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# DEPARTMENT OF JUSTICE

## Report on the Investigation into the Death of Samuel Soto on July 26, 2021

Los Angeles County AB 1506

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FEBRUARY 2024



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# INVESTIGATION OF OFFICER INVOLVED SHOOTING

## BACKGROUND—AB 1506

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

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

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

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

## **PRIVACY STATEMENT**

This report includes redactions of the names and other identifying information of witnesses to the officer-involved shooting (“OIS”) and family members of Samuel Soto. 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 are indexed as follows:

- Witness 1 (W-1), 911 Caller
- Witness 2 (W-2), Wife of 911 Caller
- Witness 3 (W-3), Nephew of 911 Caller
- Witness 4 (W-4), Second 911 Caller
- Witness 5 (W-5), Neighbor across the street
- Witness 6 (W-6), Owner of tan Nissan Xterra
- Witness 7 (W-7), Sister of Samuel Soto

## **INTRODUCTION**

On July 26, 2021, Los Angeles Police Department (“LAPD”) Officer Eduardo Martinez and Officer David Voci shot Samuel Soto (hereafter “Mr. Soto”) while responding to an assault with a deadly weapon call. The California Department of Justice (“DOJ”) assumed jurisdiction and investigated this shooting on November 2, 2021, after Mr. Soto died from the injuries he sustained during the shooting.

The Department of Justice investigated and reviewed the OIS pursuant to Government Code section 12525.3 (enacted by Assembly Bill 1506). This report is the final step in the DOJ’s review of the fatal OIS of Mr. Soto. The scope of this report is limited to determining whether criminal charges should be brought against the involved officer, and offering possible policy and practice recommendations as required by Government Code section 12525.3, subdivision (b)(2). The review does not encompass or comment on any potential administrative or civil actions. Based on the criminal investigation, review of evidence, and evaluation of the case, we have determined that there is insufficient evidence to support the filing of criminal charges against Officers Martinez and Voci.

## SUMMARY OF INCIDENT

On July 26, 2021, at approximately 8:44 PM, W-1, an off-duty police officer, was on a family vacation in Los Angeles from Texas. W-1 and his family were traveling in two cars. They were stopped on South Union Avenue just south of Pico Boulevard in the City of Los Angeles when W-1 saw a man, later identified as Mr. Soto, leaning against a wall near the southwest corner and bleeding from his neck. W-1 approached Mr. Soto who stated he did not need help; Mr. Soto was holding a knife.



Figure 1: Description of scene when W-1 first observed Mr. Soto. (This series of photos are created for situational awareness and are depicted during daylight hours.)

W-1 called 911 and provided Mr. Soto's location and description to the dispatcher. While W-1 spoke to the dispatcher, Mr. Soto began walking southbound on South Union Avenue. W-1 followed Mr. Soto from a safe distance while relaying information to the dispatcher on a bluetooth wireless device, including that Mr. Soto had a knife. W-1 saw Mr. Soto lift the knife to his neck and move the knife in a cutting motion. Over the course of the 911 call, W-1 told the dispatcher various observations including: *"He might have done it to himself. I believe he's holding a small little blade in his right hand...He has a blade. I don't know if he did it to himself. Self-inflicted wound or not...I don't know if he's trying to kill himself or not...Yeah, he might be self-inflicting himself...Yeah, he's self-inflicting, yeah he's self-inflicting his wound...Yeah, he's self-inflicting."*

W-1's stepdaughter, W-4, also called 911 from inside her parked car. She reported to the dispatcher that a man was "gushing blood" from his neck near Pico Boulevard and Union Avenue.



Figure 2: Description of scene when Mr. Soto turned back to confront W-1 and W-3

At approximately 8:49 PM, Mr. Soto was near an alleyway roughly 200 feet south of Pico Boulevard. He turned toward W-1, his nephew W-3, and W-1’s wife W-2, who had left their car to help W-1. While pointing his knife directly out in front of him, W-1 described that Mr. Soto rapidly walked within ten feet of W-1 in an “aggressive manner.” W-1 backpedaled to move away from Mr. Soto. Fearing for his and his family’s life, W-1 took out a lawfully carried and registered Glock nine-millimeter firearm from his waistband, pointed it at Mr. Soto, and ordered Mr. Soto to stop. Mr. Soto did not comply and continued to move toward W-1 with the knife extended out.



Figure 3: Description of scene when Officers Martinez and Mejia arrived

LAPD Officers Ruben Mejia and Eduardo Martinez responded to W-1's 911 call. Based on review of the officers' body-worn camera footage ("BWC"), radio recordings, and Officer Mejia's statement, the LAPD dispatcher informed Officers Martinez and Mejia that the call was a "245AK." "245" is a reference to Penal Code section 245, Assault with a Deadly Weapon. "AK" is shorthand for "Ambulance Cutting," meaning that a knife was involved, and an ambulance was requested. Officer Mejia acknowledged the call and responded that their unit was equipped with less lethal options, a LAPD requirement for an "Ambulance Cutting" call. While en route to the call's location, Officer Mejia discussed with Officer Martinez that there was a male "slashed in the neck," but there was no suspect information.

Officers Martinez and Mejia, the first officers at the location, arrived northbound on South Union Avenue at 8:49 PM. The officers were dressed in LAPD issued uniforms and driving a fully marked patrol car with its lights and sirens activated. When Officers Martinez and Mejia arrived, W-1 described that Mr. Soto was still "charging" at W-1. At the time, W-1 had his weapon drawn, and W-3 was standing in a defensive fighting stance, as shown in Officer Martinez's digital in-car video system ("DICVS").



Figure 4: Officer Martinez's DICVS showing Mr. Soto, in bottom left corner with a knife and W-3 in a defensive stance highlighted in the rectangle

As Officers Martinez and Mejia exited their patrol car, Mr. Soto immediately turned in a south-easterly direction toward the officers.<sup>1</sup> According to Officer Mejia’s statement, he immediately saw Mr. Soto, who was about ten to fifteen feet away, armed with a knife in his right hand, with blood around the same hand. Officer Mejia was unsure if Mr. Soto had more than one weapon because Officer Mejia could not see Mr. Soto’s left hand. All of this information indicated to Officer Mejia that Mr. Soto was potentially the suspect. Officer Mejia told Mr. Soto, “Hey, let me see your hands bro.” W-1 told the officers that Mr. Soto had a knife. Officer Mejia unholstered his firearm and held it down to his side.



Figure 5: View from Officer Martinez’s BWC of Mr. Soto wearing the blue shirt upon arrival

Mr. Soto then ran toward Officer Martinez, who was exiting the driver’s side door of the patrol car. Officer Martinez backpedaled toward the rear of his car. Officer Martinez unholstered his firearm and pointed it at Mr. Soto while yelling, “Get the blade. Get the blade up. Get the blade up.” Mr. Soto did not comply and continued to run toward Officer Martinez while holding a knife in his right hand with his arm extended. When Mr. Soto was approximately five to ten feet from Officer Martinez,<sup>2</sup> Officer Martinez fired two shots, within 0.50 seconds, in Mr. Soto’s direction.

Both shots missed Mr. Soto and struck an unoccupied tan Nissan Xterra that was parked behind Mr. Soto. Just before Officer Martinez fired the first shot, Officer Mejia stated, “Officers need help.” One second after the second shot was fired, Officer Mejia again stated, “Officers need help! Shots fired!” Although the body-worn camera video captures Officer Mejia holding his radio while making the statements and the context of the statements makes it appear that he attempted to broadcast, the statements were not broadcast; it is unknown whether this was a result of equipment failure or some other cause.

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1 Except as noted, information regarding the officers’ arrival at the scene and their interactions with Mr. Soto come almost entirely from body-worn camera video.

2 The distance is an approximation based on investigative observations at the incident scene and review of body-worn camera video, as well as W-1’s observation.





Figure 6: View from Officer Martinez’s BWC immediately before he fired the first shot showing Mr. Soto in the blue shirt holding a knife and Officer Meja speaking into his radio

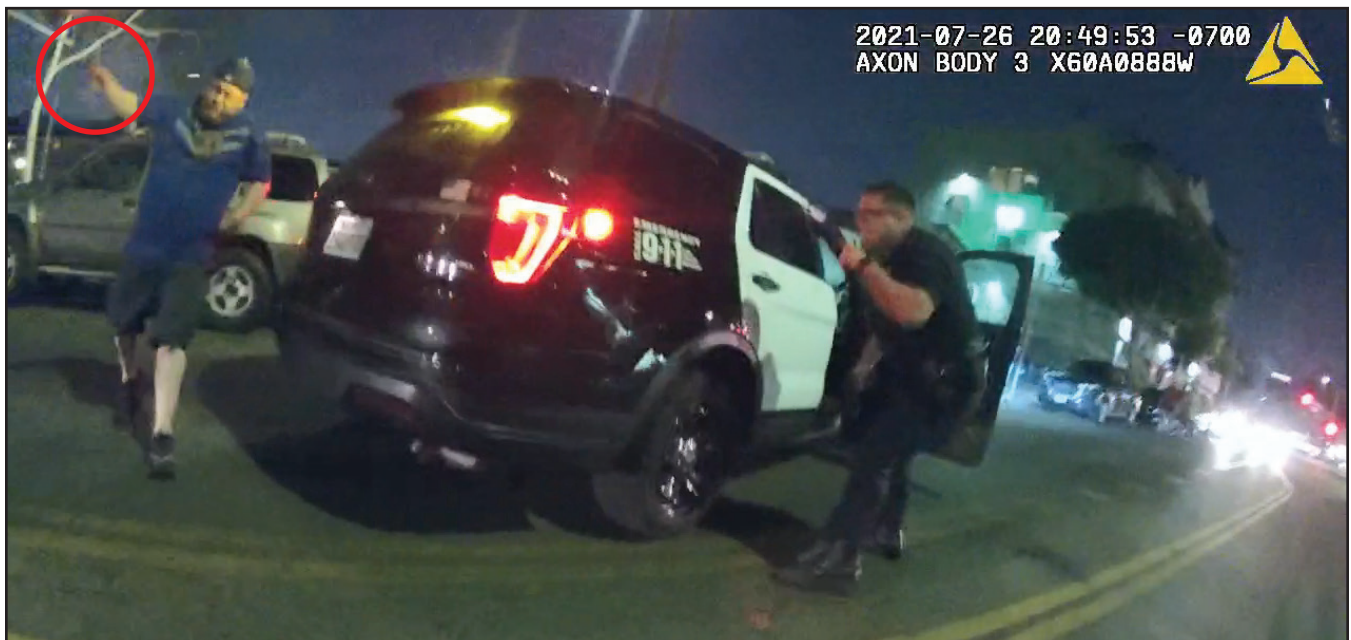


Figure 7: View from Officer Martinez’s BWC showing Mr. Soto and Officer Meja immediately before Officer Martinez fired the second shot

Mr. Soto paused for a moment and then continued to run toward Officer Martinez while still holding the knife in his extended right hand. Officer Martinez stepped back and ordered Mr. Soto to “[g]et on the floor, get on the floor.” Mr. Soto again failed to comply and continued to run toward Officer Martinez. Approximately three seconds after Officer Martinez fired the second shot, he fired a third

shot, which struck Mr. Soto in the lower right abdominal region. Mr. Soto screamed, dropped his knife, clenched his lower right abdominal region, and fell face-forward onto the ground. The knife was dropped within one foot of Mr. Soto's left hip.

