Officer McBride then fired four or five shots at him. W-4 recalled that after the last shot was fired, Hernandez fell to the ground face down. Paramedics arrived at the scene.

### **Statement of W-11**

On April 30, 2020, W-11 was interviewed.<sup>31</sup> On April 22, 2020, she was living in an RV camper parked on the west side of San Pedro Street. W-11 had just gotten out of the shower when her RV violently shook, causing her to fall.

W-11 quickly put on clothing and walked outside. Her RV was heavily damaged. She saw that a black pickup truck had crashed into the front of her RV. The driver of the truck (Hernandez) had a knife, which she described as "a little switchblade knife," held to his throat. She did not believe Hernandez actually cut himself.

W-11 tried to calm Hernandez down by telling him that everything would be all right and accidents happen. She told him that "it's not that bad," and "nobody's dead." Hernandez appeared to listen and he slightly lowered the knife. W-11 asked Hernandez, "Are you tired?" He replied, "I'm tired," and said, "Look what I caused."

Several young people approached the truck and used their cell phones to video Hernandez and the scene. Hernandez appeared to become more nervous. He looked across the street toward the crashed white car and "got a little panicky." W-11 told Hernandez, "It's okay. She's not dead."

W-11 moved away from the truck when police told everyone in the area to move away. Some people were yelling, "Stop. Stop," and "Freeze, freeze." Numerous people were yelling in English and Spanish, "He has a knife! He has a knife!" W-11, whose view was obstructed by her camper, heard three gunshots. When she got past the back of the RV, W-11 saw that Hernandez was lying face down on the ground. Her view was partially obstructed by others standing in front of her. She then heard two or three more gunshots and saw Hernandez hit by bullets. W-11 yelled that Hernandez had a knife and not a gun. W-11 could not see if Hernandez held anything in his hands or what he was doing when the police shot him. She saw several officers approach Hernandez after he fell to the ground.

### **Statement of W-12**

On November 17, 2020, W-12 was interviewed over the telephone because he was quarantining at home.<sup>32</sup> On April 22, 2020, around 5:30 p.m., W-12 stood outside his house, near the corner of San Pedro Street, talking with another man. A truck drove past on San Pedro Street "going really fast." W-12 estimated the truck was traveling at least 75 or 80 miles per hour. A moment later, W-12 heard a loud crash. He and the other man ran to the corner of 32nd Street and San Pedro Street. The truck had crashed into several cars and hit an RV parked on the side of the street.

---

<sup>30</sup> Contrary to video evidence, W-4 mistakenly believed that other police officers arrived at the scene prior to the OIS and shouted at Hernandez to drop his weapon.

<sup>31</sup> FID Detectives Grabe and Zesati conducted the interview.

<sup>32</sup> FID Detectives Illig and Grabe conducted the interview.

W-12 attempted to help the driver of the truck (Hernandez). It appeared to W-12 that Hernandez was “on some type of drug or something.” Hernandez was “acting really weird.” W-12 stood approximately six feet from the passenger side of the truck. Hernandez moved from the front seat to the back seat and then returned to the front. W-12 heard someone say that Hernandez might have a gun.

W-12 heard bystanders say that Hernandez had a knife. Hernandez held his right hand to his neck and appeared to be cutting his throat from left to right. W-12’s wife repeatedly told Hernandez, “You don’t have to do this.” Hernandez said something to the effect that he did not want to live.

When W-12 heard the police coming, he walked over to an injured woman in a white car. A male police officer (Fuchigami) arrived to assist her.

W-12 did not see Hernandez get out of the truck. He heard bystanders tell a female officer (McBride) that Hernandez had a knife. As W-12 crossed the street, walking toward his house, he saw Officer McBride pointing a gun at Hernandez and telling him to “stop” and get on the ground. Hernandez did not comply, and he continued walking toward the officer. W-12 heard a gunshot and ran back toward the white car on the east side of the street to take cover. W-12 noted that Officer Fuchigami did not appear to “know what was going on” with Officer McBride until she fired the first shot. Officer Fuchigami then moved to Officer McBride’s position. As W-12 ran for cover, he heard another shot. When the shooting stopped, W-12 saw Hernandez lying on the ground. He did not see the shooting, and he recalled hearing two shots fired.

### **Statement of W-6**

W-6 was interviewed on September 17, 2020, over the telephone because she was quarantining at home.<sup>33</sup> On April 22, 2020, around 5:30 p.m., W-6 was at her house near the corner of San Pedro Street. She was looking out her living room window while her husband, W-12, spoke to another man outside. W-6 heard a vehicle driving fast on San Pedro Street; the sound was so loud that it caught her attention. A couple of seconds later, Cuevas “heard a big boom explosion kind of sound.” W-12 and the other man ran toward San Pedro Street. W-6 followed behind them.

When W-6 came around the corner to San Pedro Street, she saw that several cars were involved in a traffic collision. The front of a black pickup truck had crashed and come to a stop against the front of a parked RV. The pickup truck was closest to W-6 and she approached the driver’s side from the sidewalk. W-12 and the other man went to the passenger side. A shirtless Hispanic man in the truck (Hernandez) repeatedly yelled at them to get away from him. W-6 told W-12 to back away from the truck.

W-6 moved closer to the RV and stood approximately five feet from the driver’s side of the pickup truck. W-6 did not get too close to the truck “because [she] didn’t know his state of mind.” The windows were down and W-6 asked Hernandez if he needed help. She also told him, “It’s going to be okay.” Hernandez repeatedly stated, “No. They’re going to get me.” W-6 said that Hernandez “seemed to be a little off” and “paranoid.” She attributed his demeanor to either hitting his head in the accident or being “on some kind of drug.”

Hernandez held in his right hand what W-6 described as a box cutter. From Hernandez’s movements, it appeared to W-6 that Hernandez was attempting to cut and stab his legs, chest, and neck. “[H]e was trying desperately to hurt himself,” explained W-6. She told Hernandez not to hurt himself and said, “Wait. The police will be here.” Hernandez continued to say, “No. They’re going to get me.” At

---

<sup>33</sup> FID Detectives Illig and Grabe conducted the interview.

one point, Hernandez moved to the backseat of his truck. W-6 could not see if Hernandez had injured himself, but she did notice some blood on him.

W-6's daughters W-15 and W-14 also came to the traffic collision scene. W-15 called 911 and told the dispatcher that Hernandez was hurting himself. The police arrived around this time.

W-6 walked along the sidewalk to the back of the parked RV. From that perspective, W-6 saw a female officer (McBride) standing alone in the middle of the street with her gun drawn. W-6 saw a male officer (Fuchigami) across the street talking to a woman in a car. Hernandez had gotten out of his truck and was walking in the middle of the street toward Officer McBride while holding in his right hand what W-6 assumed was the knife Hernandez had while in his truck. Hernandez screamed at Officer McBride, but W-6 could not recall what he said. Officer McBride told him to get down and drop the weapon.

Hernandez continued to walk toward Officer McBride and she shot at him. Hernandez fell to the ground. Hernandez, however, got back up and Officer McBride told him to drop the weapon. She shot at him again, Hernandez fell, and did not get up. W-6 believed the officer fired a total of four or five shots.

Other police officers arrived and cleared the area of the many bystanders who had congregated in the area. W-6 walked home.

### **Statement of W-8**

On September 10, 2020, at 4:20 p.m. W-8 was interviewed.<sup>34</sup> On April 22, 2020, W-8 was at his home when he heard a "very, very loud noise." He walked outside and saw a wrecked car that "looked like an accordion" at the corner of 32nd Street and San Pedro and another car next to a fence a short distance away. Across the street, a black pickup truck had crashed against a parked RV. It appeared to W-8 that the driver (Hernandez) was trying to get out of the truck. W-8 saw Hernandez searching around inside the truck and then holding something similar to a knife. W-8 warned a man who was video recording the scene, "Be careful because that man [Hernandez] has something in his hands." Hernandez then "stabbed himself a few times" on his left side. W-8 said to Hernandez, "No. Don't. No, no, no, no," but W-8 did not think Hernandez heard him because the truck's window was up. W-8 heard from bystanders that Hernandez was bleeding, but he did not see it himself.

W-8 estimated there were over a hundred people at the scene after the crash. He repeatedly warned some of the bystanders, "People move away because the man [] has [] a knife." W-8 reported, "I don't know what happened to the driver because for some reason, he disappeared in his vehicle . . . . So I don't know if he was trying to get out or trying to hide. I didn't see."

W-8 walked away from Hernandez's truck and directed traffic so that responding police vehicles could get to the scene. W-8 informed a responding female officer (McBride) about Hernandez, saying, "Be careful because he's got a knife." W-8 was approximately 25 feet from Officer McBride when he gave her that warning. He recalled that the officer moved back approximately three feet when she heard the warning. W-8 did not see Officer McBride draw her gun.

