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# DEPARTMENT OF JUSTICE

## Report on the Investigation into the Death of John Joseph Alaniz on May 4, 2022

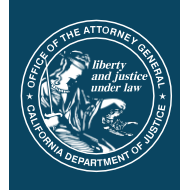
Los Angeles County AB 1506

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July 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 such 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 why it was determined that criminal charges were not appropriate; and
- Where applicable, recommendations to modify the policies and practices of the involved law enforcement agency.

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

## **PRIVACY STATEMENT**

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

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

- Witness 1 (W-1), 911 Caller
- Witness 2 (W-2), passenger in vehicle of 911 Caller
- Witness 3 (W-3), driver of semi-trailer truck that struck decedent
- Witness 4 (W-4), driver of Chevrolet Silverado
- Witness 5 (W-5), passenger of Chevrolet Silverado
- Witness 6 (W-6), driver of the black Nissan Rogue
- Witness 7 (W-7), father of John Joseph Alaniz
- Location #1, westbound lanes of the 105 Freeway at the Paramount Boulevard overpass in the City of Paramount, California
- Location #2 westbound lanes of the 105 Freeway at Garfield Avenue in the City of Paramount, California

## INTRODUCTION

On May 4, 2022, California Highway Patrol Officers Ramon Silva and Jonathan Van Dragt responded to a report of a male running into traffic in the westbound lanes of 105 Freeway. Upon arrival, the officers were confronted by John Joseph Alaniz (decedent), who charged in their direction while pointing what appeared to be a firearm at them. Officer Jonathan Van Dragt unsuccessfully deployed his taser and Officer Ramon Silva fatally shot John Joseph Alaniz. The California Department of Justice, in conjunction with the California Highway Patrol Major Crime Unit, investigated and reviewed the Officer-Involved Shooting (OIS) pursuant to Government Code section 12525.3 (enacted by Assembly Bill 1506 (2019-2020 Reg. Sess.)). This report is the final step in the DOJ's review of the fatal OIS of John Joseph Alaniz, and is limited solely to determining whether criminal charges should be brought against the involved officer. This review does not encompass or comment on any potential administrative or civil actions. It does, however, include policy and practice recommendations, as required by Government Code section 12525.3, subdivision (b)(2)(B)(iii).

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

## SUMMARY OF INCIDENT

On May 4, 2022, shortly after 11:00 AM, W-1 and his passenger, W-2, were travelling westbound in the number three lane of 105 Freeway in Paramount, California. From the interior of his pickup truck W-1 observed a semi-trailer truck travelling in the number four lane strike a pedestrian, later identified as John Joseph Alaniz (decedent). W-1 estimated the speed of the semi-trailer truck to be 55 mph at the time of impact.



Figure 1 – Still image taken from semi-trailer truck video showing the view from the cab of the semi-trailer truck that struck Mr. Alaniz

W-1 and W-2 exited their vehicle and approached Mr. Alaniz to assess any injuries. After the collision, Mr. Alaniz got back to his feet and attempted to place his head underneath the wheels of a semi-trailer truck in an adjacent lane that stopped due to the initial collision.

At approximately 11:19 AM, W-1 called 911, and reported to the California Highway Patrol's (CHP) Los Angeles Communication Center (LACC) that a man had been struck by a semi-trailer truck in the westbound lanes of 105 Freeway near the Paramount Blvd overpass. In the 911 call, W-1 can be heard yelling that Mr. Alaniz is placing his head underneath another vehicle's tire and trying to kill himself.

At 11:20 AM, LACC broadcast the information on the CHP radio frequency that there was an incident involving a "big rig versus a ped" on the 105 Freeway, and that the "Caller advised pedestrian may have jumped in front of the big rig on purpose." LACC followed up with further broadcasts as to the location.



Figure 2 – Still image taken from semi-trailer truck video showing Mr. Alaniz (red arrow) attempting to place his head under the wheel of a semi-trailer truck

Mr. Alaniz continued walking westbound on the right shoulder of 105 Freeway followed closely by W-1. W-1 attempted to protect Mr. Alaniz from oncoming traffic but Mr. Alaniz told W-1 to save himself and immediately ran south across the westbound lanes of 105 Freeway where he (Mr. Alaniz) was struck by a silver Chevrolet Silverado.

The driver of the Silverado, W-4 and his son W-5, were traveling westbound on 105 Freeway and observed two males (W-1 and Alaniz) walking on the shoulder of the freeway. W-1 was holding his hands out towards Mr. Alaniz but he (Mr. Alaniz) ran away from W-1 and jumped in front of their pickup truck head first. Mr. Alaniz hit the front hood of the pickup truck but remained on his feet and walked away.