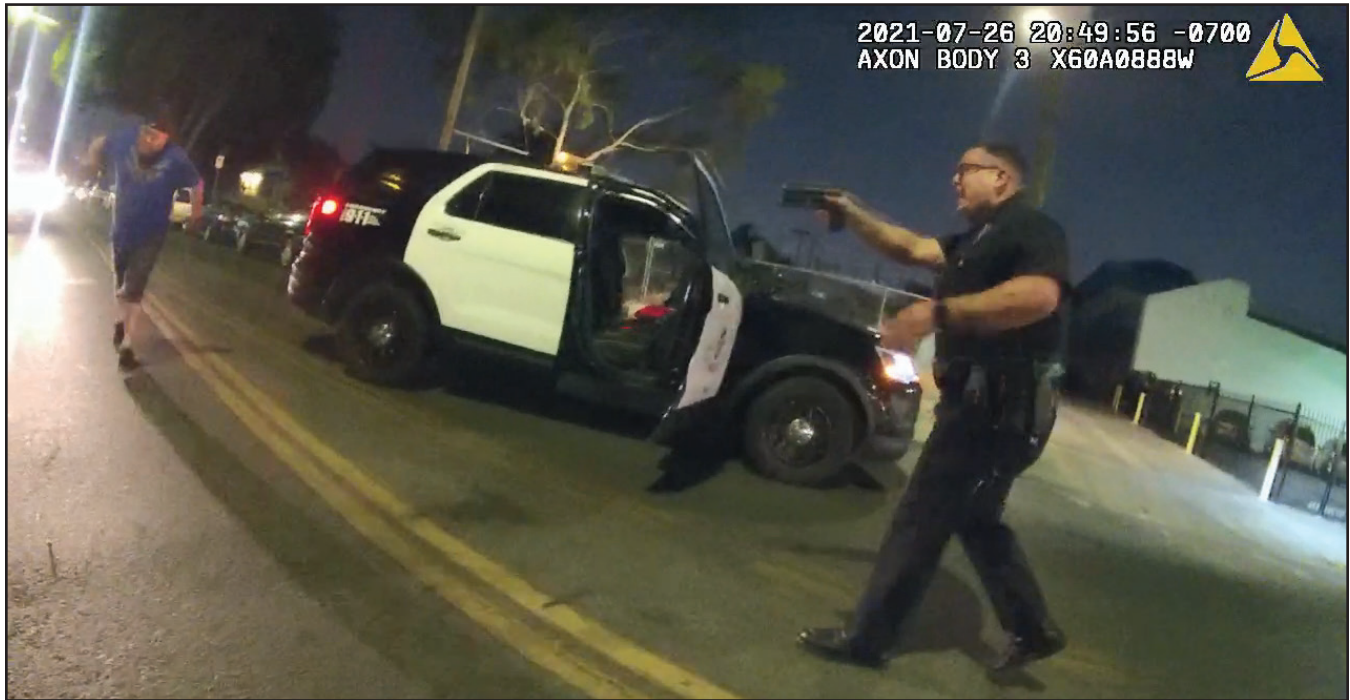


Figure 8: View from Officer Martinez's BWC showing Mr. Soto moving and Officer Meja holding his firearm immediately before he fired the third shot

Officer Meja successfully broadcast over the radio, "Shots fired. Pico and Union. Officers need help." Mr. Soto laid on his chest with his hands hidden under his stomach. Officer Meja then kicked the knife away from Mr. Soto's reach. The officers ordered Mr. Soto to put his hands out, but he did not comply with the officers' commands. Officer Meja then requested medical assistance. Both officers continued to order Mr. Soto to stop moving and put his hands out. Mr. Soto disregarded the officers' commands, stood up, and lunged toward the knife that was still on the ground. Officer Meja kicked the knife away before Mr. Soto reached it.

Officer Martinez asked Officer Meja, "Does he have the knife?" Officer Meja responded, "No, I got the knife over here." Mr. Soto then ran toward Officer Martinez, who retreated toward the patrol car's driver side door as Mr. Soto ran after him. Officer Martinez ordered Mr. Soto, "Don't move. Don't move." Officer Meja ran to where Officer Martinez and Mr. Soto were. Officer Meja yelled, "Get on the ground. Get on the ground." Mr. Soto did not comply with any of the officers' commands.

Officer Martinez again asked Officer Meja, "Does he have the knife? Does he have the knife or no?" Officer Meja responded, "No, he doesn't have the knife." Officers Martinez and Meja both repeated, "He doesn't have the knife."

Simultaneously, Officer Meja and Officer Martinez confronted Mr. Soto at the left rear of their patrol car. Officer Meja's firearm was holstered and he did not have anything in his hands. According to Officer Meja's statement, he attempted to go hands on with Mr. Soto to take him into custody as safely as possible and with minimal force. As seen on the body-worn camera video, Officer Meja attempted to grab Mr. Soto, but Mr. Soto stepped back and blocked Officer Meja with his left arm. Mr. Soto then

reached into his right-front pocket and retrieved an unknown black object, which was later identified as a black cell phone. When Mr. Soto retrieved the black object from his pocket, Officer Mejia retreated backwards and again drew his firearm. Officer Mejia stated that he did not know what the black object was.



Figures 9-12: View from Officer Martinez’s BWC showing Officer Mejia on the left side of the photos transitioning within four seconds, from non-lethal physical control to his firearm

At 8:50 PM, uniformed LAPD Officers David Voci and Christian Garton arrived on scene with the siren and flashing lights activated on their patrol car. Prior to their arrival, Officer Garton had heard information broadcast over the radio that the incident at Pico Boulevard and Union involved a suspect armed with a knife and the reporting party was an off-duty officer and was armed. About one minute later, Officer Garton was notified that an officer needed help and shots were fired at Pico Boulevard and Union Avenue. While Officers Garton and Voci responded to the scene, Officer Garton heard Officer Mejia over the patrol car radio requesting an ambulance for a male with gunshot wounds. Officer Garton relayed this information to Officer Voci as they turned onto Union Avenue northbound towards Pico Boulevard.

The officers ran toward Mr. Soto and Officer Mejia. At this time, Officer Mejia had his firearm drawn and pointed at Mr. Soto. According to Officer Mejia’s statement, the LAPD helicopter and the second unit arrived around the same time. Officer Mejia believed that the helicopter was flying low because it was very loud. He stated that the noise from the helicopter generally made the scene even more chaotic and communication between the officers and Mr. Soto even more difficult. Officer Garton also

stated the helicopter was extremely loud and interfered with his ability to communicate. He described the scene as a “loud and chaotic” environment due to the noise from the helicopter, responding sirens, radios, and ambient noise.

Officer Voci and Officer Garton both ran up to the scene. Officer Voci did so while yelling, “Stop Stop.” On the videos from Officers Voci’s and Garton’s body-worn camera, Officer Mejia can be heard stating, “He doesn’t have the knife.” Officer Voci did not acknowledge or react to Officer Mejia’s statement. Officer Garton stated that he heard either Officer Mejia or Martinez ordering Mr. Soto to get on the ground, but he did not hear any mention of a knife or other specific statements due to the loud environment.



Figure 13: Description of scene when Officers Voci and Garton arrived

Officer Voci stopped near the hood of the parked tan Nissan Xterra and pointed his firearm at Mr. Soto, who was approximately 15 to 20 feet away.<sup>3</sup> Officer Garton also had his firearm pointed at Mr. Soto. Officers Mejia and Martinez, who were at the rear of the Xterra, also had their firearms pointed at Mr. Soto. Mr. Soto turned away from Officer Mejia and toward Officer Voci. As he turned, Mr. Soto moved the unknown black object behind his lower back and out of Officer Voci’s view. Officer Voci yelled, “Drop it. Drop it.” Mr. Soto did not comply, leaned his head forward, and took two steps toward Officer Voci coming within approximately five to seven feet of the officer. Officer Voci then fired three rapid shots at Mr. Soto, striking Mr. Soto in the chest, left forearm, and left thigh. Mr. Soto fell backwards onto the ground. Officer Voci yelled for officers to start providing medical care to Mr. Soto. Officer Voci then moved to the rear of the Xterra where Officers Martinez, Mejia, and Garton were located. Officer Voci immediately asked the other officers, “Does he still have the knife?” Officer Martinez responded, “No. The knife is over there,” while gesturing toward the knife’s location.

<sup>3</sup> Distances described here are approximations based on investigative observations at the incident scene, review of body-worn camera video, and Officer Garton’s statement.



Figure 14: View from Officer Voci's BWC immediately before he fired the first shot showing Mr. Soto and Officer Mejia standing to the rear passenger door of the patrol vehicle



Figures 15 (Top Left): View from Officer Martinez's BWC showing Mr. Soto moving his left leg toward Officer Voci immediately before Officer Voci fired the first shot. Figure 16 (Top Right): View from Officer Martinez's BWC showing Mr. Soto picking up his right leg and moving his right leg toward Officer Voci immediately before Officer Voci fired the first shot. Figure 17 (Bottom Left): View from Officer Martinez's BWC showing Mr. Soto planting his right leg and moving his left leg toward Officer Voci during Officer Voci's second shot.

By 8:52 PM, additional LAPD officers had arrived and assisted with providing medical aid to Mr. Soto. Mr. Soto resisted the officers' aid by tensing and pulling his arms away. He also kicked his legs toward the assisting officers. Once Mr. Soto was handcuffed at 8:54 PM, all arresting officers immediately ceased physical contact and the Los Angeles City Fire Department ("LAFD") took over providing medical aid to Mr. Soto.

LAFD transported Mr. Soto to California Medical Center Hospital where he had surgery on his left forearm, chest, abdomen, and scrotum. Mr. Soto remained at California Medical Center Hospital until November 2, 2021, when he died from an infection from his gunshot wounds.

## **INVESTIGATION**

### **Evidence Reviewed**

Following Mr. Soto's death, DOJ received and reviewed extensive investigation materials related to this officer-involved shooting ("OIS") incident. The LAPD Force Investigation Division also investigated the OIS and provided DOJ with their complete investigation. DOJ independently reviewed fifteen witness interviews (two witness officers, two emergency responders, and eleven civilians); photographs of the crime scene and other evidence; video recordings (footage from 22 body-worn cameras and 12 in-car video systems); communications evidence (two 911 calls, printouts from the computer aided dispatch system and corresponding radio calls); physical evidence (including shell casings, fired bullet projectiles, and items obtained from the scene); an autopsy report; and analyses on ballistics and firearms, and deoxyribonucleic acid ("DNA").<sup>4</sup>

### **DOJ Response**

On July 26, 2021, after the OIS occurred, LAPD detectives were notified and responded to the scene. Thereafter, DOJ's California Police Shooting Investigation Team ("CaPSIT") was also notified, and DOJ special agents and special agent supervisors responded to the scene. LAPD personnel walked the DOJ team through the shooting scene and showed them the location of the OIS and body-worn camera footage. However, since Mr. Soto was still alive at that time, DOJ did not participate in the investigation.

On November 2, 2021, DOJ was notified of Mr. Soto's death. DOJ special agents attended the autopsy the next day. Over the following months, DOJ special agents worked with LAPD to collect all of the investigation materials.

DOJ then conducted an independent and thorough investigation of the facts and circumstances relating to this OIS incident and reviewed all evidence and legal standards.

### **Crime Scene Description**

This OIS shooting occurred in the middle of the street in front of a residence at 1318 South Union Avenue in the City of Los Angeles. This residence is located 200 feet south of Pico Boulevard. W-1 first saw Mr. Soto at the northwest corner of Pico Boulevard and South Union Avenue near the Clinica Medica Latina Medical Group.

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<sup>4</sup> Only evidence pertinent and relevant to the OIS incident is summarized in this report.