As W-8 walked back to his house, he "heard [three] pops." W-8 returned to the scene and saw Hernandez lying on the ground with his head in a northerly direction.

---

<sup>34</sup> FID Detectives Grabe and Linscomb conducted the interview.

### **Statement of W-13**

W-13 was interviewed on September 15, 2020, in the backyard of his residence.<sup>35</sup> On April 22, 2020, around 5:30 p.m., W-13 was at or near the south corner of 32nd Street and San Pedro Street, when he “heard a car accelerat[ing] like crazy too much like – racing.” W-13 saw a large black truck driving “very fast” north on San Pedro. The truck crashed into the rear of a white car driven by a woman. Her car hit a gray or green car driven by a Hispanic male. The truck then “crashed badly[,] very bad” on the west side of the street.

W-13 approached the truck, as did other people who came out from nearby homes and businesses. W-13 noted that the driver and sole occupant of the truck (Hernandez) was “acting weird.” W-13 stood about five feet in front of the truck and looked through the windshield. Hernandez looked scared and appeared to be cutting his neck with a box cutter-type of “small knife.” Hernandez also appeared to cut his left arm. W-13 did not see if Hernandez actually cut himself. W-13 moved a few feet away from the truck.

A police car arrived from north of the accident scene several minutes after the collisions. W-13 saw a young female police officer (McBride) and believed she had arrived by herself. As Officer McBride surveyed the scene, Hernandez got out of the driver’s side of the truck, walked around the back, and “approached the officer really fast.” Hernandez held a knife in his right hand and put his right arm out and swung it back and forth. He twisted his body as he walked. Hernandez said something to the officer as he quickly walked toward her, but W-13 could not recall what Hernandez said. Officer McBride told Hernandez, “Stop,” “Drop it,” and “Don’t move.” Hernandez did not obey the commands. W-13 thought that Hernandez was “just bluffing” and “just acting brave” as he approached Officer McBride. W-13 believed the officer became “scared and she did what she had to do” “because she was alone.” W-13 estimated Hernandez was approximately 20 feet from the officer when she started shooting.

W-13 believed Officer McBride fired seven shots; he recalled that the first four shots were fired consecutively and Hernandez fell to the ground. W-13 recalled that when Hernandez began to stand up, Officer McBride fired three more rounds. Hernandez still held the knife in his right hand. Hernandez remained on the ground. Other officers arrived after the shooting ended and placed handcuffs on Hernandez.

W-13 made a video recording of the initial events using his cell phone. He then broadcast the incident on Facebook Live while standing on the street approximately 25 to 30 feet from Officer McBride.

### **Statement of W-14**

On September 17, 2020, W-14, a minor, was interviewed outside her residence.<sup>36</sup> On April 22, 2020, W-14 was in the living room of her family’s house west of San Pedro Street. She heard the sound of screeching tires and then “a big crash.” W-14 ran with others, including her mother, father, and two sisters, to the corner where some RVs were parked on the west side of the street and saw that a truck had crashed into one of them. She also saw a badly injured woman in a white car that had been hit by the truck.

W-14 stood near the truck with her mother. The sole occupant of the crashed truck (Hernandez) mumbled some words in Spanish, which led W-14 to believe Hernandez was drunk or on drugs. Hernandez was shirtless. He sat in the driver’s seat and looked around as if assessing what had

---

<sup>35</sup> FID Detectives Zesati and Linscomb conducted the interview.

<sup>36</sup> FID Detectives Zesati and Linscomb conducted the interview.

occurred. Through the truck's open windows, bystanders asked Hernandez if he was okay. He replied, "Don't come near me," and said in English something to the effect of, "They're already going to take me to jail," or, "It's already over with." Hernandez took a pocketknife or box cutter and repeatedly cut his arms and chest. W-14 "got scared" because Hernandez "was very suicidal." W-6, who stood near the driver's side open window, attempted to reassure Hernandez and said, "No, . . . it's not too late." W-14 warned W-6 not to get too close to Hernandez because he was cutting himself and she did not know what else he might do.<sup>37</sup> Hernandez moved to the backseat of the truck cab and continued cutting himself.

W-14 told W-6 that the police had arrived and they needed to move away. A large crowd had assembled and many people were recording the incident on their cell phones. Someone in the crowd shouted, "He might have a gun," and some bystanders began to panic. As Hernandez continued cutting himself, bystanders told him, "Stop. Don't do that." They tried to coax Hernandez out of the truck. W-14 dragged W-6 away from the truck and said they needed leave the area. W-14 moved a short distance up the street. A female officer (McBride) and possibly a male officer arrived at the scene. Bystanders shouted to the officers that Hernandez had a knife. W-14 walked toward her house. Officer McBride stood in the middle of the street.

W-14 passed by the truck, but Hernandez was no longer inside and W-14 could not see where he went. The parked RVs had blocked W-14's view. She heard Officer McBride shout, "Don't move!" When she reached the street corner, W-14 heard gunshots and saw bystanders running for cover. She heard Officer McBride say, "Don't move," and "Stay down." W-14 then heard another gunshot. She did not see the shooting.

W-14 turned and saw Hernandez face down on the ground. She heard a total of three or four gunshots. She used her cell phone to record the scene, saved the recordings to her Instagram account, and went home. She later watched other video recordings of the incident that were posted online.

### **Statement of W-15**

On September 17, 2020, W-15, W-6's minor daughter, was interviewed over the telephone due to quarantining at home.<sup>38</sup> On April 22, 2020, around 5:30 p.m., W-15 and her brothers were at their home near San Pedro Street. W-15 heard a loud noise. Her father (W-12), another man, and W-6 ran in the direction of the noise. W-15 and her two sisters followed them.

When she arrived at San Pedro Street, W-15 saw several wrecked vehicles, including a black pickup truck that had crashed into an RV parked just north of 32nd Street on the west side of San Pedro. Across the street was a white car partially on the sidewalk, the back half of which appeared to be missing. There was one woman in the white car sitting behind the steering wheel. W-15's father attempted to help the woman in the white car.

The sole person in the black truck (Hernandez) retrieved from the front passenger area what W-15 believed was a box cutter or knife. W-15 was approximately six feet from the truck and watched through the passenger side window. Hernandez made some stabbing motions with the weapon and then he cut his forearm. W-15 believed Hernandez was attempting to kill himself. W-6 told Hernandez, "Don't do that. It's okay. It's okay. Don't do that." Other bystanders also told Hernandez to stop. When W-6 spoke to Hernandez, he repeatedly stated, "They're going to get me." Hernandez was shirtless and had blood on his arms and chest. Hernandez also held onto the steering wheel and shook

<sup>37</sup> W-14 used her cell phone to record a video of Hernandez in his truck. Her mother can be heard in the video saying, "He's cutting himself."

<sup>38</sup> FID Detectives Zesati and Linscomb conducted the interview.

his head back and forth as if “he was in disbelief . . . of what he had done.” W-15 believed Hernandez was on drugs. She saw Hernandez “putting stuff in the back seat.” W-15 heard Hernandez tell bystanders to stay back. He may also have threatened, “Or else I’ll cut you.” W-15 called 911.

A female police officer (McBride) first arrived on the scene. She told the bystanders to move away. W-15 moved to where W-6 stood near one of the parked RVs. Hernandez got out of the driver’s side of his truck and walked toward Officer McBride while holding the knife in his hand. Officer McBride commanded Hernandez multiple times, “Drop the knife!” Hernandez continued to approach “[a]nd he kept on going closer to the point where she had to shoot him.” Officer McBride initially fired two shots at Hernandez. Hernandez fell to the ground and Officer McBride told him, “Stay down.” But Hernandez got back up. “And then [Officer McBride] shot him three more times after that, because he kept getting back up.”

W-15’s attention was also focused on her father, who ran to take cover as the shots were fired. W-15 used her cell phone to record several videos, including two shots fired by Officer McBride. She tried to avert her gaze so as to avoid seeing Hernandez being injured. The officer shot Hernandez six times. W-15 recalled that another police officer arrived and put handcuffs on Hernandez. A paramedic checked Hernandez’s pulse. Other police officers told the crowd to move away from the area. W-15 and her family went home.

### **Statement of W-7**

W-7 was interviewed April 22, 2020, at 10:19 p.m.<sup>39</sup> Earlier that day, around 5:45 p.m., W-7 was driving north on San Pedro Street. As he turned left on 31st Street, he heard a very loud collision. He parked his truck and walked back to San Pedro Street. W-7 saw a black Chevy Silverado pickup truck that had crashed.