Figure 3 – Image of the silver Chevrolet Silverado that struck Mr. Alaniz



Figure 4 – Image of blood stain on hood of Chevrolet Silverado that struck Mr. Alaniz

CHP Officers Ramon Silva and Jonathan Van Dragt responded to the LACC broadcast and arrived on scene at approximately 11:31 AM. Officer Silva arrived by motorcycle from the west at the Garfield Avenue onramp. Officer Van Dragt arrived by a patrol vehicle from the east on westbound 105 Freeway. Officer Van Dragt positioned his patrol vehicle between Officer Silva and Mr. Alaniz. He exited his vehicle and unholstered his firearm. He observed Mr. Alaniz with his hands in his pockets as Officer Van Dragt moved to the rear of his vehicle. He ordered Mr. Alaniz to show his hands.



Figure 5 – Still image of Officer Silva’s BMWV facing eastbound on westbound 105 Freeway



Figure 6 – Still image of Officer Silva’s BMWV as Officer Van Dragt arrives on scene





Figure 7 – Still image of Officer Silva’s BWV depicting Officer Van Dragt (photograph enlarged) unholstering his firearm



Figure 8 – Still image of Officer Silva’s BWV depicting Officer Van Dragt unholster his taser

At 11:31:50 AM, Officer Silva instructed Mr. Alaniz to show his hands while approaching with his firearm drawn. Mr. Alaniz ignored Officer Silva’s commands and abruptly charged towards Officer Van Dragt. According to W-1, Mr. Alaniz produced a black and rectangular object from his sweatshirt pocket and pointed it at Officer Van Dragt as if he was in possession of a firearm. Officer Silva saw Mr.

Alaniz raising his right hand with what he described as “a long cylindrical silver” object that he believed was a gun. The object was later determined to be a grey eyeglass case containing a glass pipe.

Officer Van Dragt retreated towards the front of his patrol vehicle and simultaneously holstered his firearm with his right hand and unholstered his taser with his left hand. Officer Van Dragt deployed his taser at 11:31:53 AM.<sup>1</sup> Officer Silva did not see the taser being deployed, but he heard a “pop,” which he thought was a gunshot. The taser deployment had no effect on Mr. Alaniz and he continued to charge at Officer Van Dragt.



Figure 9 – Image of Officer Van Dragt’s discharged taser

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<sup>1</sup> Officer Van Dragt deployed his taser at 11:34:05 AM, according to the taser’s event log. A comparison of the taser event log and Officer Silva’s BWV shows that the time documented on the taser event log is approximately 2:12 minutes ahead of Officer Silva’s BWV. Therefore, the correct time of the taser deployment according to Officer Silva’s BWV is 11:31:53 AM.



Figure 10 – Image from Officer Silva’s BWV depicting Mr. Alaniz pointing object at the officers

Mr. Alaniz pursued Officer Van Dragt behind his patrol vehicle and out of sight of Officer Silva. Officer Silva regained sight of Mr. Alaniz at the rear driver’s side corner of the patrol vehicle and observed him charging at him with his hands in a shooting stance. At 11:31:54 AM, Officer Silva fired five rounds at Mr. Alaniz causing him to fall to the ground. Mr. Alaniz was handcuffed by Officer Van Dragt and rolled on to his back. Then, Officers Silva and Van Dragt began to render medical aid.

CHP Officers Noel Gonzalez and Enrique Ramos arrived on scene and assisted Officers Van Dragt and Silva in rendering medical aid to Mr. Alaniz. Los Angeles Fire Department personnel arrived on scene at 11:36:30 AM and took over rendering medical aid to Mr. Alaniz until paramedics arrived.

Emergency Medical Technicians arrived at 11:38 AM and transported Mr. Alaniz to Saint Francis Medical Center. Mr. Alaniz was treated at the hospital by Doctor Aaron Strumwasser. Doctor Strumwasser attempted lifesaving medical treatment. His efforts were unsuccessful and Mr. Alaniz was declared deceased at 12:08 PM.

## **INVESTIGATION**

### **DOJ Response**

On May 4, 2022, at approximately 1:00 PM, the DOJ's California Police Shooting Investigation Team (CaPSIT), received notification of an OIS on 105 Freeway in Paramount. The incident involved the CHP's East Los Angeles Patrol Division and was determined to be a qualifying event under AB 1506.

CaPSIT promptly responded to the incident scene to initiate a criminal investigation on behalf of the DOJ. Two Deputy Attorneys General (DAG) from the Attorney General's Special Prosecutions Section also responded. When CaPSIT agents arrived, the incident location was secured by CHP personnel, with the entire surrounding area blocked off with crime scene tape to preserve evidence. The DOJ team, along with investigators from the CHP Major Crimes unit, observed the locations of key items of evidence, paying particular attention to the area where the shooting took place. The California DOJ Bureau of Forensic Services (BFS) arrived to collect evidence and document findings.

CaPSIT conducted a briefing to provide an overview of the incident so investigators had the same information before further steps were taken. After the briefing, CaPSIT special agents were assigned various investigative tasks.