Figure 18: Photograph of scene where OIS occurred

## Evidence Recovery

LAPD detectives and crime scene technicians from the Forensic Science Division (“FSD”) began processing the scene on the night of July 26, 2021. FSD collected the following items relevant to this OIS investigation:

- One knife with 2.5-inch blade and an overall length of 5.25 inches.
  - The knife was covered with red stains and recovered on the ground on the west side of South Union Avenue.
- One black Samsung cell phone with a plastic case.
  - The phone was recovered from the ground in the middle of South Union Avenue where Mr. Soto was taken into custody.
- Six discharged cartridge casings, head-stamped “Federal 45 Auto.”
  - Three discharged cartridge casings were recovered on the ground in the middle of South Union Avenue; and
  - Three discharged cartridge casings were recovered on the ground on the west side of South Union Avenue.
- One pair of torn blue shorts with red stains.
  - The shorts were recovered on the ground in the middle of South Union Avenue.
  - Inside the left front shorts pocket was a LAPD citation showing that Mr. Soto was arrested by LAPD on July 25, 2021, for a misdemeanor violation of Penal Code section 549(B)(1), Vandalism.

- One mask with red stains.
  - The mask was recovered on the ground on the west sidewalk of South Union Avenue in front of 1600 West Pico Boulevard.



Figure 19 & 20: Black and silver folding knife with red stains



Figure 21: Black Samsung phone located at the shooting scene

Figure 22: Tan Nissan Xterra with two bullet strikes flagged for evidence

W-6 was the registered owner of the tan Nissan Xterra. The car sustained two gunshot strikes during the OIS incident. W-6 provided LAPD with one fired bullet located in the trunk of the car. The second fired bullet is still inside the body of the vehicle.

LAPD collected four additional bullets during their investigation - one from Mr. Soto's abdomen during his surgery on July 26, 2021, at California Hospital Medical Center, and three from Mr. Soto's body during his autopsy.

## Video Recordings

In total, LAPD provided video footage from 22 body-worn cameras and 12 in-car video systems. DOJ reviewed all of the videos. LAPD investigators also searched for surveillance cameras affixed to nearby residential homes or businesses. None of these surveillance cameras captured the OIS incident.



## Body-Worn Cameras

Of the 22 body-worn camera footages provided to DOJ, four of them captured the OIS incident. All involved officers, including Officers Martinez, Mejia, Voci, and Garton, had their body-worn cameras activated during their drive to the scene, at the OIS, and after the OIS. Other responding officers who arrived at the scene after the shooting occurred also wore activated body-worn cameras.

## In-Car Video Systems

LAPD patrol cars were equipped with digital in-car video systems (“DICV”). Of the ten DICV videos provided, two of them captured the incident. The other eight captured LAPD units that arrived after the OIS.

Officers Martinez and Mejia’s patrol car’s DICV was activated and showed their arrival at the scene at 8:49:42 PM. The video showed that upon their initial arrival, Mr. Soto was advancing toward W-3 as W-3 stood in a fighting stance. Mr. Soto then turned toward the patrol car as Officers Martinez and Mejia exited the car. Off camera, Officer Martinez is heard giving Mr. Soto commands, followed by two back-to-back shots, and then one additional shot. The shots are followed by an “Officer needs help” broadcast, more commands to Mr. Soto, a request for an ambulance, sirens heard, more commands, an officer stating, “He doesn’t have the knife,” and then three sequential shots.

Officers Voci and Garton’s patrol car’s DICV was also activated. Their DICV showed their arrival on the scene at 8:50:43 PM and the OIS by Officer Voci ten seconds later. The video also shows the LAPD contact team approaching Mr. Soto, and the paramedics arriving at 8:54:18 PM.

## Interviews of Involved Police Officers

Officers Martinez and Voci used force against Mr. Soto and are considered involved officers. Both officers declined to provide voluntary statements. Their partners, Officers Mejia and Garton did not use force against Mr. Soto and are considered witness officers. They also declined to provide voluntary statements.

Police officers, like all individuals, have the right to remain silent and decline to answer questions in the face of official questioning. (*Spielbauer v. County of Santa Clara* (2009) 45 Cal.4th 704, 714; see generally *Miranda v. Arizona* (1966) 384 U.S. 436.) Public employees, including police officers, may be compelled by an employer to answer questions for administrative purposes, but the use of such statements in criminal proceedings against the employee is prohibited. (*Lybarger v. City of Los Angeles* (1985) 40 Cal.3d 822, 827-828, citing *Lefkowitz v. Turley* (1973) 414 U.S. 70, 77-79, *Garrity v. State of New Jersey* (1967) 385 U.S. 493, 500.) Accordingly, no compelled statements from Officers Martinez and Voci were considered as part of this investigation.

However, this report does include compelled statements made by Officers Mejia and Garton during the course of the LAPD administrative interviews. 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.

## Officer Ruben Mejia

On July 28, 2021, LAPD Detectives Alberto Rosa, Dennis Padgett, and Eric Dirksen interviewed Officer Ruben Mejia. Officer Mejia provided a second interview on March 9, 2022, with LAPD Detectives Frank Marino, Jennifer Kim, and Rudy Ramirez present. Officer Mejia was given the *Lybarger* admonition

by Detective Rosa during the first interview and was reminded of the admonition during the second interview.<sup>5</sup> Officer Mejia agreed to give a statement under threat of discipline, but did not agree to give a voluntary statement.

On July 26, 2021, at around 8:45 PM, Officers Mejia and Martinez responded to a Code 3 ambulance cutting call on Pico Boulevard and Union Avenue. Officer Mejia, who was riding in the passenger seat, radioed to the dispatcher to send him and Officer Martinez the call and show them as responding from Venice Boulevard and Bonnie Brae. Officer Mejia recalled being told the call was an assault with a deadly weapon (“ADW”), the victim had suffered a slash to their throat, and there was no suspect information. Officer Mejia relayed that information to Officer Martinez. Officer Mejia stated he was not aware of the information provided on the incident log at 8:49 PM that the subject was in his 30s, wearing a blue hat, blue shirt, black shorts, had a cut to his throat, and was holding a small blade. That information was not displayed on the MDC in his patrol car. Officer Mejia stated that if they had known the information Mr. Soto was armed with a knife, it may have changed how they responded to the scene when they first arrived.

As Officers Mejia and Martinez approached Pico Boulevard, Officer Mejia saw an ambulance with flashing lights just north of Pico Boulevard. This indicated to Officer Mejia that there was an ambulance on the scene for the victim of the knife wound. However, as Officers Mejia and Martinez were driving northbound, Officer Mejia saw witnesses in the middle of the street pointing westbound to a suspect, later identified as Mr. Soto. Officer Mejia observed that Mr. Soto was male, Hispanic, approximately 5’8” or 5’9” in height, around 250 pounds, bald, and wearing a blue shirt and shorts. Officer Mejia stated that he did not observe anything that would suggest Mr. Soto was under the influence of alcohol or any controlled substances nor did he observe any clear symptoms of agitated delirium or mental illness.

One of the witnesses at the scene told the officers, “That’s the guy.” When Officer Mejia exited the vehicle, Officer Mejia saw that Mr. Soto was carrying a knife in his right hand and that there was blood around that same hand. The knife had a blade that was approximately three inches and had a sharp edge. At this point, Officer Mejia did not know if the blood on Mr. Soto’s hand was his own or from a victim. Officer Mejia was also unsure if Mr. Soto had more than one weapon because Officer Mejia could not see Mr. Soto’s left hand. All of this information indicated to Officer Mejia that Mr. Soto was potentially the suspect. When Officer Mejia first saw Mr. Soto with the knife, he did not communicate that information to Officer Martinez because Mr. Soto aggressively moved towards Officer Martinez within seconds.

Upon exiting their vehicle, Officers Mejia and Martinez immediately began engaging with the armed Mr. Soto. Officer Mejia was approximately ten to fifteen feet away from Mr. Soto who was standing close to the driveway area on the west side of the street. Both Officers Mejia and Martinez used their northwest facing vehicle as cover. Specifically, Officer Mejia was behind the passenger door and Officer Martinez was by the driver’s side door, closer to Mr. Soto.

Officer Mejia unholstered his firearm because he believed Mr. Soto was an assault with a deadly weapon suspect and that “the situation may escalate to where a point of deadly force may be necessary.” At that point, Officer Mejia did not believe it would be reasonable to go back to the patrol vehicle to get a less lethal option. Doing so would put the officers’ and public’s safety in jeopardy because there were multiple witnesses at the scene and the fact that Mr. Soto was armed and moving.

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<sup>5</sup> Notwithstanding the ability of officers to remain silent and decline to answer questions during a criminal investigation, this statement was given in the course of the administrative investigation.

Officer Mejia pointed his weapon at Mr. Soto and told Mr. Soto to drop the knife. Mr. Soto immediately directed his attention to Officers Mejia and Martinez, but did not follow or respond to Officer Mejia's commands to drop the knife. Instead, Mr. Soto stared at the officers with big eyes and clenched the knife in his hand firmly. Mr. Soto then walked in a southeast direction, toward where Officer Martinez was standing, closing their ten to fifteen foot difference quickly. Mr. Soto made grunting noises as he approached Officer Martinez. The only barrier between Officer Martinez and Mr. Soto was the driver's side door of the patrol vehicle.

As Mr. Soto drew closer and failed to listen to commands by both Officers Mejia and Martinez, Officer Mejia used one hand to radio for backup while he kept the other hand on his firearm. At this time, Officer Mejia also tried to move to the rear of the patrol vehicle to get a better angle on where Mr. Soto was going to be. When Officer Mejia was at the rear of the patrol vehicle, he lost sight of Mr. Soto and heard, but did not see, Officer Martinez fire two shots. During the first two shots Officer Mejia was facing the patrol vehicle in a southbound direction, moving eastbound to get to the rear of the vehicle. About one second after the two shots, Officer Mejia heard, but did not see, Officer Martinez fire a third shot. During the third shot, Officer Mejia was facing eastbound and focused on Mr. Soto. After the third shot, Officer Mejia used his radio to communicate that an officer needed help at Pico and Union.

After the shots, Mr. Soto came into Officer Mejia's line of sight. Officer Mejia saw Mr. Soto fall forward with quick momentum, into the middle of the street and land on his stomach with his hands under his chest. Because Mr. Soto was shot at and fell to the ground with such momentum, Officer Mejia believed that Mr. Soto sustained a gunshot wound while running.

Officer Mejia holstered his radio after putting out a call for help and pointed his firearm at Mr. Soto as he approached him. Officers Mejia and Martinez triangulated around Mr. Soto with Officer Martinez about ten feet to the southeast of Officer Mejia. Officer Martinez asked Officer Mejia if Mr. Soto still had the knife. Officer Mejia saw that the knife fell out of Mr. Soto's hands and was located about six to twelve inches to the left of where Mr. Soto was laying. However, Officer Mejia could not see if Mr. Soto had additional weapons. Officers Mejia and Martinez attempted to give Mr. Soto additional verbal commands to put his hands out so the officers could see them. Mr. Soto did not follow the commands. Officer Mejia quickly approached Mr. Soto's knife and kicked it about two feet away from Mr. Soto in a westbound direction.

Since Officer Mejia did not know if Mr. Soto was still armed at this point, it was not safe to approach Mr. Soto to render medical aid. Officer Mejia requested an ambulance for a male with a gunshot wound and waited for additional resources to make a safe approach of Mr. Soto and take him into custody. Officer Mejia then told Officer Martinez that they needed to utilize cover to come up with a better plan to take Mr. Soto, who was potentially armed, into custody.