W-7 went to the truck and found a lone, shirtless man (Hernandez) sitting in the backseat of the cab behind the driver’s seat. W-7 asked Hernandez if he needed help. Hernandez responded that he was innocent and that he had not done anything. Hernandez repeatedly cut his wrists with a small black knife. W-7 told him to stop and said that everything would be fine. Hernandez asked W-7 to do “a favor” for him and said that he wanted to give W-7 something. W-7 got the impression that Hernandez wanted him to come closer to the truck and/or get in the truck. W-7 instead moved away from the truck, and he told Hernandez to stop cutting himself. At hearing the sound of police sirens, Hernandez cut his wrists faster. W-7 suspected Hernandez was on drugs.

W-7 walked back toward 31st Street. He stood on the rear bumper of a parked truck to get a better view. Hernandez had gotten out of the black pickup truck and walked around the backside. Hernandez had his hands by his sides. A female police officer (McBride) who arrived at the scene had her gun drawn at the low ready position. Hernandez walked to the middle of the street in front of the officer.

Officer McBride repeatedly told Hernandez to drop the knife he held in his hand. He did not comply.<sup>40</sup> Hernandez walked toward the officer and raised his hands to shoulder level, still holding the knife. W-7 did not believe Hernandez had “a sense of what was happening.” “To me, he wasn’t thinking. He wasn’t like in his right mind,” W-7 opined. As W-7 climbed on the roof of the parked truck, he heard two gunshots and saw that Hernandez had fallen to the ground. W-7 recalled that Officer McBride fired additional shots while Hernandez was on the ground. W-7 was in shock having witnessed the

---

<sup>39</sup> FID Detective Arteaga conducted the interview.

<sup>40</sup> W-7 mistakenly recalled that three police officers were at the scene prior to the shooting. As previously noted, video evidence shows that additional officers did not arrive until after the OIS

shooting. An officer put handcuffs on Hernandez. More police officers arrived and moved W-7 and other bystanders away from the area.

### **Statement of W-16**

On April 22, 2020, around 10:25 p.m., W-16, a minor, and her mother were interviewed together.<sup>41</sup> Earlier that day, W-16 was seated behind the driver's seat as her mother (W-17) drove. Suddenly, W-17 cried out, "Oh, my God," and their car came to a stop. W-16 saw pieces of other vehicles and a grayish black truck coming at them. The truck crashed into a parked RV and stopped. W-16 and W-17 got out of their car.

W-16 saw a man (Hernandez) climb out the driver's side window of the crashed truck. Hernandez then climbed back into the truck through the window. Hernandez had a knife.

A police car arrived, and two officers—a male (Officer Fuchigami) and a female (Officer McBride)—got out. W-16 heard a woman say, "He's going to attack her." She then heard three rapid gunshots. W-16 was standing on the sidewalk and her view was obstructed by two vehicles. She saw Officer McBride holding a gun, but she did not see the officer shoot. W-16 saw a man lying face down in the street in front of Officer McBride.

### **Statement of W-17**

W-17 was driving with her eldest daughter (W-18), who sat in the front passenger seat, and her younger daughter (W-16), who sat behind her. W-17 suddenly saw Hernandez's truck hit a car and cross over the line into her lane, almost hitting her head on. She was able to stop just before hitting the truck, which crashed into a parked RV. Two other crashed cars were across the street. W-17 saw Hernandez climb out the driver's side window of his truck. Hernandez "started to like go crazy." He climbed back inside the truck and grabbed what W-17 described as a piece of metal. Hernandez then pushed on the passenger side window.

W-17 got out of her car and took some photos of the truck with her cell phone. People in the crowd said that Hernandez had a knife and was hurting himself. She did not personally observe this. Hernandez again got out of his truck. W-17 noted, "[H]e was already like -- he was crazy. . . . He was like out of place." W-17 heard bystanders say, "He has a knife," and "He has a weapon." W-17 directed her daughters to get out of their car. Police officers arrived and took a position to W-17's left. Hernandez moved to the street and approached a female officer (McBride). Officer McBride told Hernandez to move back and not approach. She also used her hand to signal to Hernandez to cease his approach. W-17 told her daughters, "Get down," and Officer McBride instructed the crowd to move back. Hernandez moved toward the officer "like he was challenging" her. W-17 demonstrated that Hernandez put his arms out and puffed out his chest as he approached Officer McBride.

W-17 and her daughters moved to the sidewalk and almost immediately heard three gunshots. W-17 did not see the shooting.

### **Statement of W-18**

W-18, a minor, was interviewed at the Newton Station on April 22, 2020, around 10:25 p.m., with her mother, W-17, present.<sup>42</sup> Earlier that day, W-18 was in the front passenger seat of a car driven by W-17 when she saw a black truck heading toward them. The truck crashed into an RV parked on the street. W-17 braked just in time to avoid crashing into the front of the truck. W-18 was panicked from the near

---

<sup>41</sup> W-16 was interviewed in English. Her mother (W-17) did not speak or understand English and was interviewed in Spanish. The interview was conducted by FID Detectives Zesati and Jerry Sally.

<sup>42</sup> FID Detectives Zesati and Sally conducted the interview.

collision. W-18 recalled that the driver of the truck (Hernandez) opened the driver's door and got out. Hernandez looked panicked and "crazy." He then reentered the truck and retrieved a weapon. W-18 could not see what type of weapon Hernandez had, nor could she see what he was doing with the item. W-18 worried that Hernandez was going to attack them.

When the police arrived, W-18, W-17, and W-16 got out of their car and stood on the sidewalk. W-18 believed that Hernandez got out of his truck from the passenger side and walked toward the street. W-18 moved away from Hernandez. She did not hear the police say anything to Hernandez. A short time later, W-18 heard three rapid gunshots.<sup>43</sup> W-18 then saw Hernandez lying on street with blood around him.

### **Statement of W-19**

On April 22, 2020, around 11:27 p.m., W-19 was interviewed at the Newton Station.<sup>44</sup> Earlier that day, around 5:45 p.m., W-19 was driving south on San Pedro Street with W-20 when they came upon a traffic collision that had just occurred. There were damaged cars at the scene and two other cars driving ahead of W-19 that stopped on the street before the scene.

Several patrol cars arrived. The first patrol car had a male officer (Fuchigami), who got out of the driver's side, and a female officer (McBride), who got out from the passenger side. Officer Fuchigami went to look at the collision, while Officer McBride remained. A shirtless man (Hernandez) got out of a black truck. W-19 believed Hernandez got out of the truck from the passenger side. Hernandez held something in his right hand.

Officer McBride repeatedly told Hernandez to "stop." Hernandez continued to approach and Officer McBride "took a few steps back waiting for [Hernandez] to stop." As Hernandez walked toward Officer McBride, he put his arms out parallel to the ground and puffed out his chest as if to "provoke" the officer. When Hernandez continued to approach Officer McBride, she fired shots. Hernandez bent over and fell when he was struck by the bullets. W-19 estimated that Hernandez was 10 to 12 feet away from the officer when she fired the first shots. He heard approximately four gunshots; he described a volley of two shots, a pause and then two more shots. Once Hernandez fell to the ground, W-19 could no longer see him because a patrol car blocked his view. W-19 remained in his truck throughout the entire incident. W-19 opined that Officer McBride's actions were appropriate as she was likely in fear of Hernandez who may have been armed with a weapon. Referring to Hernandez, W-19 noted, "[A] normal person doesn't behave that way."

After the shooting, Officer McBride went to Hernandez's truck to see if anyone else was inside. More patrol cars arrived and officers cordoned off the area.

### **Statement of W-20**

W-20 was interviewed at the Newton Station on April 22, 2020, around 11:01 p.m.<sup>45</sup> Earlier that day, around 5:30 p.m., W-20 was driving with W-19, heading south on San Pedro Street, when they came upon a traffic collision that had just occurred between 31st and 32nd Streets. There were two or three other vehicles ahead of them and they stopped just before the scene.

---

<sup>43</sup> W-18's view was partially blocked by some parked cars. She mistakenly believed that approximately five police officers were present and "surrounding" Hernandez prior to the shooting. Video evidence, however, shows that the other officers did not arrive at the scene until after the OIS.

<sup>44</sup> FID Detectives Zesati and Sally conducted the interview.

<sup>45</sup> FID Detective Arteaga conducted the interview.

W-20 saw a damaged black truck stopped ahead of them. A police car arrived. A female officer (McBride) stood next to the passenger side of the police car and unholstered her gun. Although W-20 did not speak English, he believed Officer McBride ordered the driver of the black truck to get out. W-20 recalled that a Latino man who was not wearing a shirt (Hernandez) climbed out of the passenger side window of the truck. Hernandez's right hand was in a fist. W-20 did not see what, if anything, Hernandez held in his hand. Hernandez walked toward Officer McBride "like throwing himself," "he was out of control," and "didn't seem well." He "looked like he was drunk or something like that."