The two CHP officers involved in the incident were sequestered and both officers provided voluntary statements. Statements were also taken from firefighters, emergency medical technicians (EMT), and civilian witnesses. The DOJ team reviewed BWV footage that captured the OIS using the CHP mobile command post.

The DOJ investigation into the death of Mr. Alaniz was comprehensive, thorough, objective and independent. DOJ interviewed 23 civilian witnesses, four CHP Officers, one Los Angeles County Sheriff's Department pilot, two Los Angeles Fire Department fire fighters and two EMTs. Additionally, the incident scenes, as described below, were processed for evidence.

### **Scene Description**

There were two incident scenes associated with this OIS: Location #1, westbound lanes of the 105 Freeway at the Paramount Boulevard overpass in the City of Paramount, California; Location #2, westbound lanes of the 105 Freeway at Garfield Avenue in the City of Paramount, California.

The incident began when Mr. Alaniz ran in front of a semi-trailer truck travelling in the number four lane at Location #1, near the Paramount Boulevard overpass. Mr. Alaniz continued walking westbound on the right shoulder of 105 Freeway and made several additional attempts to jump in front of oncoming traffic in the westbound lanes. Mr. Alaniz was struck several times by oncoming traffic but continued walking westbound to the Garfield Avenue overpass.

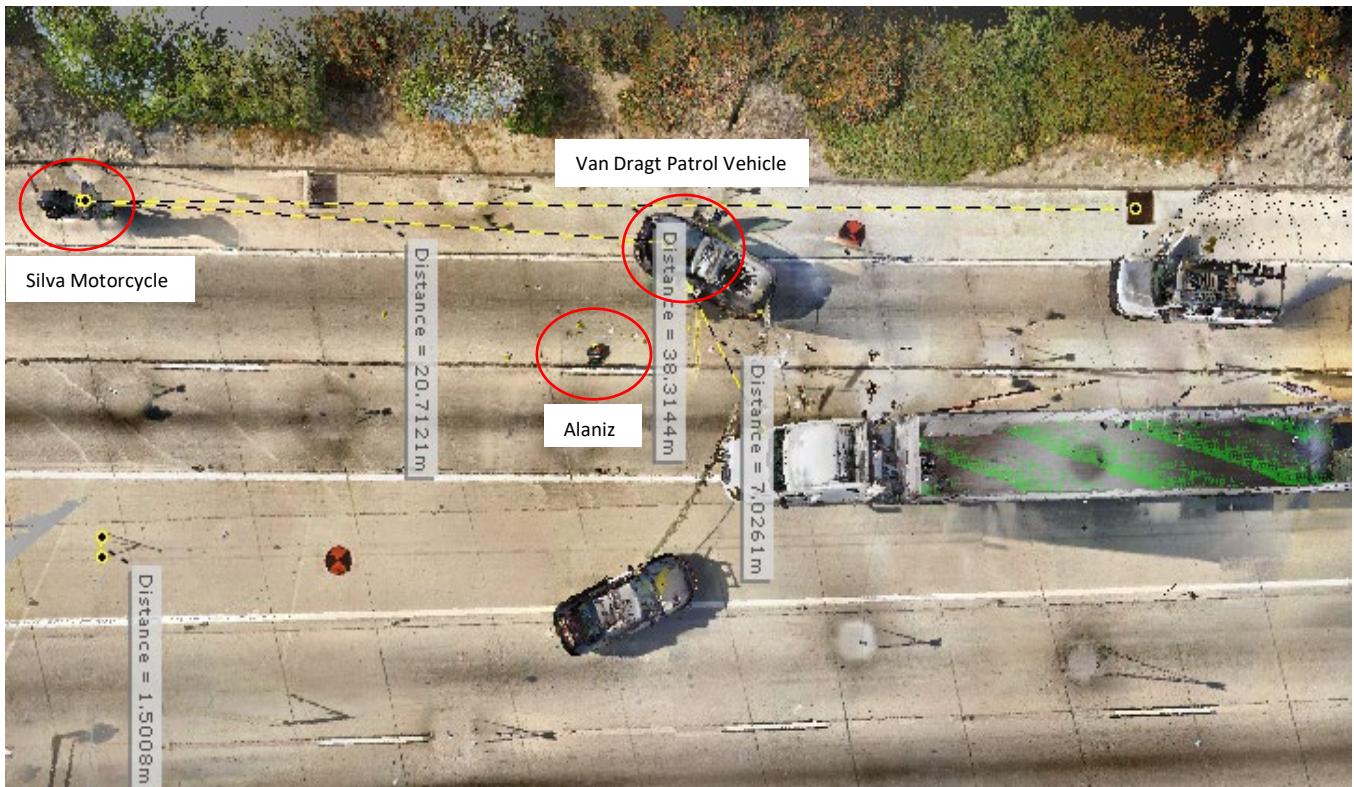


Figure 10 – 3D Faro Scan of the Westbound 105 Freeway at the Paramount Boulevard overpass in the City of Paramount identifying the location of Officer Silva’s motorcycle, Officer Van Dragt’s patrol vehicle and the location of Mr. Alaniz at the time of the OIS

The OIS occurred at Location #2 during daylight hours. The vehicular traffic was heavy with numerous vehicles on the westbound lanes of 105 Freeway. The distance between the two scenes is approximately 3,059 feet, or, more than half a mile.