When Officer Mejia began backing away to move to cover, he observed Mr. Soto turn northwest toward Officer Mejia and the direction the knife was kicked. Mr. Soto then began crawling toward the knife. As Mr. Soto was crawling, Officer Mejia could see Mr. Soto's hands and observed that Mr. Soto did not have additional weapons in his hand. Officer Mejia then went to the knife and kicked it in a northwest direction, directly in front of the police vehicle about six feet away, so that Mr. Soto could not grab it. Officer Mejia then backed away towards the front of the police vehicle to utilize cover. At this time another police unit and a LAPD helicopter arrived at the scene. Officer Mejia believed that the helicopter was flying low because it was very loud. Officer Mejia stated that the noise from the helicopter generally made the scene even more chaotic and communication between the officers and Mr. Soto even more difficult.

As the additional police unit and helicopter arrived, Mr. Soto stood up and walked southbound to the rear of the patrol vehicle and then walked around it, moving west toward Officer Mejia. At that time, Officer Mejia did not see anything in Mr. Soto's hands so he holstered his firearm. Officer Mejia intended to go hands on with Mr. Soto to take him into custody as safely as possible and with minimal force. Both Officer Mejia and Mr. Soto walked toward each other and were about three feet away from each other when Officer Mejia saw Mr. Soto remove a black object from his right shorts pocket. Mr. Soto then changed course and began walking southwest, away from Officer Mejia and towards the other police officers who were standing on the sidewalk and had just arrived on the scene. Those officers were later identified as Officers Garton and Voci. Mr. Soto was still holding the item he removed from his pocket as he began approaching Officers Garton and Voci. Officer Mejia attempted to notify Officers Garton and Voci that Mr. Soto no longer had the knife. Neither Officer Garton nor Officer Voci responded.

Officer Mejia heard but did not see approximately three shots that came from the south and were directed towards Mr. Soto. He then saw Mr. Soto fall on his back, into the street between the patrol vehicles. After, Officer Mejia heard one of the officers say, first, that they needed to render aid to Mr. Soto and, second, that the officers must get behind cover because everyone had broken cover when Mr. Soto began running at the officers.

Officer Mejia moved to the rear of an SUV parked on the west curb and utilized cover. He then pulled out his firearm because he believed it was still an active scenario where deadly force may be necessary since a second officer shooting had just occurred and the other officers could have seen something that Officer Mejia was not aware of. Furthermore, Officer Mejia knew Mr. Soto had an unidentified item in his hand. Officer Mejia pointed his firearm at Mr. Soto. Officer Garton took command and control of the situation and came up with a tactical plan to approach Mr. Soto and take him into custody.

Two officers were tasked with taking Mr. Soto into custody and Officer Mejia was tasked with the lethal portion of the tactical plan. As the two officers approached Mr. Soto, he was lying on his back. However, Mr. Soto was not compliant and so about five officers were needed to roll Mr. Soto onto his stomach and take him into custody. While the officers were attempting to take Mr. Soto into custody, the scene was loud and chaotic to the point where Officer Mejia could not hear anything. Once the officers rolled Mr. Soto onto his stomach and it appeared like they took him into custody, Officer Mejia backed away and reholstered his firearm since it was no longer needed with five officers around Mr. Soto.

At some point before Mr. Soto was in custody, Officer Mejia directed an officer that Mr. Soto's knife was in front of Officer Mejia's police vehicle so that the other officer could preserve the evidence. Officer Mejia never looked at the knife himself.

### **Officer Christian Garton**

On July 27, 2021, LAPD Detectives Alberto Rosa, Dennis Padgett, and Eric Dirksen interviewed Officer Christian Garton. Officer Garton was given the Lybarger admonition by Detective Rosa.<sup>6</sup> Officer Garton agreed to give a compelled statement under threat of discipline, but did not agree to give a voluntary statement.

On July 26, 2021, at approximately 8:50 PM, Officer Garton and his partner Officer David Voci responded to an officer needs help and shots fired call. Prior to the call, Officers Voci and Garton were

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<sup>6</sup> Notwithstanding the ability of officers to remain silent and decline to answer questions during a criminal investigation, this statement was given in the course of the administrative investigation.

parked about a mile away. Officer Garton had heard information broadcast over the radio that the incident at Pico Boulevard and Union involved a suspect armed with a knife and the reporting party was an off-duty officer and was armed. About one minute later, Officer Garton was notified that an officer needed help and shots were fired at Pico Boulevard and Union Avenue.

Officers Garton and Voci responded to Pico Boulevard and Union Avenue. As Officers Garton and Voci were en route, Officer Garton heard Officer Mejia over the patrol car radio requesting an ambulance for a male with gunshot wounds. Officer Garton relayed this information to Officer Voci as they turned onto Union Avenue northbound towards Pico Boulevard.

As Officers Garton and Voci arrived, Officer Garton saw the street was illuminated by streetlights. He stated he did not have any visibility issues and could see the suspect, later identified as Mr. Soto, in the middle of the street. Mr. Soto was standing towards the rear of Officers Mejia and Martinez's vehicle which was parked in the middle of Union Avenue, south of Pico Boulevard and facing northbound. Officers Mejia and Martinez were standing near Mr. Soto.

When they arrived, Officer Garton asked Officer Voci to turn off the siren because he thought Officers Mejia and Martinez were attempting to give Mr. Soto commands. Officer Garton did not want the siren to interfere with their ability to clearly give commands. Officer Garton asked Officer Voci to turn off the siren multiple times before he did so.

As Officer Garton exited the vehicle, he thought the situation might escalate to the use of deadly force because the radio call was for a man with a knife and there were already shots fired. For those reasons, Officer Garton unholstered his firearm as he exited the patrol vehicle and held the firearm with the muzzle facing the ground. Initially, Officer Garton was about thirty to forty feet away from Mr. Soto. Officer Garton observed blood on Mr. Soto's body, but he could not see any injuries on Mr. Soto's person nor anything in his hands. Mr. Soto appeared to be uncooperative and inconsiderate of the multiple commands to get on the ground issued by Officers Mejia and Martinez. Officer Garton did not see any other civilians around the officers or Mr. Soto. Officer Garton also observed an LAPD helicopter at the scene.

Once Officer Garton cleared his door and saw that Officers Mejia and Martinez were standing on the driver's side of their patrol vehicle, he moved to the west sidewalk of Union Avenue to triangulate on Mr. Soto and avoid crossfire issues. Officer Voci moved towards the west curb and was in front of Officer Garton and closer to Mr. Soto. Officer Garton also observed Officers Mejia and Martinez tactically redeploying in order to gain more space so that the officers could have more time to de-escalate.

As Officer Garton got close to the curb, he passed behind Officer Voci to stand on Officer Voci's left side. Officer Garton pointed his firearm at Mr. Soto who was facing in between where Officer Mejia and Martinez were standing and where Officers Garton and Voci were standing. Officers Mejia and Martinez were on Officer Garton's left.

Mr. Soto initially moved toward Officers Mejia and Martinez before facing and moving west, Officer Voci's direction. As Officer Garton was moving behind Officer Voci, Officer Garton heard but did not see two controlled shots fired at Mr. Soto. Officer Garton believed Officer Voci fired the rounds because of how loud the shots were. At the time Officer Garton heard the shots, he was looking at Mr. Soto. Officer Voci was about twenty feet away from Mr. Soto when he fired the shots. Officer Garton stated that he did not believe Officer Voci had cover at the time he took the shots. He believed that because

at the time Officer Voci fired, Officer Garton had not yet made it to the vehicles for cover and Officer Voci was somewhat in front of him, also in the street.

Officer Garton did not see any of the rounds hit Mr. Soto, but he did see Mr. Soto fall to the ground after the rounds were fired. Officer Garton then moved behind a parked vehicle and holstered his firearm. At some point, Officer Garton also observed a black knife with a four-inch blade on the ground in front of Officers Mejia and Martinez's patrol vehicle, but it is unclear whether he saw it before or Officer Voci fired shots.

After Officer Voci fired the shots, Officer Garton acted as the incident commander. Officer Garton immediately set up an arrest team with a responding unit to take Mr. Soto into custody so that LAFD could come and render aid. He told Officer Martinez to holster up, had Officer Mejia act as lethal cover, and then instructed Officers Zizzo, Cuellar, and Mejia to approach Mr. Soto. Once Mr. Soto was handcuffed, Officer Garton requested the Communications Department to advise LAFD it was clear to enter and render aid to Mr. Soto. LAFD was on scene almost immediately to provide medical care.

On March 22, 2022, Detectives Frank Marino and Jennifer Kim conducted a second interview of Officer Garton. Officer Garton's attorney David Winslow was also present. This second interview was a continuation of the first interview conducted on July 27, 2021 and so the *Lybarger* admonition for the compelled statement was still in effect.

In addition to giving information on his role as incident commander following the second OIS, Officer Garton provided clarifying details about what he heard prior to his arrival and what he was able to hear at the scene. Officer Garton stated that he had heard the call go out that Officers Mejia and Martinez responded to and he recalled the call was for an ADW cutting. Officer Garton inferred the suspect at the scene was armed with a knife based on the nature of the call.

When Officers Garton and Voci arrived at the scene, neither Officer Martinez nor Officer Mejia said anything to them prior to Officer Voci's OIS. Officer Garton stated he did not hear any mention of a knife. He did, however, hear the helicopter overhead. The helicopter was "extremely loud" and interfered with his ability to communicate. In addition to the noise from the helicopter, there were also responding sirens, radios, and a lot of ambient noise that also contributed to a "loud and chaotic" environment.

As Officer Voci fired the shots, Officer Garton placed his left hand on Officer Voci's back shoulder area. He did this because they were both close to the curb and he wanted to let Officer Voci know that he was behind him. It was important to communicate that information because if Officer Voci had backed up when Officer Garton was behind him, Officer Garton could have fallen while both Officers Garton and Voci had their firearms out. Since it was so loud and he did not want to try speaking over the officers who were trying to give Mr. Soto commands, Officer Garton chose to use nonverbal communication.

## **Interviews of Civilian Witnesses**

LAPD detectives interviewed eleven civilian witnesses. DOJ reviewed all of the interviews and determined eight were relevant to this OIS report. The following are summaries of their interviews, which describe the incident from the point of view of each witness. 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.

### **Samuel Pozos Soto**

On August 18, 2021, LAPD Detectives Joseph Kirby and Francisco Alvelais interviewed Mr. Soto in Spanish at California Hospital Medical Center where he was receiving treatment for his injuries. LAPD Officer Romero, who was assigned to guard Soto, was also present. Mr. Soto was advised of his *Miranda* rights and agreed to speak with investigators. Mr. Soto did not remember what he was doing before coming to the hospital. He seemed disoriented and did not know how long he had been in the hospital. Mr. Soto stated that he was just recovering his speech and ability to walk.

Mr. Soto stated that he lived on Pico and Union. He had lived with someone, but had “screwed up” and was “jumping from one place to another.” Mr. Soto stated that he fell and was taken to a clinic. Mr. Soto seemed to have a hard time following the investigators’ questions about further details or anything that happened prior to coming to the hospital.

## **W-1**

On July 27, 2021, W-1 gave a statement to Detective Dennis Padgett. LAPD Detective Alberto Rosa, LAPD Detective Joseph Kirby, Los Angeles Deputy District Attorney Saeed Teymouri, and Los Angeles District Attorney Senior Investigator Oscar Rodriguez were also present for the interview.

W-1 stated he was near Pico Boulevard and South Union Avenue with his family immediately preceding the OIS. The family consisted of 11 people, which included adults, young adults, and children, who were visiting Los Angeles from Texas. W-1 was a sworn police officer in the State of Texas with twelve years of law enforcement experience.

The family was split between two cars. Both vehicles parked facing south on South Union Avenue, about 200 feet south of Pico Boulevard. W-1 noticed a man, later identified as Mr. Soto, leaning up against a building bleeding from his neck. W-1 approached Mr. Soto and asked if he was alright or needed help. Mr. Soto responded back in Spanish, “No.” W-1 inquired further about why Mr. Soto was bleeding, to which Mr. Soto responded, “No, no, no, no.”