Officer McBride stood near the patrol car. She told Hernandez "to stop and put his hands back."<sup>46</sup> He continued approaching her, and Officer McBride fired her gun approximately four times. After the shooting, Officer McBride checked the truck to see if there was anyone else inside. Other officers then arrived.<sup>47</sup>

W-20 and W-19 remained in their truck during the incident, and W-19 video recorded the events on his cell phone.

### **Statement of W-21**

W-21 was interviewed on April 28, 2020, at the Police Headquarters facility.<sup>48</sup> On April 22, 2020, around 5:40 p.m., W-21 was at his home and heard "a really loud bang – really, really loud noise." He went outside and saw many people running toward the corner of San Pedro Street and 32nd Street. W-21 ran to the southwest corner of San Pedro. He looked north on San Pedro and saw two cars that were "completely totaled." The drivers inside the cars were motionless. W-21 also saw a black pickup truck in the southbound lane facing north in the wrong direction.

W-21 stood about three car lengths behind the black truck. W-21 heard a UPS driver who was close to the truck say, "He's cutting himself. He's cutting himself. He has a knife." Suddenly, people standing nearby screamed and W-21 saw the driver (Hernandez) get out of the truck. Hernandez was shirtless and appeared to have a knife in his hand. He had blood on his wrists and hands. Hernandez said in English something like, "What? What?" Hernandez waved his arms and walked "all wobbly and weird." Hernandez walked around the front of the truck and then ran to the middle of the street, still holding the knife in his right hand. Hernandez waved the knife around.

W-21 recalled seeing multiple police officers standing 15 to 25 feet north of Hernandez and looking at him.<sup>49</sup> The officers yelled, "Stop! Stop!" Hernandez ran toward the officers. W-21 heard two gunshots, "which buckled [Hernandez] but [he] still kept going towards the officers." W-21 then heard approximately four more gunshots. Hernandez fell to the ground and did not get back up. W-21 did not know which officer fired the shots. After a few moments, the officers moved toward Hernandez. One of the officers kicked the knife away from Hernandez. They then handcuffed him.

### **Statement of W-5**

W-5 was interviewed on April 28, 2020.<sup>50</sup> On April 22, 2020, around 5:40 p.m., W-5 had just arrived at his home on South San Pedro Street and was opening his front door when he heard a very loud crash. He ran to the street and saw a dark pickup truck and three cars at a traffic collision scene. W-5 went to the pickup truck because it was closest to him. From the sidewalk, W-5 saw a Hispanic man (Hernandez) inside the truck. Hernandez got out of the truck and took off his white T-shirt. W-5 asked

---

<sup>46</sup> Later in the interview, W-20 stated that he did not hear anything said by the officer.

<sup>47</sup> Video evidence showed that other police officers arrived prior to Officers McBride and Fuchigami clearing Hernandez's truck.

<sup>48</sup> FID Detectives Zesati and Linscomb conducted the interview.

<sup>49</sup> As previously noted, video evidence reveals that only Officer McBride engaged with Hernandez and other officers did not arrive on the scene until after the OIS.

<sup>50</sup> FID Detectives Zesati and Linscomb conducted the interview.

him, "Are you okay?" Hernandez did not respond. Hernandez got back in the truck and grabbed an approximately three-foot long metal object from the back seat. He hit the windows with it trying to break the glass.

Hernandez then pulled out a "small knife," which W-5 described as similar to a box cutter knife. Hernandez put it to his neck and motioned as if he was going to cut himself. W-5 asked Hernandez, "Are you okay? What is going on with you?" Hernandez replied, "Don't come near me." W-5 stood approximately ten feet from the truck when he attempted to engage Hernandez in conversation. W-5 described Hernandez hanging a piece of fabric on the rearview mirror as if trying to cover the windshield. He again made a motion as if cutting his neck. He repeatedly told other bystanders who approached his truck not to come near him. W-5 heard people who were standing near the truck say, "Don't go near him. He has a knife." Hernandez had blood on his right arm. He looked "very nervous" and "very desperate."

W-5 called 911 and informed the dispatcher, "There was a very bad crash here on 32nd Street and San Pedro, but there's a problem. It appears the individual in the black pickup wants to commit suicide. He's trying to cut his neck with a knife." W-5 moved away from the truck.

Around this same time, a patrol car arrived with a female officer (McBride) and a male officer (Fuchigami).<sup>51</sup> Bystanders yelled to the police, "He has a knife!" Hernandez got out of the truck and went to the middle of the street, holding the knife in his hand. W-5 reported the following: "At that moment, the officers took out the weapons, and they aimed at him. The man [Hernandez] was signaling to the three officers. When the man tried to walk towards the officers, that's when the female officer shot him."<sup>52</sup> W-5 described Hernandez raising his hands "[l]ike saying, 'Come' or 'Come here.'" W-5 could see the knife in Hernandez's right hand.

Officer McBride shot Hernandez two times. He fell and tried to get up, and she shot two more times. Hernandez "tried to get up again, and she shot another two times, and after that, he didn't move." Officer McBride shot a total of six rounds.

W-5 did not hear if Hernandez said anything as he approached Officer McBride because there was a lot of noise from the other bystanders. The officers yelled something to Hernandez before the shots were fired, but he could not remember what was said. He estimated that Hernandez was approximately 25 feet from Officer McBride when she fired the first shots.

### **Statement of W-9**

W-9 was interviewed on April 28, 2020.<sup>53</sup> W-9 ran a security company and indicated he had some law enforcement training. On April 22, 2020, W-9 had just left his house when he "heard a violent collision." He looked to the corner of San Pedro Street and 32nd Street and saw two cars that he at first believed were involved in a head-on collision. As W-9 walked over to the area, he called 911. He also took some photos of the scene with his cell phone.

The driver of a black truck (Hernandez) had come to a stop after crashing into an RV. The first patrol unit arrived. W-9 went to check on the driver of the other car involved in the collision. He heard his neighbor tell a female officer (McBride) that Hernandez had a knife.

---

<sup>51</sup> W-5 mistakenly recalled that another patrol unit arrived with two females and a male and all drew their guns prior to the shooting. Video evidence shows that these officers did not arrive on the scene until after the OIS.

<sup>52</sup> W-5 mistakenly recalled that there were three officers facing Hernandez as he approached. He recalled that one of the officers had a "green gun" like a TASER. As previously noted, based on video evidence, the other officers arrived and drew their weapons after the shooting.

<sup>53</sup> FID Detective Grabe and FID Sergeant Falk conducted the interview.

W-9 saw Hernandez get out of the driver's side of the truck and walk around the back. Hernandez was shirtless. Hernandez's "attention was focused on [the officers]" and he "walked toward them." He appeared to be holding a knife in his right hand.

As Hernandez approached Officer McBride, he was "[t]apping his chest, like he was invincible," "immune to anything," "like, a bad ass." W-9 noted that Hernandez "looked like he was on something." Hernandez had a "crazed look," explained W-9. He described Hernandez's demeanor as follows:

I've been around many years, and I've been around drug addicts. I've been around people that's been on sherm, I've been around people that have been on PCP, and I see the look. I -- I know the look. It's not a -- a regular high kind of a look, you know?

It's not a marijuana look. It's not an alcohol look. It's a look like, you know, you're kind of gone, you know? So he had that kind of look, you know? It's a kind of look that you back away from, you know? Because he's not hearing anything. He's not hearing anything, you know what I mean?

Officer McBride told Hernandez to "Drop the weapon." W-9 heard, but did not see, the first two shots and saw Hernandez fall to the ground.<sup>54</sup> Four more shots were then fired. W-9 was standing at the northeast corner of 32nd Street near San Pedro Street when the shooting occurred.

### **Statements of Hernandez's Family Members**

On April 28, 2020, approximately seven members of Hernandez's family were interviewed together.<sup>55</sup> Hernandez worked as a carpet layer with his father and brother, but his work was interrupted due to the COVID-19 quarantine. On the afternoon of April 22, 2020, Hernandez was at the family residence helping to change the oil in his father's truck. A family member said that "everything was fine" while Hernandez was at the house. Hernandez simply left the residence, however, and did not say goodbye to anyone. He did not leave home upset. A family member said that Hernandez left around 3:30 p.m. No one knew where he had gone. The traffic collisions occurred just a few minutes' drive from the family's house.

Hernandez had used drugs in the past. Some family members reported that Hernandez had been hospitalized a couple of years earlier for drug abuse and alcoholism. He was in rehabilitation for a year. They said he "was calm" when he was released from rehabilitation. Family members relayed that Hernandez showed no indication that he wanted to kill himself or was having any problems and had never previously attempted suicide. On the day of the incident, Hernandez was not under the care of a psychiatrist or psychologist. Family members denied that Hernandez had anger management issues. The family described Hernandez as a quiet, nonaggressive, and passive person.