Figure 11 – View of OIS scene from Officer Silva’s CHP motorcycle depicting yellow evidence markers placed by CHP Investigators.

## 911 Calls and Dispatch Recordings

A review of the 911 calls and dispatch recordings supports the following timeline:

- On May 4, 2022, at 11:19 AM, the CHP's Los Angeles Communication Center (LACC) received a 911 call of a man struck by a semi-trailer truck in the westbound lanes of 105 Freeway near the Paramount Blvd overpass. The initial 911 call was made by W-1.
- At 11:20 AM, LACC broadcast the following information on the CHP radio frequency, "74 and 79, westbound 105, east of the 710, big rig vs. ped, blocking the slow lane." Multiple CHP officers in the area heard the broadcast and responded to the location. LACC followed up the initial broadcast with the following information: "Caller advised pedestrian may have jumped in front of the big rig on purpose." 74 and 79 refer to the specific units responding to the incident.
- At 11:21 AM, LACC broadcast: "Still getting new calls on this party and they are saying he is 1031, west 105, east of 710, ped is back up, walking on lanes, bleeding, trying to jump in front of other vehicles. I have no description, except for a male." 1031 refers to the police radio code for suicidal subject.
- At 11:23 AM, LACC requested assistance from the Santa Fe Springs CHP office to assist CHP units from East Los Angeles in responding to the incident.
- At 11:24, LACC broadcast, "Second party stopped and may have hit the ped. They are in a Chevy Silverado that party is standing by on right shoulder. Ped is on the right shoulder and we may have a party holding him down."
- At 11:26 AM, Los Angeles County Sheriff's Department Air Unit "Aero 8" broadcast, "Looks like they are walking on the right shoulder, they're just past Garfield now, I'm sorry, they're coming up to Garfield from Paramount right shoulder, west 105 approaching Garfield."
- At 11:27 AM, Aero 8 broadcast, "Guy's running across traffic now, running southbound across lanes."
- At 11:31:59 hours, Officer Van Dragt broadcast "Mazeep 2, shots fired, shots fired." Mazeep is Officer Van Dragt's designated radio call sign.

## Body Worn Camera and Patrol Car Video Camera Footage

At the time of this incident, Officer Silva was wearing a Body Worn Camera (BWC) that captured a portion of the incident. The area of the incident was canvassed, and additional video was recovered from bystanders. These additional videos are referred to as "cell phone video."

A portion of the incident was captured on the Wireless Mobile Video/Audio Recording System (WMVARS) in Officer Van Dragt's patrol car. WMVARS recordings are saved on the patrol car's internal hard drive. The WMVARS system is constantly recording video (without audio), even when it is not activated; when activated, audio is also captured. The WMVARS were activated as Officer Van Dragt approached the scene.

The initial collision between Mr. Alaniz and the semi-trailer truck was captured on the semi-trailer truck's digital in-car video. The two remaining cell phone videos were taken by witnesses and contain footage of the aftermath of the OIS.

### Officer Processing

On May 4, 2022, Officer Silva was assigned to the CHP East LA Station and was operating a marked black and white CHP motorcycle. He wore a standard CHP motorcycle patrol officer uniform with CHP patches on the shoulders, a CHP badge on the left upper chest and name tag on the right chest. Officer Silva also wore a gold and blue open face motorcycle helmet with a yellow metal "winged wheel" CHP motorcycle emblem attached to the front. Officer Silva also wore a personally owned Axon BWC.<sup>2</sup> He carried a Smith & Wesson, Model M&P .40 caliber handgun. The handgun was in a holster on the right side of his gun belt. The handgun was loaded with one live round in the chamber and fifteen rounds of ammunition in a fifteen-round capacity magazine. He did not carry a backup handgun. He carried two extra magazines, one was loaded with ten rounds<sup>3</sup> and one was loaded with fifteen rounds. He wore a yellow taser in a pouch on the left side of his gun belt.

Officer Van Dragt was assigned to the CHP Sante Fe Springs Station. Officer Van Dragt was driving a marked black and white CHP patrol vehicle. He was wearing prescription glasses and a standard CHP officer uniform with CHP patches on the shoulders, a CHP badge on the left upper chest, and name tag on the right chest. He carried a Smith & Wesson, Model M&P .40 caliber handgun. Prior to the OIS, the handgun was loaded with one live round in the chamber and fifteen rounds of ammunition in a fifteen-round capacity magazine. Officer Van Dragt did not carry a backup handgun. He carried two extra magazines, each loaded with fifteen rounds. He wore a yellow taser in a pouch on the left side of his gun belt, but the taser was left at the scene.