W-1 then called 911. He provided the dispatcher with his location and a description of Mr. Soto. While W-1 spoke with the dispatcher, Mr. Soto walked south on South Union Avenue away from the witness. W-1 followed Mr. Soto but kept his distance. W-1 noted that Mr. Soto was not aggressive at this point. He stated when they were walking south, maybe 50 or 60 yards away from Pico and Union, W-1 noticed Mr. Soto put his hand up against his neck while holding a shiny blade with his right hand. Due to W-1’s training as a first responder, it appeared to him that Mr. Soto was in distress and in possible need of medical attention. Mr. Soto leaned against the fence facing away from W-1, who asked him if he was alright. Mr. Soto then turned toward W-1. At this point, W-1 realized Mr. Soto was holding a knife and relayed this information to 911.

W-1 continued to keep his distance while talking to Mr. Soto. Approximately one minute later, Mr. Soto lunged at W-1 and charged at him while holding the knife in a threatening manner, getting within ten to fifteen feet of W-1. Mr. Soto maintained this threatening posture with the knife exposed and followed W-1 out into the street and then back onto the sidewalk. In response, W-1 retreated, drew his off-duty firearm, pointed the firearm at Mr. Soto, and told Mr. Soto, “Put the knife down. Stop.” He also told his wife and nephew to get back. W-1 stated that he took out his firearm because Mr. Soto was lunging at him with the knife and he was trying to protect himself and anybody else that was close by.

Within seconds of this happening, a patrol vehicle arrived. W-1 told the officers that Mr. Soto had a weapon in his hand. W-1 holstered his firearm, backed off, and told his family to get back. Mr. Soto then “aggressively charged” the police officers while holding out the knife in his right hand. W-1 estimated the distance between the officers and Mr. Soto was about seven to ten feet. W-1 heard the

officers give Mr. Soto commands. Mr. Soto ignored the commands and attempted to attack the officers with the knife. W-1 said that Mr. Soto, "...went towards them holding the knife like he was wanting to cut them or stab them or hurt them." At that time, W-1 heard two to three gunshots. After the gunshots, Mr. Soto fell but tried to get back up again with the knife in his hand. A second patrol car arrived. Both officers got out of the second vehicle and also pointed their firearms at Mr. Soto. About twenty seconds later, W-1 heard another round of gunshots for a total of five.

W-1 finished his interview by stating, "I think the officers did a good job. And, I mean, he did attack the officers, so to me, it seemed like they did what they had to do."

## **W-2**

On July 27, 2021, W-2 gave a statement to LAPD Detective Guy Golan. LAPD Detective Jose Robledo, Los Angeles Deputy District Attorney Saeed Teymouri, Los Angeles Deputy District Attorney Radhika Patel Jonas, Los Angeles District Attorney Senior Investigator Ed Murguia, and Los Angeles District Attorney Senior Investigator Oscar Rodriguez were also present.

W-2 stated she was in the Los Angeles area on vacation with her family. In total, there were eleven individuals, and they were driving in two different vehicles. Around 8:45 PM, they were near Pico Boulevard and South Union Avenue and parked on the west side of South Union Avenue in front of the Clinica Medica Latina Medical Group. After parking, W-2 observed a man, later identified as Mr. Soto, standing near the clinic. W-2 stated Mr. Soto was leaning back, bleeding from the left side of his neck, and looked disoriented. W-2 was concerned that Mr. Soto's injury would cause him to bleed out.

W-2 got out of the van along with her husband, W-1. Her nephew, W-3, and three others got out of the second vehicle. W-1 approached Mr. Soto and asked him if everything was alright. Mr. Soto never responded to W-1, but he made a gesture with his hand like pushing somebody away. After about two to three minutes, W-1 called 911 to let them know a man was bleeding from the neck. W-2 heard her husband say that Mr. Soto had a weapon in his hand.

Mr. Soto then began walking south on South Union Avenue. He walked past both vehicles, not interacting at all with the family. While Mr. Soto continued walking south, he turned around multiple times. W-2 described his walk as "sluggish." W-1 and W-3 followed Mr. Soto. W-2 also followed to make sure everything was alright.

Mr. Soto walked past the alley, turned, and advanced toward W-1 with his right hand raised up and while leaning forward in an attack position. She stated that Mr. Soto was "still sluggish, kinda losing his balance, kinda not all there." W-1 yelled for them to get back and that Mr. Soto had a weapon. Mr. Soto chased W-1 in a circle. At some point while Mr. Soto was chasing him, W-1 took out his firearm. W-2 tried to get the children back into the vehicles. W-2 covered the three young children in the van with a blanket because she did not know what was going to happen.

As Mr. Soto continued to chase W-1 and W-3, W-2 heard sirens and then saw a police car coming from north on South Union Avenue. The patrol car stopped right in front of Mr. Soto, W-1, and W-2.

W-2 and W-3 walked back toward the cars. W-2 heard yelling and then two to four gunshots. W-2 looked toward the police and saw Mr. Soto on the ground. W-2 heard police say, "Stay down. Stay down." Mr. Soto instead got up like nothing had happened.



At this point, W-2 saw the second patrol car arrive. W-2 heard the officers from the second patrol vehicle also give Mr. Soto commands. She then heard a second set of several shots. W-2 did not see anything else because she was focused on calming down her children.

### **W-3**

On July 27, 2021, W-3 gave a statement to LAPD Detective Jose Robledo. LAPD Detective Guy Golan, Los Angeles Deputy District Attorney Radhika Patel Jonas, and Los Angeles District Attorney Senior Investigator Ed Murguia were also present.

W-3 was near Pico Boulevard and South Union Avenue when he witnessed the events leading up to the OIS. W-3 was driving a second vehicle following his uncle, W-1. W-3 saw a man, Mr. Soto, bleeding from the left side of his neck. W-3 described Mr. Soto as stumbling all over the place like he was “kinda drunk.” His uncle went to talk to Mr. Soto and asked him if he was alright. When Mr. Soto did not answer, W-1 called 911. At some point, Mr. Soto began wandering down the street. While he was walking, Mr. Soto was stumbling and grabbing his neck. W-1 followed Mr. Soto, staying about 10 to 20 feet away. W-3 also followed since W-1 was by himself. Mr. Soto charged at W-3 and W-1. W-3 did not see anything in Mr. Soto’s hands, however, W-1 yelled at W-3, “Back up. Back up. He has something.” W-3 saw his uncle point his firearm at Mr. Soto.

At this time, the police arrived with their lights and sirens activated. This caused Mr. Soto to stop charging at W-1 and W-3. W-3 stated that the next part happened very fast. W-3 ran back to his car and heard approximately four shots. He then heard a second set of approximately four shots. W-3 did not see any of the interactions between the officers and Mr. Soto, nor did hear anything said.

### **W-4**

On July 27, 2021, W-4 gave a statement to LAPD Detectives Alberto Rosa and Padgett. W-4 was traveling with her family near Pico Boulevard and South Union Avenue on the evening of July 26, 2021. W-4 saw a man, Mr. Soto, in a blue shirt standing on the side of the sidewalk bleeding from his throat. Her stepdad, W-1, got out of the car to check on the man and then her mother told her to call 911. W-4 told the dispatcher a general description of where she was and what was going on, and then the call ended.

W-4 waited in the van as her stepdad, mother, cousin, and boyfriend followed Mr. Soto. When sirens were audible, Mr. Soto started running off and made gestures as if telling W-1 to get away. Next, her stepdad pursued Mr. Soto and tried to calm him down, but that the situation escalated quickly. W-4 saw two police cars show up and two officers had their guns out. She then heard three shots but did not see why or what had happened. Her family ran toward the van she was sitting in. She then heard five more shots.

### **W-5**

On August 12, 2021, W-5 gave a statement to LAPD Detectives Robledo and Michael Arteaga. W-5 was in his apartment when he witnessed the incident between Mr. Soto and LAPD officers the previous month. His attention was drawn to the area of South Union Avenue and Pico Boulevard when a patrol car arrived on the south side of Pico Boulevard. W-5 saw the officers speak to Mr. Soto, “...and because he didn’t understand, well, they shot him.” W-5 heard Mr. Soto yelling about having a knife in his hand and that “he was assaulting any person passing by.”

W-5 heard two gunshots and saw Mr. Soto fall. Next, he saw Mr. Soto get “up with force” while holding something in his hands, which he later identified as a knife. W-5 described Mr. Soto’s demeanor as

“somewhat crazy.” He also stated that he thought Mr. Soto was on drugs. W-5 saw Mr. Soto run toward both officers after getting up. When a second patrol car arrived, the officers told Mr. Soto to calm down, but he did not calm down. W-5 then heard about four additional gunshots.

## **W-6**

On July 28, 2021, W-6 gave a statement to LAPD Detective Frank Marino. W-6 lives near the intersection of Pico Boulevard and South Union Avenue. She owned a tan Nissan Xterra, which was parked on South Union Avenue, about one block south of Pico Boulevard, on the evening of July 26, 2021. W-6 was in a nearby front yard at around 8:51 PM playing with her neighbor’s children. She heard three gunshots and ran into her neighbor’s apartment, which faces South Union Avenue. About five seconds after the first three shots, W-6 heard another three gunshots. From her neighbor’s front window, W-6 saw a person fall to the ground in front of her vehicle.

W-6 did not check her vehicle that night. However, the next morning she located a bullet that was lodged in a box of towels inside the back trunk of her vehicle. A second bullet was lodged in her vehicle. W-6 provided the bullet recovered from the box of towels to LAPD; the other bullet remained lodged in her vehicle.

## **W-7**

On July 29, 2021, W-7, Mr. Soto’s sister, gave a statement to LAPD Detectives Arteaga and Robledo. W-7 said that Mr. Soto did not have any history of violence. She stated that she was surprised he behaved like he did on July 26, 2021, because that had never happened before. Mr. Soto was one of six siblings. He was never married and did not have any children. Mr. Soto previously lived with his older brother and mother. They moved out about a year and a half earlier and Mr. Soto lived alone. W-7 stated that her brother would drink beer once a week or sometimes every two weeks. She stated that when he drank, he would drink until he got drunk. W-7 did not know whether he used drugs. She did not know Mr. Soto to have any mental problems. She said that when he drank, he became verbally aggressive.

She learned from the manager at Mr. Soto’s apartment building that her brother had been arrested for vandalism on July 25, 2021, when he became violent by opening doors and slamming them at his apartment. She was told that Mr. Soto was either drunk or high during this incident. Due to his violent actions, police were called and Mr. Soto was arrested. W-7 was told by the manager that Mr. Soto was “looking for his family” during this outburst. Mr. Soto was evicted from the apartment following his arrest.

Around 6:30 PM on July 26, 2021, W-7 saw her brother walking on Union Avenue and 11th Street. She stated he was walking normally, he was not drinking anything, and he did not appear to be under the influence of alcohol.

## **Interviews of Emergency Responders**

LAPD detectives interviewed two responding LAFD Firefighter-Paramedics. The following statements are summaries of their interviews. The interviews contain facts relayed by the paramedics that may be inaccurate or inconsistent with the facts of this incident as they are currently understood.

### **Firefighter/Paramedic Konrad Krzywicki**

On August 12, 2021, LAFD Firefighter-Paramedic Konrad Krzywicki gave a statement to Detective Padgett. Krzywicki and his partner, Kalev, were assigned to Rescue Ambulance No. 11 on July 26, 2021. Krzywicki recalled the original call being a Code 3 for self-harm. While monitoring both LAFD and LAPD

radio frequencies, Kalev heard the call transition into an officer involved shooting. The firefighter-paramedics waited a half a block away due to the heavy police response. When they asked whether the scene was clear, Krzywicki heard officers say the scene was clear and alright for the firefighter-paramedics to come forward. Krzywicki and his partner walked to the scene.