Hernandez did not have a girlfriend. Family members stated that Hernandez occasionally had misunderstandings with the mother of his child. "But they weren't bickering on a daily basis." They had an "arrangement" in which they shared custody of their child.

The family learned of the OIS incident when people called them about the "videos" posted online.

---

<sup>54</sup> W-9 mistakenly recalled that prior to the shooting, two officers stood on either side of Officer McBride as Hernandez approached. Again, video evidence shows that backup officers did not arrive until after the OIS.

<sup>55</sup> FID Detectives Zesati and Linscomb conducted the interview. Sergeants Andre Wilkins and Ruthann Chavez of the Community Liaison Section also participated in the interview.

## **Medical Examiner's Findings**

### **Autopsy**

On April 24, 2020, Los Angeles County Deputy Medical Examiner Arubakr Marzouk performed an autopsy on Hernandez's body. In summary, the autopsy findings are as follows:

The manner of death was classified as homicide due to gunshot wounds. There were seven gunshot wounds. The autopsy report numbered the gunshot wounds for description purposes only. The numbering did not imply a sequence of fire or have any clinical significance.

### **Gunshot wounds**

Gunshot Wound No. 1 entered the top of Hernandez's head on the right side. There was no exit wound. The bullet had a trajectory of left to right, front to back, and downward. A partially-jacketed projectile was recovered from the back of Hernandez's neck on the right side.

Gunshot Wound No. 2 entered Hernandez's right shoulder. There was no exit wound. The bullet had a trajectory of right to left, front to back and downward. A partially-jacketed projectile was recovered from Hernandez's liver.

Gunshot Wound No. 3 entered the right side of Hernandez's lower abdomen. There was no exit wound. The bullet had a trajectory of front to back and downward. A partially-jacketed projectile was recovered from Hernandez's right iliac bone.

Gunshot Wound No. 4 entered the front of Hernandez's right thigh and exited the back of his right thigh. The bullet had a trajectory of front to back and upward. No projectile was recovered.

Gunshot Wound No. 5 entered the left side of Hernandez's lower abdomen. There was no exit wound. The bullet had a trajectory of left to right, front to back, and downward. A partially-jacketed projectile was recovered from Hernandez's lower back.

Gunshot Wound No. 6 entered the outer portion of Hernandez's left forearm and exited the inner portion of his left forearm. The bullet had a trajectory of left to right, back to front, and slightly upward. No projectile was recovered.

Gunshot Wound No. 7 entered the left side of Hernandez's upper back. There was no exit wound. The bullet had a trajectory of back to front and downward. A partially-jacketed projectile was recovered from Hernandez's chest.

Dr. Marzouk's report reflects that Gunshot Wounds Nos. 5 and 6 may have been caused by the same projectile. The doctor recovered five fired bullets from Hernandez's body.

### **Sharp Force Injuries**

There were incised wounds to Hernandez's left and right forearms. These wounds were superficial, had no clinical significance, and were non-contributory to Hernandez's death.

### **Toxicology**

A toxicology analysis showed the presence of methamphetamine and its active metabolite amphetamine in Hernandez's blood at the time of his death. The analysis was negative for alcohol and other illicit drugs.

## **Summary of Report by Dr. William J. Lewinski, Ph.D., Executive Director of Force Science Institute**

All material provided to the DOJ by FID was submitted to use of force expert Dr. William J. Lewinski of the Force Science Institute (FSI). Dr. Lewinski is a leading behavioral scientist whose work has focused on the intensive study of human dynamics involved in high stress, life-threatening encounters. He has a Ph.D. in Police Psychology and is a professor emeritus of Law Enforcement at Minnesota State University, Mankato, where he taught for more than 28 years. The following is a summary of his report on this OIS.

Dr. Lewinski noted that all behavior can be best understood if it is evaluated within the context in which it occurred. Here, Officer McBride and her partner were interrupted on the way to a call when they came upon a crash scene involving damage to multiple vehicles and significant personal injuries to several people. Based on the video provided, Dr. Lewinski concluded the following: Officer McBride was unaware that her partner was attending to a seriously injured person. The video shows that Officer McBride was just beginning to attempt to establish some overall control of the crowded incident when she perceived Hernandez. She ordered him to show his hands and drop the knife he was carrying, but to no avail. Hernandez then, against her orders, came directly and very intently toward her with a knife in his hands.

On the video, it is apparent that Hernandez's determined behavior restricted Officer McBride's ability to tactically contain and control the situation to ensure the safety of herself and others. Hernandez appeared intently focused on Officer McBride's presence, but he also appeared very focused on his own internal, emotional state and dialogue so he apparently was totally unaffected by what she was saying. Given Hernandez's lack of response to Officer McBride, it is also clear that she could not establish any sort of psychological contact with him and so had little or no psychological or verbal influence on his behavior. That left her with no other option than the use of physical force to stop his threatening behavior with his knife.

In his report, Dr. Lewinski discussed "human performance elements." The first of which is perception and response time. Unexpected actions take longer to process than expected ones, and "the more complicated the visual or sensory task is, the longer it takes to perceive it and then react." "[A]n officer shooting at a moving person who is engaged in an unpredictable movement pattern is going to take longer to align their gun as they attempt to also read and predict the pattern of behavior. Also, the greater the distance and the higher the need for accuracy, the more challenging the visual task of sighting and shooting a handgun is and the longer it will usually take to sight and fire the gun, regardless of the skill or experience of the person."

OIS situations, such as this one, involve complex reaction and decision making. Dr. Lewinski defined this as the interval between the identification of a particular stimuli within a complex visual field and the decision or selection of a response to that stimulus. In this matter, Dr. Lewinski explained that Officer McBride had to perceive the behavior of Hernandez, rapidly make a diagnostic assessment of the possibility of several intervention strategies, and then select the appropriate response. Of particular note, Dr. Lewinski observed that "[a]n average person can quickly close [a distance between himself and another point] about 40 feet [away] in under 3 seconds." Thus, if Officer McBride could not influence Hernandez, "she had only seconds to protect herself and even less time to protect others who were closer" to Hernandez. Dr. Lewinski noted that Officer McBride chose to use verbal commands in an effort to take control of the situation, but when that had no effect, and Hernandez continued to close the distance between them, she shifted to deadly force.

The second human performance element discussed by Dr. Lewinski is “attention” which is a “cognitive function that is involved in the activation and selection process of any cognitive or motor process. The focus of attention generally determines what a person can detect and react to.” An officer using a firearm can focus on her sights or the target. If accurate shots were to be made by Officer McBride in these circumstances, certain foundational, perceptual and cognitive elements had to be functioning for that to occur. Those take time and limit the information the officer is able to process.

The third element discussed by Dr. Lewinski is “interceptive timing,” which is a complex task that involves a high level of coordination between the detectable movement and path of travel of a visual object and the motor coordination and skill required to detect, accurately read, and predict the path of travel, and then intercept that object.

Dr. Lewinski explained that after “Hernandez was [struck] by the first series of shots, his movement became unpredictable and someone tracking his movement and attempting an intercept point while aiming a gun would have a difficult time tracking, targeting, and simultaneously detecting change in his behavior.” That “Hernandez’s movement became erratic and unpredictable meant that anyone trying to predict and then respond to a point in his movement would take a longer period to acquire a sight picture and shoot. Also, once the decision to shoot occurred, any officer’s ability to perceive change and stop shooting would be impaired as the officer would then focus attentionally and visually on shooting quickly and accurately on a moving target.”

Regarding the timing of the OIS event, Dr. Lewinski’s report included the following graph:

EVENT, TIME, AND FRAME TAGGING FOR THE LAPD ANNOTATED VIDEO					
Shot	Time	Interval	Decision Interval “approximation”	Visual Motor Action (recoil and muzzle flip, Trigger reset, Sighting – “approximation”)	
1.	0	0	?	?	FRAME - 12295
2.	0.739	0.739	0	0.739	FRAME -12317
<hr/>					
3.	3.272	2.533	2 seconds	0.7	FRAME - 12393
4.	4.014	0.742	0	0.742	FRAME - 12415
	a.	(3.99 LAPD time)			
<hr/>					
5.	5.392	1.378	0.7 seconds	0.7	FRAME -12456
	a.	(5.35 LAPD time - INTERVAL = 1.36)			
6.	6.219	0.827	0	0.827	FRAME - 12481
		(6.18 LAPD time - INTERVAL = .83)			

Officer McBride’s shooting cadence was a series of three combinations of two shots or “double taps.”