Officer Silva's Firearm



Officer Van Dragt's firearm

### Scene Processing

The scene was processed by both the DOJ Bureau of Forensic Services in Riverside and the CHP Multidisciplinary Accident Investigation Team (MAIT).

BFS criminalists collected evidence including a projectile, cartridge casings, various taser parts, and medical waste from the efforts to resuscitate Mr. Alaniz. Officer Silva's firearm was processed by BFS and found to be in proper working order. BFS criminalists also collected a gray eyeglass case with an overall length of approximately 4 ½ inches and a glass pipe.

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2 CHP does not provide body worn cameras to its officers. However, the department allows the use of person BWCs at each officer's discretion.

3 Officer Silva fired five rounds from this magazine during the course of the OIS.



Figure 12 – Image of grey eyeglass case



Figure 13 – Image of grey eyeglass case and glass pipe

## Autopsy

On May 6, 2022, Los Angeles County Medical Examiner-Coroner Dr. Julie Huss-Bawab. Dr. Huss Bawab classified the manner of death as homicide and ascribed the cause of death to multiple gunshot wounds. Mr. Alaniz was a 34 year-old Hispanic man, five feet and four inches tall, weighing 230 pounds. Dr. Huss-Bawab's examination revealed that Mr. Alaniz sustained three gunshot wounds located at the right upper chest, right upper thigh, and the internal left shin; two rounds remained in the body. Dr. Huss-Bawab identified the gunshot wound to the upper right chest area as imminently



fatal. Dr. Huss-Bawab also noted and various contusions and abrasions including a laceration to the back of the head, but no displaced fractures. Dr. Huss-Bawab recovered one taser probe from Mr. Alaniz's clothing.

The blood toxicology was positive for the presence of cannabinoids.

## **Interviews of Involved Police Officers**

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.) Officer Silva and Officer Van Dragt gave voluntary statements. In addition, Officers Gonzalez and Ramos, who responded to the scene after the shooting occurred, also provided voluntary interviews.

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

### ***Interview of Officer Ramon Silva***

Officer Silva provided a voluntary statement on May 9, 2022. DOJ Special Agents Daniel Ibarra and Tony Baca conducted the interview. Jake Johnson from the California Association of Highway Patrolmen was also present on behalf of Officer Silva.

Officer Silva initially heard a broadcast for a pedestrian versus tractor-trailer collision but was assigned to a different beat and did not plan on responding to the call. After hearing several additional calls of an individual attempting to get hit by cars, he responded to the location. Officer Silva contacted dispatch and requested air support because he was not sure what was happening at the scene. Officer Silva commented that, "The situation seemed tense and uncertain." Dispatch advised him that bystanders were attempting to restrain the subject to no avail. Officer Silva interpreted the scene as mass chaos by how dispatch relayed information. This raised red flags for Officer Silva because he was dealing with "somebody who has the capability of violence" and somebody that will stop at nothing to cause mayhem or injury to other people and to people's property.

Officer Silva arrived on scene and observed several vehicles stopped near a group of individuals standing on the shoulder. Officer Silva attempted to wave vehicles past the group of individuals in an effort to get everybody out of harm's way and to isolate Mr. Alaniz. Officer Silva believed that Mr. Alaniz was unpredictable based on information relayed to him by dispatch, which caused him to fear for his safety. After identifying Mr. Alaniz, Officer Silva advised dispatch that Mr. Alaniz was standing, "with his hands in his pockets." Officer Silva intended to wait for backup prior to making contact with Mr. Alaniz. His primary objective was to put handcuffs on Mr. Alaniz and remove him from the freeway.

Officer Van Dragt arrived and positioned his patrol vehicle between Mr. Alaniz and Officer Silva. Officer Van Dragt exited his patrol vehicle and drew his firearm. Officer Silva also drew his firearm. Officer Silva issued verbal commands to Mr. Alaniz to, "let me see your hands," but he failed to comply. Officer Silva stated, "it all happened simultaneously" and immediately after issuing verbal commands, Mr. Alaniz charged Officer Van Dragt and pulled out what Officer Silva described as "a long cylindrical silver thing, which at the time, I identified as a gun."