Krzywicki treated Mr. Soto who was “aggressive”, pushing the firefighters’ hands away and acting uncooperative. He stated that Mr. Soto’s aggression was unusual because most people who are shot do not try to fight. Krzywicki opined Mr. Soto looked like he was under the influence of a substance. He based that opinion on the call description, Mr. Soto’s flushed skin, and his aggressive behavior.

Krzywicki and Kalev needed help from LAPD officers to move Mr. Soto to the gurney due to his behavior. Krzywicki quickly assessed Mr. Soto’s injuries and noted multiple gunshot injuries. During the ambulance ride, Krzywicki treated Mr. Soto and realized his injuries were critical due to the locations of the gunshot wounds and swelling. He also stated that even though Mr. Soto seemed to be in stage three shock with a very high heart rate and pale complexion, he continued to fight paramedics the entire way to California Hospital.

### **Firefighter/Paramedic Kristian Kalev**

On August 11, 2021, LAFD Firefighter and Paramedic Kristian Kalev gave a statement to Detective Padgett. On July 26, 2021, Kalev was the driver of Rescue Ambulance No. 11 which responded to the shooting at Pico Boulevard and South Union Avenue. He and his partner, Krzywicki, waited a block away until LAPD cleared the scene. After the scene was safe for them to enter, Kalev and Krzywicki grabbed their EMS equipment and gurney and proceeded to Mr. Soto. Kalev stated that they used their trauma shears to strip Mr. Soto’s clothing. He observed two gunshot wounds to Mr. Soto’s back. He then observed three additional gunshot wounds to Mr. Soto’s front. Two gunshot wounds were in his chest and one was in his stomach.

Kalev and Krzywicki loaded Mr. Soto into the ambulance, continued to treat the wounds and transported Mr. Soto to California Hospital Medical Center. Kalev initially observed Mr. Soto screaming. Mr. Soto was uncooperative the entire time. He yelled, looked agitated, and was “not making a lot of sense.” Mr. Soto’s demeanor deteriorated, meaning he became non-verbal, once he was moved from his stomach on the gurney to his back. While the paramedics transported Mr. Soto to California Medical Center in the ambulance, Mr. Soto continued to move around the whole time. Kalev and Krzywicki controlled the major bleeding until they got to the hospital.

### **Medical Attention**

On July 26, 2021, Mr. Soto was transported to California Medical Center Hospital by LAFD Rescue Ambulance No. 11. Mr. Soto received care for gunshot wounds to his right chest, left chest, left arm, abdomen, and left leg. He had surgery to his left forearm, chest, abdomen, and scrotum.

When Mr. Soto arrived at the emergency room, medical personnel collected a blood sample in order to determine whether he had consumed any potentially hazardous drugs or other substances and to provide the appropriate life-saving medical treatment(s). The toxicology reports show that amphetamines, benzodiazepines, cannabinoids, and ethanol (alcohol) were present in Mr. Soto’s system.

Mr. Soto remained at California Hospital Medical Center until his death on November 2, 2021. He had developed an infection from his gunshot wounds which ultimately lead to septic shock and to his death.

## Autopsy

Dr. Lawrence Nguyen, a Deputy Medical Examiner employed by the Los Angeles County Coroner's Office, conducted the autopsy of Mr. Soto on November 4, 2021. Dr. Nguyen concluded the cause of death was multiple gunshot wounds.

Due to the healing of wounds between July 26, 2021, and November 2, 2021, Dr. Nguyen could not establish direct gunshot wound tracts. However, he noted three locations where bullets (projectiles) were recovered during the autopsy:

Projectile 1: Recovered from right lower back

Projectile 2: Recovered from the left posterior thigh

Projectile 3: Recovered from right sacroiliac joint

All three bullets were collected by LAPD. FSD later analyzed the bullets and determined two of the bullets were fired by Officer Voci and one bullet was fired by Officer Martinez.

## Communications Evidence

Detectives obtained copies of the radio transmissions and printouts of the Computer Aided Dispatch ("CAD") system for calls related to the OIS incident on July 26, 2021. The CAD printouts are consistent with the officers' radio transmissions. The relevant communications are listed here along with the timing of key events to create a timeline of the information known to officers:

- 08:44:41 PM: LAPD dispatch received a 911 call from W-1.
  - The 911 call advised that Mr. Soto was standing against a wall on South Union Avenue just south of Pico Boulevard and was bleeding from his neck. Over the course of the call, W-1 described the subject as a male in his early 30s, about 180 pounds, and wearing blue shirt, blue cap, black cargo shorts, and black shoes. Furthermore, W-1 explained that the subject had a knife and was causing self-inflicted wounds. W-1 related that he was an off-duty officer from San Antonio, Texas.
- 08:45 PM: LAPD dispatch received 911 call from W-4.
- 08:46:59 PM: LAPD dispatch made the following entry into their incident log, which displays on the Mobile Digital Computer (MDC) screen in each patrol car: *"Location: S UNION AV/ W PICO BL...Incident type: 245AK Priority: 3."*
  - "245" refers to a violation of Penal Code section 245, Assault with a Deadly Weapon;
  - "AK" refers to "Ambulance Cutting" and means there was a stabbing or slashing that occurred and LAFD Rescue Ambulance is requested; and
  - "Priority 3" refers to a code 3 which means the responding unit should respond with lights and sirens.
- 08:46:59 PM: LAPD dispatch made the following entry into their incident log: *"Response Message: EDGED WEAPON PROTOCOL: \*DISPATCH A CODE SAM/CODE SAM 40 EQUIPPED UNIT AND SUPERVISOR ON CALLS WITH EDGED WEAPONS\*."*
  - Edged weapon protocol is an automatic request for a supervisor and a unit with less lethal options when there is a call involving a knife.

- 08:47:54 PM: LAPD dispatch made the following entry into their incident log: *“VICT M/W 40’s CAP, BEARD, BLUE SHIRT W/SLASH TO NECK UNK SUSP INFO.”*
- 08:48:19 PM: Dispatch broadcast over radio, *“Ambulance Cutting, Union and Pico, Union and Pico, by the Boost Mobile. Victim is a male, white, 40 years. No suspect description. Code 3...”*
- 08:48:39 PM: Officer Mejia acknowledged the call and stated that their unit (Unit 2A91) was en route from Venice Boulevard and Bonnie Brae Street.
  - Officer Mejia also acknowledged they were equipped with less lethal options (Bean Bag and 40 mm Launcher); and
  - Officer Mejia could be observed through Officer Martinez’s body-worn cameras verbalizing LAPD dispatch’s incident log entry to Officer Martinez.
- 08:48:39 PM: Supervisor acknowledged call over the radio due to Edge Weapon protocol.
- 08:49:02 PM: LAPD updated the incident log: *“FD 166. SUBJ MALE, 30’S, BLU HAT, BLU SHIRT, BLK SHORTS, WALKING N/B UNION. SUBJ CUT HIS THROAT, HOLDING SMALL BLADE.”*
- 08:49:31 PM: LAPD updated the incident log: *“PR IS OFF DUTY ORCR AND HAS HIS FIREARM.”*
  - PR refers to *“Person Reporting.”*
- 08:49:39 PM: LAPD dispatch broadcast a change in the call from an Ambulance Cutting to an Attempt Suicide.
- 08:49:42 PM: Officers Martinez and Mejia arrive and confront Mr. Soto, as documented on body-worn camera video.
- 08:49:52 PM: Officer Mejia radioed, *“Officer Needs Help”* multiple times and *“Shots fired”* before and during the first OIS, as documented on body-worn camera video.
  - This is not broadcast over the radio.
- 08:50:01 PM: Officer Mejia broadcast over the radio: *“Shots fired. Pico and Union. Officer needs help.”*
- 08:50:03 PM: Officers Voci and Garton responded to Pico Boulevard and South Union Avenue, as documented on body-worn camera video.
- 08:50:22 PM: Officer Mejia broadcast over the radio a request for an ambulance for a male who is conscious and breathing with gunshot wounds.
- 08:50:37 PM: LAPD updated the incident log: *“2A91 REQ HELP, OFCR NEEDS HELP RA MALE CONS/BREATH GSW.”*
  - *“2A91”* refers to the unit identifier for Officers Martinez and Mejia; and
  - *“RA”* refers to requesting a Rescue Ambulance.
- 08:50:40 PM: Officers Voci and Garton arrive on scene, as documented on body-worn camera video.
- 08:50:52 PM: Second OIS occurs, as documented on body-worn camera video.
- 08:51:15 PM: LAPD updated the incident log: *“SHOTS FIRED S/PICO ON UNION.”*

## **DNA Analysis**

LAPD FSD compared Mr. Soto's DNA to items recovered at the crime scene including: the knife dropped by Mr. Soto during the OIS and a mask located where Mr. Soto was originally standing when contacted by W-1. After a DNA analysis, FSD concluded that the DNA profile from the blood located on the knife and mask belonged to Mr. Soto.

## **Ballistic & Firearm Analysis**

The totality of the evidence showed that a total of six shots were fired during the incident, and that Officer Martinez and Officer Voci fired three shots each.

### **LAPD Officer Martinez Weapon Processing**

LAPD detectives processed Officer Martinez on the night of the shooting. Officer Martinez was equipped with his department issued firearm (a semi-automatic, .45 caliber, Glock 41, Gen 4 pistol) and department approved ammunition. The firearm, as configured, had a 14-round capacity with one round in the chamber and 13 rounds in the magazine. Officer Martinez possessed two additional magazines, each with a capacity of 13 rounds. A round count was conducted immediately after the OIS; Officer Martinez had three rounds short of maximum capacity, indicating that three shots had potentially been fired.

### **LAPD Officer Voci Weapon Processing**

Officer Voci was also equipped with his department issued firearm (a semi-automatic, .45 caliber, Glock 21, Gen 4 pistol) and department issued ammunition. The firearm, as configured, had a 14-round capacity with one round in the chamber and 13 rounds in the magazine. Officer Voci possessed two additional magazines, each with a capacity of 13 rounds. A round count was conducted immediately after this OIS; Officer Voci had three rounds short of maximum capacity, indicating that three shots had potentially been fired.

### **Additional evidence**

Six casings were recovered at the scene. Two bullets were located in the parked Nissan Xterra, one on the rear left door and one on the rear left quarter panel. The Nissan was parked behind Mr. Soto during the first OIS involving Officer Martinez. Additionally, four bullets were recovered from Mr. Soto, one during a surgery and three during the autopsy.

Analysts conducted a firearm and ballistic analysis on Officer Martinez's firearm, Officer Voci's firearm, and the six bullets obtained from the OIS investigation. In determining who fired the two shots that struck the parked Nissan Xterra, LAPD FSD conducted a Bullet Path Analysis and concluded the impacts were consistent with a bullet traveling from north to south, east to west, and in a downward direction. When coupled with the body-worn camera footage, this is consistent with Officer Martinez's first two fired shots.