Dr. Lewinski observed it would be reasonable to expect even a very skilled officer, shooting a handgun at approximately 40 feet at an unpredictable or irregularly moving person, to take longer than four-tenths of a second between shooting two shots as the officer needs to be visually and attentionally

focused on sighting and firing rapidly. It would also be reasonable to believe that an officer would take eighteen one hundredths of a second for a “sight glimpse” (for sighting on a near and stable target) and another approximately half of a second to focus on placing an accurate shot on a distant and unpredictably moving target. Also, in that three quarters of a second, the officer would be focused on sighting and shooting accurately rather than on assessing whether that person had changed in their threatening behavior.

It is important to note that, in the early stages of this encounter, all of Hernandez’s movement appeared to be part of a determined effort to continue his assaultive behavior. Therefore, the challenge facing Officer McBride was on stopping Hernandez. The autopsy report reveals that all of Officer McBride’s shots struck Hernandez. During this incident, however, Officer McBride could only have known if her efforts were successful by observing that Hernandez clearly stopped his efforts to continue his attack. Up until the impact of the last two shots, that was not readily apparent.

Dr. Lewinski explained that, “Officer McBride, based on her cadence of gunfire, appears to be assessing, shooting twice, assessing, shooting twice and then assessing and shooting twice. “During her double tapping or shooting twice, she is taking approximately seven tenths of a second” between the double taps. Dr. Lewinski noted that generally an officer’s visual and attentional focus for such a brief period, when shooting at that distance, with a person moving unpredictably and with a crowded background, would be on accurate shot placement. It would not be on any detectable change in the person’s behavior. Dr. Lewinski observed, “If Officer McBride was able to detect a change in Mr. Hernandez’s behavior it would have been in between the double taps. In both of those intervals Mr. Hernandez could be seen moving dynamically, which would convey the impression that he had not ceased in his effort to get up and continue his attack.”

**Dr. Lewinski concluded the following:**

Officer McBride took two seconds between the first and second series of two shots and one and a third seconds between the second and third series of two shots. This time in between the rapid series of two shots is apparently being used by her as judgment time. The judgment an officer would be making is to quickly determine whether the shots had any impact on Mr. Hernandez to influence him to stop his efforts in continuing his attack. It is known from the autopsy that Officer McBride’s shots all struck Mr. Hernandez. However, at no point up until after the last two shots, is it apparent that Mr. Hernandez had stopped in his efforts to get up and to continue with his assaultive behavior.

Given that Officer McBride apparently took approximately three quarters of a second to confirm an accurate sight picture and shot, every time she was rapidly shooting twice, means that the final series of two shots was based on the judgment she made of Mr. Hernandez’s behavior while he was rapidly rolling and apparently still attempting to get up as illustrated in the accompanying video, (frames 12430-12457). This was determined based on subtracting approximately three quarters of a second (the time Officer McBride took for a sight picture in her double tap—two rapid sequential shots—from the start of her last two shots, also noted as starting at time 5.392 seconds. She would have to do that to ensure that the first of the last two shots was as accurate as the second of the last two shots. Every shot she took was critical and had to be accurate. Therefore, every shot required the same sighting and timing process.

The last two shots were then apparently made based on her assessment of the behavior of Mr. Hernandez, who at the point in the video (frames 12430-12457), despite obviously being shot, was still not compliant and presented no observable behavioral indicator that he had ceased in his effort to get up. Because of Mr. Hernandez's rotation, angle, and compressed body position, the remaining two final shots were so challenging that even a very talented officer would have to be visually and attentionally focused only on an accurate shot placement for the approximately last second of this incident. Therefore, if Officer McBride was attentionally focused for the last second on shooting accurately, as this challenging incident required, she could not have detected the cessation of Mr. Hernandez's threat until she had completed the last series of two shots.

One could also conjecture from linking Mr. Hernandez's movement and the alignment of Officer McBride's gunshots, both from the video and the coroner's report, that her last two shots were the ones that prevented Mr. Hernandez from continuing his assaultive behavior rather than the conclusion that Mr. Hernandez stopped his efforts and was then shot by Officer McBride's last shots.

Shot number two [as identified in the coroner's report] struck Mr. Hernandez in the right shoulder as he was rapidly rolling over from his back to a prone position and had a trajectory from right to left, back to front and downward, apparently toward his liver. Shot number one in the coroner's report, the shot that struck Mr. Hernandez on the right top of his head, was the last shot that Officer McBride fired. Up until those two shots Mr. Hernandez appeared to be attempting to determinedly get to his feet and continue his assaultive behavior despite being shot multiple times. Therefore, an argument might be made that it was Officer McBride's last two shots but especially the last one that finally caused Mr. Hernandez to stop his threatening action.

## **DOJ Findings**

1. On April 22, 2020, Hernandez caused a major multi-vehicle traffic collision with serious injuries to two victims on San Pedro Street near the intersection of 32nd Street in Los Angeles. Hernandez had methamphetamine and its active metabolite in his system. According to his family, Hernandez had been in rehabilitation within the last year or two.
2. After the traffic collision, Hernandez climbed out of the driver's side window of his truck and surveyed the damage he caused. He climbed back into the cab of the truck, armed himself with a utility knife, and made superficial cuts on his wrists. He also held the knife to his throat and made slashing motions, but he did not make any cuts. According to witnesses, Hernandez appeared to have a psychotic break and was suicidal; he appeared desperate and paranoid, told some bystanders to get away from him, and upon hearing police sirens stated, "They're going to get me."
3. Officers Fuchigami and McBride were on patrol in a marked LAPD SUV and in uniform, responding to an unrelated call for backup. They had previously worked together on at least one prior occasion. They did not discuss tactics before this shift.
4. The officers came upon the scene at 5:37 p.m., several minutes after the collision. It was daylight and clear weather. The patrol vehicle's DICVS and Officer McBride's BWV were activated and functioning. Officer Fuchigami's BWV was turned off and not reactivated. Almost immediately upon arriving at the scene, the officers were informed by witnesses that Hernandez was armed with a knife and in his truck. Additionally, the Communication Division broadcast an update to

a previous call for an ambulance that the situation was now an “ADW” (assault with a deadly weapon) and the suspect was “armed with a knife.”

5. Officer McBride unholstered her pistol and held it at a low-ready position pointed toward the ground while standing in the middle of the street next to W-4’s parked car. Officer Fuchigami broadcast a request for backup and noted “man with a knife.” Officer McBride gave commands to bystanders to move away from Hernandez’s truck. Her attention was focused on the area around Hernandez’s truck.
6. Unbeknownst to Officer McBride, Officer Fuchigami redeployed to the east sidewalk area to assist V-1 who sat severely injured in her wrecked Kia.
7. As Officer McBride directed various bystanders to move away from the area, she simultaneously stated, “Partner, right now we need to get cover,” and, “Partner, do we have less-lethal?” There was approximately 54 feet between Officer Fuchigami and Officer McBride. He did not hear Officer McBride.
8. Approximately one minute after the officers arrived on the scene, Hernandez got out from the driver’s side of his truck. Officer McBride stated, “Hey partner, he might be running.” Approximately six seconds later, Hernandez appeared from behind the truck and walked toward Officer McBride. She loudly stated to Hernandez, “Hey man, let me see your hands. Let me see your hands, man.”
9. Hernandez was approximately 43 feet from Officer McBride when he advanced toward her while armed with a knife. He was shirtless and held the knife in his right hand. As Hernandez closed the distance, Officer McBride ordered him to, “Stay right there. Drop the knife!” In addition to giving verbal commands, Officer McBride simultaneously gestured with her left hand for Hernandez to stop. Hernandez took large steps and closed the distance between them quickly.
10. An average person can close a distance of about 40 feet in under three seconds.
11. In an apparent attempt to gain time to control the situation, Officer McBride walked backwards approximately 10 feet toward the rear of W-4’s Camry as Hernandez approached her. Hernandez displayed the knife in his right hand and lifted his arms up from his sides in an aggressive manner as he continued walking toward Officer McBride. Hernandez looked agitated, and numerous witnesses reported that he appeared to be on drugs.
12. As Hernandez closed the distance, he clenched his hands into fists. Some of the witnesses described Hernandez’s behavior as confrontational and threatening to fight. The video from the DICVS, Officer McBride’s BWV, and bystander cell phone video bear out these observations.
13. Having stopped near the rear corner panel of W-4’s car, Officer McBride yelled, “Drop the knife! Drop the knife!” Video footage shows Hernandez speaking, but his words cannot be heard. W-4 heard Hernandez reply to Officer McBride, “I’m not going to throw it down.” In the video footage, Hernandez appeared to be intently focused on Officer McBride.
14. Hernandez continued toward Officer McBride with the knife in his right hand, and he closed the distance to approximately 40 feet while Officer McBride maintained her pistol at a low-ready position pointed toward the ground. She raised her pistol. From Hernandez’s actions, it was apparent that Officer McBride had little or no psychological or verbal influence on his behavior.
15. After Officer McBride raised her pistol, Hernandez took four additional steps toward her. From an approximate distance of 36 feet, Officer McBride pointed her pistol at Hernandez and yelled, “Drop it!” Five seconds had elapsed between Hernandez emerging from behind the truck and Officer McBride raising her pistol.