Mr. Alaniz raised the silver object and pointed it towards Officer Van Dragt in a shooting stance. Officer Silva explained that he was in fear for Officer Van Dragt's life. Officer Silva stated that Mr. Alaniz obscured the object in his hand and himself "by running behind the patrol vehicle." Officer Silva lost visual contact of Mr. Alaniz and experienced a brief feeling of helplessness, given his inability to assist his partner. "I was placed in a situation where I either remain where I am and am unable to assist my partner, or step out with no cover and be prepared to get shot." "I waited until the last fucking minute, took a step out; I hear a pop." Officer Silva described the sound of the "pop," as "like a gun shot." He observed Officer Van Dragt doing a "weird side-step thing where I wasn't certain if he was it." At the same time, Officer Silva observed Mr. Alaniz charge towards him in a shooting stance. Mr. Alaniz's hands were fully stretched out in front of him as he charged towards Officer Silva. "And the rest, it was just automatic; what I was trained to do." Officer Silva fired five rounds at Mr. Alaniz who then fell to the ground. Officer Silva continued to issue verbal commands to "show me your hands."

At the time of the shooting, Officer Silva estimated the distance between him and Officer Van Dragt to be roughly ten feet and the distance between Officer Van Dragt and Mr. Alaniz to be "within arm's reach." He described feeling both relief and fear after the shooting. "I just thought I wouldn't see my son grow up."

Officer Silva believed he had no other options, and a switch to nonlethal would have placed him and Officer Van Dragt in danger. Officer Silva explained that his intent when he fired his weapon was to "neutralize a lethal threat." He believed that no other force options were appropriate at the time because he was "confronted with a lethal threat." It was not feasible to attempt any form of de-escalation, because Mr. Alaniz created the exigency with his aggressive behavior. "I was more than content sitting there waiting for back up, but this person created the situation to escalate."

#### ***Interview of Officer Jonathan Van Dragt***

Officer Van Dragt provided a voluntary statement on May 10, 2022. DOJ Special Agents Daniel Ibarra and Tony Baca conducted the interview. Also present were Sergeant Adam Taylor and John Pomerleau from the CHP Southern Division Critical Incident Investigation Team. Jose Cheak from the California Association of Highway Patrolmen was also present on behalf of Officer Van Dragt.

On May 4, 2022, Officer Van Dragt was working an overtime detail with Caltrans. The purpose of this detail was to protect Caltrans workers during a shutdown of the eastbound 105 Freeway in the City of Norwalk. Near the end of the detail, Officer Van Dragt heard a radio broadcast from CHP dispatch requesting assistance with a pedestrian who had been struck by multiple vehicles on the 105 Freeway. The call did not provide any additional description of the pedestrian. Officer Van Dragt responded to the call, based on his belief that he was the closest unit to the incident and could initiate a traffic break at the scene.

Officer Van Dragt approached the location of the first incident on the westbound 105 Freeway. He initiated a traffic break and was approached by the driver of a tractor-trailer who ran toward him, pointing and yelling. Officer Van Dragt instructed the driver to return to his vehicle. Another CHP unit, approximately ten car-lengths behind him, initiated an additional traffic break. It was then that Officer Van Dragt terminated his traffic-break and drove forward in an attempt to locate the subject of the radio call.

Officer Van Dragt observed a CHP motorcycle unit ahead with a person running down the shoulder of the freeway toward the motorcycle unit and away from him. The individual was wearing an orange

vest and jeans. Officer Van Dragt mistakenly believed this to be the subject of the original call, because dispatch failed to provide a description.

A radio broadcast then advised Officer Van Dragt that the individual in the orange vest was not the subject of the call. He exited his patrol vehicle and walked to the rear of the car, where he observed Mr. Alaniz approximately fifty feet away, “on the shoulder, staring into the lanes.” It was at this time that he identified Mr. Alaniz as the pedestrian that had been struck by multiple vehicles.

Officer Van Dragt saw that Mr. Alaniz had his hands in his sweatshirt pockets, and the officer drew his firearm in response to the perceived threat. Officer Van Dragt stated, “He had his hands in his pockets, and I ordered him to let me see your hands to try to de-escalate and let him put his hands up and see what’s going on.” Mr. Alaniz put his hands up momentarily then immediately shoved his hands back in his pockets. He looked at Officer Van Dragt with a crazed look, spun on his heels, and charged at him. Mr. Alaniz ran at Officer Van Dragt and withdrew something out of his right pocket. Mr. Alaniz assumed a shooting stance and aimed the object at Officer Van Dragt. “Immediately I’m thinking it’s a firearm.” Due to his proximity to Mr. Alaniz, Officer Van Dragt was able to determine that the object was not actually a firearm. However, he still considered the object a potential threat because he was not certain what it was.

Mr. Alaniz charged at Officer Van Dragt, who retreated in an effort to gain a tactical advantage. Officer Van Dragt believed that Mr. Alaniz was going to attack him based on his aggressive demeanor and how quickly he charged. Officer Van Dragt moved around the patrol vehicle to the opposite side of the vehicle, away from Officer Silva.