Figure 23: Tan Nissan Xterra with two bullet strikes

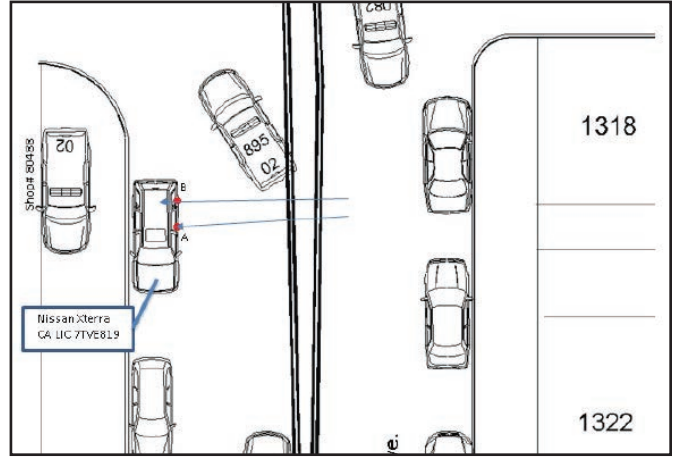


Figure 24: Showing the diagram of the Bullet Path Analysis

LAPD FSD also conducted a bullet comparison with the bullets recovered from Mr. Soto. FSD concluded that the bullet recovered from Mr. Soto's abdomen during surgery on July 26, 2021, was fired by Officer Voci. Of the three bullets located during the autopsy, FSD determined two were fired by Officer Voci and one was fired by Officer Martinez.

## APPLICABLE LEGAL STANDARDS

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

### Murder

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

Second degree murder is the unlawful killing of a human being with malice aforethought but without the additional elements of willfulness, premeditation, and deliberation that would support a conviction of first degree murder. (*People v. Knoller* (2007) 41 Cal.4th 139, 151.) The malice required for second degree murder may be express or implied. (Pen. Code, § 188; *Hernandez, supra*, 183 Cal.App.4th at p. 1332.) Malice is express when there is an "intent to kill." (Pen. Code, § 188; *People v. Delgado* (2017) 2 Cal.5th 544, 571.) Malice is implied "when the killing results from an intentional act, the natural consequences of which are dangerous to life, which act was deliberately performed by a person who knows that his [or her] conduct endangers the life of another and who acts with conscious disregard for life." (*People v. Dellinger* (1989) 49 Cal.3d 1212, 1215.)

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

## Voluntary Manslaughter

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

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

## Self-Defense

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

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

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

To determine whether deadly force is necessary, “officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” (Pen. Code, § 835a, subd. (a)(2); *People v. Hardin* (2000) 85 Cal.App.4th 625, 629-630 [“only that force which is necessary to repel an attack may be used in self-defense; force which exceeds the necessity is not justified” and “deadly force or force likely to cause great bodily injury may be used only to repel an attack which is in itself deadly or likely to cause great bodily injury”].)

A threat of death or serious bodily injury is “imminent” when, based on the “totality of the circumstances,” a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or to another person. (Pen. Code, § 835a, subd. (e)(2); see *People v. Lopez* (2011) 199



Cal.App.4th 1297, 1305-1306 [imminent peril is “immediate and present” and “must be instantly dealt with”; it is not prospective or even in the near future].)

“Totality of the circumstances” means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force. (Pen. Code, § 835a, subd. (e)(3).) De-escalation methods, tactics, the availability of less than lethal force, and department policies may be used when evaluating the conduct of the officer. However, when an officer’s use of force is evaluated, it must be considered “from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” (Pen. Code, § 835a, subd. (a)(4); accord, *Graham v. Connor* (1989) 490 U.S. 386, 396-397 [“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight”]; *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082-1083 [to determine whether use of force is objectively reasonable for self-defense, trier of fact must consider all the circumstances that were known or appeared to the officer as well as consideration for what a reasonable person in a similar situation with similar knowledge would have believed]; *People v. Bates* (2019) 35 Cal.App.5th 1, 9-10 [knowledge of another person’s prior threatening or violent conduct or reputation for dangerousness may provide evidence to support a reasonable belief in imminent harm].)

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

### **Burden of Proof**

A prosecutor bears the burden of proving a criminal defendant’s guilt beyond a reasonable doubt. (Pen. Code, § 1096.) Where an investigation is complete and all of the evidence is available for review, prosecutors should file charges only if they believe there is sufficient admissible evidence to prove the charges beyond a reasonable doubt at trial. (See, e.g., Nat. Dist. Attys. Assn., National Prosecution Standards (3d ed. 2009) Part IV, § 2 pp. 52-53; United States Department of Justice Manual § 9-27.220; Melilli, Prosecutorial Discretion in an Adversary System (1992) B.Y.U. L.Rev. 669, 684-685 [surveying ethical standards used in the exercise of charging discretion by prosecutors]; accord, *People v. Catlin* (2001) 26 Cal.4th 81, 109 [“A prosecutor abides by elementary standards of fair play and decency by refusing to seek indictments until he or she is completely satisfied the defendant should be prosecuted and the office of the prosecutor will be able to promptly establish guilt beyond a reasonable doubt,” quotation and internal quotation marks omitted]; *People v. Spicer* (2015) 235 Cal.App.4th 1359, 1374 [explaining that a prosecutor may have probable cause to charge a crime but reasonably decline to do so if they believe there is a lack of sufficient evidence to prove the charge beyond a reasonable doubt at trial]; cf. Rules Prof. Conduct, Rule 3.8(a) [prosecutor should not initiate or continue prosecution of charge that is not supported by probable cause].)

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

## LEGAL ANALYSIS

This review and analysis is based on the totality of evidence provided to DOJ in this matter, including police reports, witness statements, forensic evidence, Coroner's report, autopsy photos, body-worn camera footage, and dash camera footage. The issue in this shooting is whether Officers Martinez and Voci acted lawfully in self-defense or defense of others, and whether their actions are subject to criminal prosecution. We conclude that Officers Martinez and Voci should not face criminal liability for their actions in this incident.

### Officer Martinez

The evidence supports that Officer Martinez acted in lawful self-defense and defense of others. Because Officer Martinez did not give a statement, his subjective intent has to be inferred from the words he said and actions he took that were captured on the camera footage. Several factors show Officer Martinez actually believed in the need to defend himself, other officers, and bystanders against imminent peril or serious bodily injury.

It can be reasonably inferred from the evidence that Officer Martinez knew that Mr. Soto was armed with a knife and a violent incident had occurred. The dispatcher had informed Officer Martinez and Officer Mejia that a subject had a "slash to the neck," and referred to the call as an "Ambulance Cutting," meaning a knife was involved and an ambulance was requested. Officer Mejia acknowledged the call and also acknowledged that their unit was equipped with less lethal options, a requirement for an "Ambulance Cutting" call. In Officer Mejia's statement, he stated he informed Officer Martinez the victim had suffered a slash to their throat but they did not know that same suspect was holding a small blade.

Once Officers Martinez and Mejia arrived at the scene, Officer Mejia stated, "Hey, let me see your hands, bro." Officer Mejia stated he saw Mr. Soto carrying a knife in his right hand which was also covered in blood. W-1 then immediately advised the officers, "He has a knife. He has a blade in his right hand." Additionally, camera footage shows Mr. Soto moving toward Officer Martinez while holding a knife in his extended right hand as Officer Martinez was exiting the driver's side door of his car. Officer Martinez ordered Mr. Soto to, "Get the blade. Get the blade up. Get the blade up," but Mr. Soto ignored the command and continued to advance toward the officer as Officer Martinez backpedaled away from Mr. Soto. When Officer Martinez told Mr. Soto to "get the blade up," rather than to more clearly command to "drop the knife," one reasonable inference is that the officer was under stress and believed he was in imminent danger.

Within 10 seconds of his arrival on scene and in response to Mr. Soto's continued advances and close proximity, within five to ten feet of Officer Martinez, Officer Martinez fired two shots toward Mr. Soto. When Mr. Soto continued to charge at Officer Martinez, he fired his third and final shot. Based on Officer Martinez's words and actions as shown on the body-worn camera footage, it is reasonable to infer that Officer Martinez actually believed there was an imminent threat of death or serious bodily injury toward himself, or Officer Mejia and W-1, who were both nearby throughout the encounter.

Similarly, the events shown on the body-worn camera supports the inference that Officer Martinez's fear of imminent danger of serious bodily injury or death to himself and others at the scene was objectively reasonable under the circumstances.

Due to the information given to him by the police dispatcher, Officer Martinez had knowledge that a potentially violent crime, specifically an assault with a deadly weapon, a knife, had occurred while en route to the call. The body-worn camera footage showed that he arrived to a quickly unfolding situation. Mr. Soto, armed with a knife, was confronting W-1, who had his firearm drawn, and W-3,

who was in a defensive fighting posture. Mr. Soto did not respond to the presence of uniformed officers by complying with commands to show his hands, get the blade up, and then later orders to get on the “floor.” Footage from Officers Martinez’s and Mejia’s body-worn cameras show Mr. Soto repeatedly charging at Officer Martinez while holding a knife. Officer Martinez fired the first two shots when Mr. Soto was about five to ten feet away. At this distance, Mr. Soto was reasonably within striking distance of Officer Martinez with the knife. Mr. Soto paused for a moment and then continued to run toward Officer Martinez while still holding the knife in his extended right hand. Officer Martinez stepped back and ordered Mr. Soto to “[g]et on the floor, get on the floor.” Mr. Soto again failed to comply and continued to run toward Officer Martinez. Approximately three seconds after Officer Martinez fired the second shot, he fired a third shot, which struck Mr. Soto in the lower right abdominal region. Mr. Soto screamed, dropped his knife, clenched his lower right abdominal region, and fell face-forward onto the ground. Given the rapidly evolving circumstances shown by the body-worn camera footage, officers could reasonably perceive that the use of lethal force was necessary to protect themselves or others.

The body-worn camera footage also shows that Officer Martinez could reasonably believe Mr. Soto had the present ability and opportunity to inflict serious bodily injury upon Officer Martinez. Mr. Soto was armed with a knife and repeatedly advanced upon Officer Martinez. His further failure to comply with commands could reasonably be interpreted as an indication that Mr. Soto harbored an intent to use the knife on the officer.

Additionally, the actions of the other officers at the scene support the conclusion that Officer Martinez’s actions were objectively reasonable. Both W-1 and Officer Mejia pulled out their firearms when confronted by Mr. Soto who was holding a knife and acting aggressively. Officer Mejia stated that he unholstered his firearm because he believed Mr. Soto was an “Assault with a Deadly Weapon” suspect and that “the situation may escalate to a point where deadly force maybe necessary.” W-1 and Officer Mejia’s actions demonstrate that they were in fear for their safety which supports the conclusion that a reasonable officer in the same situation would believe Mr. Soto presented an imminent threat of deadly force.

Officer Martinez used only the amount of force necessary to halt the threat, firing the first two shots, followed by a third shot only when Mr. Soto continued to charge at Officer Martinez. After the third shot, Officer Martinez ceased firing and continued to make multiple commands. When Officer Mejia told Officer Martinez that Mr. Soto no longer possessed the knife, Officer Martinez did not fire his weapon as Mr. Soto got up and moved around the patrol vehicle. Since the incident escalated quickly, it is unlikely Officer Martinez had time to consider and use a less lethal option to stop Mr. Soto at an earlier stage. Officer Mejia stated that due to the quickly unfolding situation and other people on scene, he did not believe it would be reasonable to go back to the patrol vehicle to get a less lethal option.

In light of the totality of the circumstances, with Mr. Soto charging at Officer Martinez with a knife extended, not responding to the officers’ commands, not stopping after the first two shots, and exhibiting threatening behavior toward W-1 and W-3 upon their arrival, a reasonable officer, under the same circumstances, could have believed lethal force was necessary to prevent imminent injury. It cannot be proven beyond a reasonable doubt that Officer Martinez’s belief that he or someone else was in imminent danger of being harmed with the knife was unreasonable.

## **Officer Voci**

Similarly, the evidence, particularly the body-worn camera footage, supports that Officer Voci's actions were also subjectively and objectively reasonable under the totality of circumstances.