16. Officer McBride fired two rounds. Her BWV depicts Hernandez continuing to move toward her at the time she fired the first shot. After she fired the second round, Hernandez fell to the ground on his right side. He immediately placed both hands on the pavement, planted his feet and lifted himself into a crouched position while still holding the knife in his right hand. Hernandez appeared as if he was about to charge at Officer McBride.
17. While Hernandez was in this crouched position, leaning forward, Officer McBride yelled, “Drop it!” She then fired a third round. Hernandez fell laterally onto his right buttock and the right side of his lower back. Almost simultaneously, Officer McBride fired a fourth round—the second shot of the second double tap.
18. Hernandez remained armed with the knife in his right hand. After being struck by the fourth round, Hernandez fell onto his back and immediately rolled onto his left side. At this point, Hernandez was approximately 26 feet away from V-1, who remained incapacitated in her car. There were also multiple bystanders not far from Hernandez.
19. Hernandez rolled to his right, and Officer McBride fired a fifth round. Hernandez continued rolling to his right and planted his left elbow on the ground. He at once lifted himself onto his left leg and left knee before collapsing onto his stomach as Officer McBride fired her sixth and last shot. Hernandez was approximately 18 feet away from V-1 and still held the knife in his right hand.
20. The timing of the shots are as follows, with the first shot beginning at zero time. The second shot came seven-tenths of a second later. The third shot occurred approximately two and a half seconds after the second shot. This was followed by the fourth shot occurring approximately seven-tenths of a second later. This was then followed by an approximately one and a third second interval then a fifth shot which was followed eight-tenths of a second later by the sixth and final shot.
21. Officer McBride fired the six rounds in 6.18 seconds.
22. Hernandez died of multiple gunshot wounds.

## Applicable Legal Standards

The sole question decided by the DOJ is whether Officer McBride violated any criminal law. Whether an officer is criminally liable depends on the facts of the case and whether those facts constitute a crime under the applicable law.

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].)

Possible criminal charges against an officer involved in a fatal shooting include murder (Pen. Code, § 187) and manslaughter (Pen. Code, § 192). To convict an officer of a homicide charge, however, it would be necessary to prove beyond a reasonable doubt that no legal justification existed for the officer’s actions. (*People v. Banks* (1976) 67 Cal.App.3d 379, 383-384.) Several justifications may apply in any given case, and they are set forth in Penal Code sections 196, 197, and 835a. The justifications pertinent to this case are use of force in self-defense and defense of others, which are found in these Penal Code sections.

California law permits all persons to use deadly force to protect themselves from the imminent threat of death or great bodily injury.

In the context of an OIS, Penal Code section 835a reflects the Legislature’s intent that a peace officer may “use deadly force only when necessary in defense of human life. In determining 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).) In pertinent part, subdivision (c) (1) of section 835a provides 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 . . . [t]o defend against an imminent threat of death or serious bodily injury to the officer or to another person.” Penal Code section 197 similarly provides that the use of deadly force by any person is justifiable when used in self-defense or in defense of others.

The relevant criminal jury instruction, as written by the Judicial Council of California, is set forth in CALCRIM 507 (“Justifiable Homicide: By Peace Officer”). The instruction provides, in pertinent part, that a homicide committed by a peace officer is justified if she reasonably believed, based on the totality of the circumstances, that the force was necessary to defend against an imminent threat of death or serious bodily injury to the officer or another person.<sup>56</sup>

CALCRIM 507 further instructs that in considering the totality of circumstances, a jury may consider such factors as: (1) prior to the use of force, the officer identified or attempted to identify herself as a peace officer and warned or attempted to warn that deadly force may be used; (2) prior to the use of force, the officer had objectively reasonable grounds to believe the person was aware that she was a peace officer and that deadly force may be used; and (3) the officer was able, under the circumstances, to identify or attempt to identify herself as a peace officer and to warn or attempt to warn that deadly force may be used.

A person may resort to the use of deadly force in self-defense or in defense of another where there is a reasonable need to protect oneself or someone else from an apparent, imminent threat of death or great bodily injury. (*People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *People v. Minifie* (1996) 13 Cal.4th 1055, 1064-1065.) Perfect self-defense requires both a subjective honest belief in the need to defend and objective reasonableness. (See, e.g., *People v. Stitely* (2005) 35 Cal.4th 514, 551; *People v. Aris* (1989) 215 Cal.App.3d 1178, 1186.) Additionally, “[i]mminence is a critical component of both prongs of self-defense.” (*Humphrey, supra*, 13 Cal.4th at p. 1094 (conc. of Brown, J.)) “An imminent peril is one that, from appearances, must be instantly dealt with.” (*In re Christian S.* (1994) 7 Cal.4th 768, 783.)

Penal Code section 835a, subdivision (d)(2) further defines imminence as follows: “A threat of death or serious bodily injury is ‘imminent’ when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.” “‘Totality of the circumstances’ means all facts known to the peace officer

---

<sup>56</sup> See also, CALCRIM 505 (“Justifiable Homicide: Self-Defense or Defense of Another”). The instruction states that a person acts in lawful self-defense or defense of another if: (1) she reasonably believed that she or someone else was in imminent danger of being killed or suffering great bodily injury; and (2) she reasonably believed that the immediate use of deadly force was necessary to defend against that danger. In lawful self-defense or defense of another, a person may use no more force than is reasonably necessary to defend against the danger.

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).)

A person’s right of self-defense is the same whether the danger is real or merely apparent. (*People v. Minifie, supra*, 13 Cal.4th at p. 1068; *People v. Jackson* (1965) 233 Cal.App.2d 639, 642.) If the person’s beliefs were reasonable, the danger does not need to have actually existed. (CALCRIM 505.) What constitutes “reasonable” self-defense or defense of others is controlled by the circumstances. The question is whether action was instantly required to avoid death or great bodily injury. In this regard, there is no duty to wait until an injury has been inflicted to be sure that deadly force is indeed appropriate. (See *People v. Reed* (1969) 270 Cal.App.2d 37, 45.)

There is no requirement that a person (including a police officer) retreat even if safety could have been achieved by retreating. (*People v. Ross* (2007) 155 Cal.App.4th 1033, 1044, fn. 13; *People v. Collins* (1961) 189 Cal.App.2d 575, 588; *People v. Hatchett* (1942) 56 Cal.App.2d 20, 22 [“[A] person in the exercise of her right of self-defense not only has a right to stand her ground and defend herself when attacked, but she may pursue her adversary until she has secured herself from danger”]; see CALCRIM 505; see also Pen. Code, § 835a, subd. (d) [“A peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right to self-defense by the use of objectively reasonable force in compliance with subdivisions (b) and (c) to effect the arrest or to prevent escape or to overcome resistance”].) In addition, police officers are not constitutionally required to use all feasible alternatives to avoid a situation where the use of deadly force is reasonable and justified. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 348.)

When deciding whether a person’s beliefs were reasonable, a jury considers all the circumstances as they were known to and appeared to the person and considers what a reasonable person in a similar situation with similar knowledge would have believed. (CALCRIM 505.)

The People have the burden of proving beyond a reasonable doubt that the killing was not justified. (CALCRIM 505, 507.) It is *not* a criminal defendant’s burden to prove that force was necessary or reasonable. The People 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. Absent direct evidence that an officer did not actually or reasonably believe in the need for force, circumstantial evidence must be used. If two reasonable conclusions can be drawn from circumstantial evidence, however, and one of those reasonable conclusions points to innocence, jurors are instructed that they must accept the one that points to innocence. (CALCRIM 224.)

In the related context of cases alleging excessive force by police, the United States Supreme Court has held that a police officer’s use of force should be analyzed under the reasonableness standard of the Fourth Amendment to the United States Constitution. The Supreme Court stated, “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight . . . . The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” (*Graham v. Conner* (1989) 490 U.S. 386, 396-397; see also Pen. Code, § 835a, subd. (a)(4) [“the decision by a peace officer to use force shall be evaluated 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”].) “What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.” (*Martinez, supra*, 47 Cal.App.4th at p. 343, quoting *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.) “In the words of Justice Holms, ‘Detached reflection cannot be demanded in the presence of an uplifted knife.’” (*Humphrey, supra*, 13 Cal.4th at p. 1094, quoting *Brown v. United States* (1921) 256 U.S. 335, 343.) Moreover, the Supreme Court has found that the overall number of shots fired is not the correct measure of reasonableness. (See *Plumhoff v. Rickard* (2014) 572 U.S. 765, 777-78 [“It stands to reason that, if police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended”].)