At that point, Officer Van Dragt transitioned from his firearm to his taser. Mr. Alaniz continued to advance, and when he reached the center of the patrol vehicle, Officer Van Dragt deployed his taser in an attempt to stop the assault by Mr. Alaniz. Officer Van Dragt described his mental state at the time of his taser deployment: “I shot one set of darts, and after that is when I heard a volley of shots right at that moment. I wasn’t sure if he had shot at me. I wasn’t sure. Because I lost track of anyone else on scene because I had been moving re – moving to a more – better location.” Officer Van Dragt was near the front driver’s side door moving towards the front of his patrol vehicle when he heard the shots fired. He did not realize Officer Silva fired the rounds until after the OIS when he observed Mr. Alaniz on the ground. “I wasn’t sure if it – if I was wrong and that was a gun that he was ch – he was running at me with. For a split second, I thought I had been shot, so I was in fear that I had been shot. I didn’t know.”

After the shots were fired, Officers Van Dragt and Silva took cover and assessed how to proceed with Mr. Alaniz on the ground. At the time of the shooting, Officer Van Dragt was approximately ten to fifteen feet away from Mr. Alaniz. Officer Silva asked Officer Van Dragt “where’s the gun.” Officer Van Dragt pointed at the object that was in Mr. Alaniz’s hand and stated, “it’s right there.”<sup>4</sup> The officers approached Mr. Alaniz while issuing verbal commands. Officer Van Dragt placed Mr. Alaniz in handcuffs and began to render medical aid. Los Angeles Fire Department arrived and took over rendering medical aid to Mr. Alaniz. Officer Van Dragt estimated that the time between Mr. Alaniz charging at him and shots being fired was approximately three to five seconds. Officer Van Dragt

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<sup>4</sup> On Officer Silva’s BWC, the following can be heard:

Officer Silva: “What did he have in his hand? Was that a gun?”

Officer Van Dragt: “No it’s, it’s that thing.”

believed that he had exhausted all efforts to de-escalate the situation and did not have time to consider other use of force options, due to the rapidly evolving nature of the incident.

Officer Van Dragt indicated he has significant experience with traffic collisions involving pedestrians and that there are usually injuries, and very often, fatalities. “It was just very confusing to me because this pedestrian had supposedly been run over by – um – cars, and then now, all of a sudden, there was a pedestrian that’s standing on the shoulder and running at me, like, so quick. It just – it just – it just – very – happened very quick.”

### ***Interview of Officer Enrique Ramos***

Officer Ramos provided a voluntary statement on May 9, 2022. DOJ Special Agents Daniel Ibarra and Tony Baca conducted the interview. Jake Johnson and Jose Chi from the California Association of Highway Patrolmen were present on behalf of Officer Ramos. Also present were Sergeants Adam Taylor and Shawn Pomerleau from the CHP Southern Division Critical Incident Investigation Team.

Officer Ramos was assigned to work the 10 Freeway between Indiana Street in Los Angeles, and the 605 Freeway in Baldwin Park. Officer Ramos was en route to a traffic collision on Medford and Gage when he heard a broadcast over the radio that a pedestrian was attempting to jump into traffic on the 105 Freeway near Garfield Avenue. Shortly after the first radio call, Officer Ramos heard another call indicating that the pedestrian was struck by a big rig. Officer Ramos discontinued his response to the traffic collision and advised dispatch that he was responding to the incident on the 105 Freeway. Officer Ramos received multiple radio broadcasts on his way to the scene that the pedestrian was attempting to run into traffic. Shortly before arriving on scene, Officer Ramos heard dispatch broadcast that an officer involved shooting occurred.

Once he arrived, Officer Ramos saw the pedestrian lying on the ground with Officer Silva pointing his gun at the pedestrian. Officer Ramos parked his patrol vehicle near the scene and observed Officers Silva and Van Dragt issuing commands as they approached Mr. Alaniz who was unresponsive. Officer Ramos assisted Officers Silva, Van Dragt, and Gonzalez in providing medical aid to Mr. Alaniz until medics arrived a short time later. Mr. Alaniz stopped breathing at one point and Officer Ramos performed CPR.

### ***Interview of Officer Noel Gonzalez***

Officer Gonzalez provided a voluntary statement on October 3, 2022. DOJ Special Agents Daniel Ibarra and John Genens conducted the interview.

Officer Gonzalez overheard multiple broadcasts of a pedestrian walking on the westbound 105 Freeway near Garfield Avenue. The callers advised dispatch that the individual appeared to be suicidal and had jumped in front of moving traffic.

When Officer Gonzalez arrived on scene, he noticed traffic in the westbound lanes was moving at a fast pace. Officer Gonzalez successfully conducted a traffic break approximately 50 to 100 feet away from Mr. Alaniz to slow down the westbound traffic. Officer Gonzalez exited his vehicle and walked toward the scene and heard gunshots fired. He ran to the scene and observed Officer Silva and Officer Van Dragt behind cover, and Mr. Alaniz on the ground. Officer Gonzalez, Officer Silva, and Officer Van Dragt set up a tactical plan to approach Mr. Alaniz and provide medical treatment. Officer Gonzalez assisted in providing medical aid to Mr. Alaniz and requested emergency medical services over the radio.