The evidence supports the inference that Officer Voci reasonably, though mistakenly, believed Mr. Soto was armed with a knife and Mr. Soto posed an imminent threat to his life. Officer Voci presumably heard the radio broadcast that "officer needs help" and Officer Mejia's request for an ambulance for a male who is conscious and breathing as he was responding to the scene. Officer Voci may have also received information about the incident from the radio, like his partner, Officer Garton, who stated he heard information broadcasted that the incident at Pico and Union involved a suspect armed with a knife, and that the reporting party was an off-duty officer who was armed. Given that Officer Voci and his partner arrived at the scene with the sirens and flashing lights activated on their patrol car, they were arriving in response to information they had received and they apparently believed the matter was urgent.

The video footage shows that, as Officer Voci ran from his patrol car toward Mr. Soto and Officer Mejia, who were in a physical struggle, Mr. Soto reached into his pocket and pulled out an unknown black object. This caused Officer Mejia to unholster his firearm, heightening the altercation. Audio recordings from Officer Voci's body-worn camera showed as Officer Voci arrived on scene, he yelled, "Stop, stop." Immediately after, Officer Mejia stated, "He doesn't have the knife." Officer Voci did not acknowledge or react to Officer Mejia's statement. Both Officer Mejia and Officer Garton noted the presence of a police helicopter flying low at the scene created loud noise made communication difficult and the scene more chaotic. Additionally, Officer Garton stated that he never heard any mention of a knife.

Mr. Soto, who was initially fifteen to twenty feet away from Officer Voci, aggressively turned toward Officer Voci with the unknown black object concealed behind his back and ignored Officer Voci's commands to "Drop it. Drop it." Mr. Soto leaned his head forward and took two steps toward Officer Voci with the black object still hidden behind his back and moved to within five to seven feet of Officer Voci. At this time, Officer Voci fired three shots. Immediately following the shooting, Officer Voci moved behind cover and asked, "Does he still have the knife?" This statement is evidence that Officer Voci believed the black object hidden behind Mr. Soto's back might be a knife. While Officer Mejia had said that Mr. Soto no longer had the knife, Officer Voci may not have heard the statement in light of his focus on Mr. Soto and noise at the scene, or he may have discounted it in light of an observation of the black object in Mr. Soto's hand. Further, his question immediately after the shooting ("Does he still have the knife?") suggests that he believed Mr. Soto might still be armed. The evidence does not show that Officer Voci fired his firearm for a reason other than an actual and honest belief that he or others were in imminent danger at the time he fired.

The evidence also supports a finding that Officer Voci reasonably believed in the need to defend against an imminent threat of death or serious bodily injury. When Officer Voci arrived, he saw Officer Mejia attempting to apprehend Mr. Soto, who was acting aggressively toward the officers despite having been shot. Mr. Soto turned in an aggressive manner toward Officer Voci with the unknown black object concealed behind his back and ignored Officer Voci's commands to drop the item. Video footage shows that Mr. Soto took two steps toward Officer Voci with the black object still hidden behind his back, coming within five to seven feet of Officer Voci. The time span between Officer Voci's arrival and when he fired his weapon was 12 seconds. Given Mr. Soto's aggressive actions in a brief time span, Officer Voci could have reasonably believed that Mr. Soto presented an imminent threat of death or serious bodily injury to himself and others at the scene.

Also, the other officers' reactions to Mr. Soto's actions support that Officer Voci's fears were reasonable. Once Mr. Soto reached for an object in his pocket, Officers Mejia and Martinez both reacted by unholstering their firearms and pointing them at Mr. Soto. This showed that Officers Mejia and Martinez both believed the threat level increased to a threat of death or serious bodily injury, which further supports Officer Voci's decision to also unholster his firearm. While Officer Garton never mentioned seeing an object in Mr. Soto's hand, he also had his firearm pointed at Mr. Soto due to his opinion that the situation might escalate because of the nature of the call. Officer Garton was also still moving when Officer Voci fired his weapon and did not have the same vantage point as the other officers.

Mr. Soto's further refusal to comply with orders supports the inference that Officer Voci had a reasonable fear of death or serious bodily injury. Mr. Soto turned toward Officer Voci with his right hand holding a concealed black object and Officer Voci ordered him to "drop it." Mr. Soto refused and instead took two steps toward Officer Voci. And Mr. Soto took all of these actions after having already been shot for approaching an officer with a knife. Mr. Soto's possession of a concealed object, his failure to comply with commands, and his stepping toward the officer could be reasonably interpreted as evidence that Mr. Soto had the ability, opportunity and intent to inflict death or serious bodily injury on Officer Voci. Apparently believing that Mr. Soto was about to attack, Officer Voci fired three shots in quick succession and ceased firing as Mr. Soto fell to the ground and no longer posed an imminent threat.

In light of the totality of the circumstances here, it cannot be proven beyond a reasonable doubt that Officer Voci's belief that he or someone else was in imminent danger of serious bodily injury or death was unreasonable. Officer Voci was informed Mr. Soto possessed a knife prior to arriving and he had been shot. Officer Voci witnessed Mr. Soto retrieve an unknown black object while resisting arrest with Officer Mejia. Mr. Soto then took two steps toward Officer Voci and did not respond to commands to stop or drop the item. Given those uncontroverted facts, a reasonable person, under the same circumstances, could have believed lethal force was necessary to prevent imminent serious bodily injury or death.

## **CONCLUSION**

Based upon the review of all of the evidence obtained by the Department of Justice, the applicable statutes, legal principles, and totality of the circumstances, there is insufficient evidence to support a criminal prosecution of either Officer Martinez or Officer Voci. Therefore, no further action will be taken in this case.



C A L I F O R N I A

DEPARTMENT of JUSTICE

**Policy and Practice Recommendations for the Los Angeles Police Department Related to the Officer-Involved Shooting of Samuel Soto on July 26, 2021**

ISSUED PURSUANT TO CALIFORNIA GOVERNMENT CODE  
SECTION 12525.3, SUBDIVISION (B)(2)(B)(III)

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FEBRUARY 2024



# POLICY AND PRACTICE RECOMMENDATIONS

The Attorney General is required to include “[r]ecommendations to modify the policies and practices of the law enforcement agency, as applicable” as a component of this report. (Gov. Code, § 12525.3 subd. (b)(2)(B)(iii).) To that end, the DOJ conducts an additional review of the information obtained through the criminal investigation (for example, body-worn camera footage, interview recordings, video recordings, witness statements, and other records) as well as the publicly-available policies of the agency employing the officers who are subject to the criminal investigation. The DOJ uses the review process to identify “applicable” recommendations, including any recommendations to modify policy and practices that may reduce the likelihood that officers use deadly force as well as recommendations to address any other deficiency or concern related to the officers’ conduct or the agency’s response that the DOJ observes. Because of the nature of this process, the DOJ does not generally obtain additional information from the employing law enforcement agency or conduct independent investigation of the agency’s practices outside of the single incident under review, which makes this process different from the DOJ’s formal Civil Code section 52.3 investigations and oversight reviews of local law enforcement agencies. DOJ’s goal is that these recommendations will assist the agency and the officers involved in the incident in understanding, from an independent perspective, improvements that could be made to address what we have observed through this incident.

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

## 1. ELECTRONIC CONTROL DEVICE (TASER)

At the time of this incident, LAPD’s Use of Force – Tactics Directive No. 4.5 on Electronic Control Devices (TASER) was in effect and required that officers conduct a weapon inspection at the start of a watch. Specifically, it stated that:

Spark tests should be conducted at the start of watch. The TASER should be spark tested for the full 5-second cycle ... Visually check the Central Information Display and the battery life indicator while the safety is up, to verify that a fault icon is not displayed above the battery life indicator...

Less than a month after this incident, and again in September 2023, the LAPD updated and improved its TASER policy. At the time of this incident, function tests/spark tests were encouraged but not required. By changing some of the language of the policy—including by replacing “should” with “shall”—LAPD now requires its officers to ensure their TASER is charged and functional at the beginning of their shift. The new policy requires that:

Function tests shall be conducted at the start of watch. The TASER should be spark tested for the full 5-second cycle ... Check CID for battery life and current firmware ... After 5 seconds, verify on the Central Information Display (CID): There are no fault icons ... There are two cartridges present ... There is sufficient battery capacity... (emphasis added).

This update is an improvement, as the availability of less-lethal force can reduce the need for lethal force. Here, only one of the four responding officers on the scene, Officer Voci, had a fully charged and functional TASER. Officer Martinez’s TASER reportedly had only 8-9% of its battery charged and Officers Mejia and Garton’s TASERS were reportedly non-functional. As a result, the officers were operating without an important tool for using less-lethal force.

While LAPD has updated its policy to make these pre-shift checks mandatory, the policy at the time still strongly suggested they be completed. Accordingly, LAPD should evaluate whether the responding officers properly followed policies, processes, and procedures, and had taken the appropriate trainings related to TASERS, at the time of this incident. Moreover, given that all but one officer lacked fully charged or functioning TASERS, LAPD should further ensure no systemic issues exist with respect to the availability of fully charged and functional TASERS. Finally, LAPD should ensure its officers are in full compliance with LAPD’s new TASER policy.

## 2. COMMUNICATION AND MEU RESPONSE

The initial call by W-1 went through to LAPD Dispatch. W-1 reported to LAPD Dispatch that a man appeared to be cut in his throat and bleeding. LAPD Dispatch immediately transferred W-1’s call to LAFD Dispatch. W-1 then reported the same information he reported to LAPD, along with the address.

After gathering more information from Mr. Soto, W-1 recommended to LAFD Dispatch that police also be sent to the scene. W-1 told LAFD Dispatch: *“He might have done it to himself. I believe he’s holding a small little blade in his right hand...He has a blade. I don’t know if he did it to himself. Self-inflicted wound or not...I don’t know if he’s trying to kill himself or not...Yeah, he might be self-inflicting himself... Yeah, he’s self-inflicting, yeah he’s self-inflicting his wound...Yeah, he’s self-inflicting.”*

W-1 first told LAFD Dispatch that Mr. Soto might have cut himself at the 2:00-2:01 mark of the 911 call. W-1 then tells LAFD Dispatch that Mr. Soto has a blade in his right hand at the 2:03 mark of the 911 call, and then reports multiple times with LAFD Dispatch that Mr. Soto is *“self-inflicting [the wound] himself”* beginning at the 3:36 mark of the 911 call. LAPD doesn’t arrive to the scene until the 5:02 mark of the 911 call. In other words, LAFD Dispatch was aware for nearly 3 minutes prior to LAPD arriving to the scene that Mr. Soto was armed with a blade and may be self-inflicting his wound. And then for nearly 1.5 minutes prior to LAPD’s arrival, W-1 reported to LAFD that Mr. Soto was self-inflicting his wounds.

W-1’s initial description of the situation on the 911 call—observing a man who appeared to be cut in his throat and bleeding—may have given the impression that this was a medical call and it was not immediately clear that officer involvement was necessary. However, that changed as soon as W-1 reported that Mr. Soto had a blade and reported multiple times that Mr. Soto was self-inflicting his wounds. Thereafter, LAFD Dispatch should have transferred the call back to LAPD Dispatch. The facts reflect there was sufficient time, nearly 3 minutes, for the call to be relayed back to LAPD Dispatch, which could have potentially given LAPD time to call up its Mental Evaluation Unit (MEU) to deploy its Systemwide Mental Assessment Response Team (SMART), or at the very least, given the responding officers a better idea of the situation they would encounter.

Given the above, LAPD should consider working with LAFD on improving Dispatch communication, which could include evaluating changes to training and policy on calls that intersect both agencies.