In the present case, the Medical Examiner determined the cause of death for Hernandez was multiple gunshot wounds. To establish criminal liability, the evidence must show beyond a reasonable doubt that Officer McBride killed Hernandez and did not reasonably believe that she or another person was in imminent danger of great bodily injury or death.

## Analysis

After an independent review of the evidence discussed above, the DOJ concludes that the LAPD FID conducted a thorough and independent investigation of this OIS. Based on our independent review of this evidence and the expert opinion of Dr. Lewinski, the DOJ has determined that Officer McBride acted in reasonable self-defense and/or defense of others and, therefore, criminal charges are not warranted.

Determining whether Officer McBride was legally justified in her use of a firearm under the principles of self-defense and defense of others involves a two-part analysis: (1) determining whether she subjectively and honestly believed she needed to protect herself or others from an apparent, imminent threat of death or great bodily injury; and (2) determining whether her belief in the need to protect herself or others from an apparent, imminent threat of death or great bodily injury was objectively reasonable.

The evidence demonstrates that Officer McBride’s fear of imminent danger of great bodily injury or death to herself and others at the scene was genuine and objectively reasonable under the circumstances. In other words, the facts and circumstances reflect that Officer McBride acted in a manner in which a police officer in her position would actually and reasonably believe in the need for self-defense and defense of others. The evidence does not support the contention that the shooting of Hernandez was criminal.

Officer McBride and her partner happened upon the traffic collision scene while responding to an unrelated call for backup. Within moments of arriving at the chaotic scene, the officers were informed by witnesses and through the Communications Division radio broadcast that the person who caused the accident, Hernandez, was in his truck and armed with a knife. Officer McBride tactically assumed the lethal role by unholstering her pistol. Her comments directed to her partner, about taking cover and whether “less-lethal” means were available, suggest that Officer McBride was attempting to formulate a tactical plan to control Hernandez and take him into custody without resorting to lethal force.

Hernandez was plainly on notice that this was a police action. According to witnesses, he reacted to the sound of the approaching police sirens. Officer McBride was in uniform and had her pistol drawn. Hernandez aggressively approached Officer McBride by taking broad steps and raising his arms despite her repeated commands for him to stop and put the knife down. He clearly held an edge weapon in his right hand. Although not legally required to do so, Officer McBride redeployed—moving backward approximately 10 feet as Hernandez advanced—which further suggests a desire on the officer’s part not to use deadly force and to de-escalate the encounter by giving Hernandez time to drop the knife and surrender. Officer McBride’s movement backward also demonstrates that she had a concern Hernandez was getting too close and could harm her. Nevertheless, Hernandez continued his approach undaunted by Officer McBride’s clear verbal and hand gesture commands to stop and disarm himself.

Officer McBride could reasonably have perceived Hernandez as did other witnesses. W-9 noted that Hernandez had a “crazed look”; W-1 reported that Hernandez appeared “ready to fight”; W-2 described Hernandez swinging his arms in a confrontational manner, “rushing” at Officer McBride, and appearing to have a “temper” fueled by drugs; V-3 saw Hernandez raise his arms and clench his fist that held the knife; W-6 heard Hernandez scream at Officer McBride; W-13 described Hernandez quickly moving toward Officer McBride; W-17 described Hernandez as looking “crazy” and moving toward Officer McBride “like he was challenging her”; W-19 saw Hernandez raise his arms and puff out his chest as if to “provoke” Officer McBride; and W-20 described Hernandez as “out of control.” The knife Hernandez held was clearly visible to most of the witnesses, and W-4 heard Hernandez say in response to Officer McBride’s commands that he would not drop the knife. Hernandez appeared extremely agitated as if under the influence of narcotics, and he had methamphetamine in his system. It is well known that the use of such illicit drugs can have the effect of impairing judgment, inducing aggression, and triggering violent behavior.

As noted, an average person holding an edge weapon can close a distance of approximately 40 feet in under three seconds. Thus, when Hernandez continued to close the distance between himself and Officer McBride, she had mere seconds to decide on a course of action. After Officer McBride raised her pistol at Hernandez, he took four additional steps toward her. When Hernandez was approximately 36 feet away, Officer McBride fired the first volley of two shots. Hernandez continued to move toward the officer after she fired the first shot. Given the facts and circumstances up to that point, Officer McBride appeared to subjectively and honestly believe in the need to protect herself. Such a belief is also objectively reasonable under the circumstances based on Hernandez’s aggressive approach while armed with an edge weapon.

The video recordings of the shooting after the first volley of shots show that Hernandez was hit and he fell to the ground. But he immediately placed both hands on the pavement and planted his feet and lifted himself into a crouched position while still holding the knife in his right hand. He appeared as if he was readying to run toward Officer McBride. A reasonable officer could also have assumed that the initial volley of shots was ineffective based on Hernandez’s ability to move into a crouched position. He, thus, remained an imminent threat to Officer McBride.

Officer McBride again commanded Hernandez to drop the knife. She gave Hernandez an additional two seconds to drop the knife. Hernandez did not comply and Officer McBride fired the second volley of double taps (the third and fourth shots). Because Hernandez appeared as if he was about to charge at Officer McBride and still held the knife in his right hand, the use of lethal force was a justified measure of self-defense.

After the fourth shot, Hernandez fell to the ground on his back but immediately continued to move and roll onto his left side toward V-1, who remained incapacitated in her car approximately 26 feet away. Hernandez's movement suggested that he was again attempting to gain his footing by raising up on his left arm and leg. He was still holding the knife, and other civilians stood nearby. Officer McBride then fired the final volley of double taps (the fifth and six shots).

Dr. Lewinski opined in his report that the last two shots were made based on Officer McBride's assessment of Hernandez's behavior, "who at the point in the video (frames 12430 -12457), despite obviously being shot, was still not compliant." Dr. Lewinski observed, "If Officer McBride was able to detect a change in Mr. Hernandez's behavior it would have been in between the double taps. In both of those intervals Mr. Hernandez could be seen moving dynamically, which would convey the impression that he had not ceased in his effort to get up and continue his attack." Dr. Lewinski further explained that due to the challenging nature of the final two shots, "if Officer McBride was attentionally focused for the later part of the last second, on shooting accurately, as this challenging incident would require, she could not detect the cessation of Mr. Hernandez's threat until she had completed the last series of two shots."

Although there was only approximately a one-and-a-third-second-interval between the fourth and fifth shots, Officer McBride could nevertheless subjectively and honestly have believed in the need to protect others and/or herself. Hernandez had not previously complied with her repeated commands for him to drop the knife, and his final actions could reasonably be perceived as an attempt to move toward others on the east sidewalk area—particularly the incapacitated V-1 who was between 18 and 26 feet away from Hernandez when Officer McBride fired the fifth round. Hernandez continued to pose a threat of great bodily harm or death to the officer and many nearby civilians despite having been shot.

Given Hernandez's previous resilience and apparent determination, it was objectionably reasonable that Officer McBride feared he could move to the sidewalk in the vicinity of bystanders and endanger them with his knife. As Dr. Lewinski noted, "Up until those two shots Mr. Hernandez appeared to be attempting to determinedly get to his feet and continue his assaultive behavior despite being shot multiple times. Therefore, an argument might be made that it was Officer McBride's last two shots but especially the last one that finally caused Mr. Hernandez to stop his threatening action." (See also *Plumhoff, supra*, 572 U.S. at 777-78 [the shooting must stop when "the threat ha[d] ended"].)

Significantly, had Hernandez been able to move further toward the sidewalk area, Officer McBride would have lost the tactical ability to control the situation. Hernandez posed a threat not only to Officer McBride, but also to the numerous nearby bystanders. He had already caused a serious traffic collision and injured several people, two of whom were incapacitated nearby. If Hernandez had been able to get closer to those bystanders, Officer McBride likely would have been unable to safely fire her gun in order to protect them or herself. In the end, despite having been shot six times, Hernandez continued to clutch the knife in his right hand.

The rapidly evolving events in this case exemplify how police officers are required to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a situation. After examining all the evidence, the DOJ concludes that the facts and circumstances known to Officer McBride justified her use of deadly force with each volley of shots.

## **Conclusion**

Based on the evidence reviewed in this case, Officer McBride actually and reasonably believed that she needed to use deadly force to protect herself and others when Hernandez, armed with a knife, ignored explicit and repeated commands at gunpoint to drop the knife and stop his approach. Further, Officer McBride used only that force which was necessary to guard against that threat. Given the facts and applicable law, there is insufficient evidence to support a criminal prosecution of Officer McBride. As such, no further action will be taken in this case.