## Interviews of Civilian Witnesses

Twenty-three civilian witnesses were interviewed pursuant to this investigation. Summarized below is the interview of one witness who attempted to prevent Mr. Alaniz from being struck by traffic. The other 22 witnesses either corroborated this witness statement without providing additional information or did not observe the OIS. The interview contains facts relayed by the witness that may be inaccurate or inconsistent with the facts of this incident as they are currently understood.

### *Interview of W-1*

On May 4, 2022, CHP Officer Justin LeBlanc interviewed W-1. On September 27, 2022, DOJ Special Agents Daniel Ibarra and Alvin Hernandez conducted a follow-up interview of W-1.

W-1 was travelling westbound on 105 Freeway near the Lakewood exit in the number three lane, just to the left of a semi-trailer truck. W-1 observed the semi-trailer truck brake and stop suddenly. W-1 did not see the actual impact between the semi-trailer truck and Mr. Alaniz, but observed Mr. Alaniz roll into lane number three after being struck by the semi-trailer truck. W-1 estimated that at the time of the collision, the semi-trailer truck was travelling approximately 55 miles per hour.

W-1 slammed on the brakes to avoid striking Mr. Alaniz, and exited the vehicle to check on him. Mr. Alaniz was nonresponsive for a moment, so W-1 contacted 911 to request an ambulance. Mr. Alaniz was down for roughly two to three minutes, and then got back to his feet and continued walking down the shoulder of the freeway. W-1 followed him and attempted to prevent Mr. Alaniz from running back onto the freeway “because I had a feeling that’s what he’s trying to do.”

Mr. Alaniz then ran back onto the freeway and attempted to put his head underneath the rear tires of another semi-trailer truck. However, the driver of the semi-trailer truck was able to stop before he ran over Mr. Alaniz’s head. Mr. Alaniz kept his head near the tire for approximately five seconds, got back up, and continued walking down the shoulder of the freeway. Mr. Alaniz was “constantly looking back behind him to see if there was, you know, to go back on the freeway.”

After walking approximately 100-200 feet further, Mr. Alaniz again ran into oncoming traffic. W-1 tried to stop him, but Mr. Alaniz told him to “save your own life or something like that.” Mr. Alaniz brushed W-1 aside and jumped in front of a silver Chevy Silverado. W-1 estimated that the Silverado was travelling approximately 60 miles per hour at the time it collided with Mr. Alaniz. After the collision, Mr. Alaniz got back up and continued to walk down the shoulder of the freeway. Mr. Alaniz walked approximately 200 feet down the shoulder, ran back in to the number four lane, and was struck again. In all, W-1 stated that Mr. Alaniz was struck by four vehicles.

When W-1 and Mr. Alaniz finally made their way to Officer Silva, Officer Silva directed W-1 to get behind him. Officer Silva was approximately 50 yards away and had his gun drawn. W-1 ran away from Mr. Alaniz and behind Officer Silva, and approximately one to two minutes later, another cruiser came from behind Mr. Alaniz.

After the patrol vehicle arrived, W-1 stated that the officers were telling Mr. Alaniz to get on the floor, but he was not listening to their commands. “He just started getting closer and closer to the officers and he finally just started sprinting towards them while pulling something out of his – out of his jacket pocket or his shorts pocket and that’s when the – the officers just started firing at him, not knowing, you know, what was – what he was pulling out of his pockets.” While Mr. Alaniz was reaching into his pockets with his left hand, W-1 explained that the officers were still issuing verbal commands to “get on the ground,” but Mr. Alaniz did not comply.

W-1 was not able to identify the object in Mr. Alaniz's hands but described it as black and rectangular. He only saw the object for a quick moment because he was, "in shock that officers, you know, shot him." W-1 could not tell whether the officers had guns or whether anyone used a taser. At the time Mr. Alaniz pulled the object out of his pockets, W-1 believed that Mr. Alaniz was roughly 10 to 20 feet away from the closest officer.

W-1 believed that Mr. Alaniz initially charged at Officer Silva because he was the only officer in front of Mr. Alaniz. He estimated the time between when Mr. Alaniz charged at Officer Silva and when the shots were fired was approximately two seconds. W-1 stated that Mr. Alaniz was still in the process of charging at Officer Silva when the shots were fired.

## **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. Moya* (2009) 47 Cal.4th 537, 549.)

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

## Self-Defense

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

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

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

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

A threat of death or serious bodily injury is “imminent” when, based on the “totality of the circumstances,” a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or to another person. (Pen. Code, § 835a, subd. (e)(2); see *People v. Lopez* (2011) 199 Cal.App.4th 1297, 1305-1306 [imminent peril is “immediate and present” and “must be instantly dealt with”; it is not prospective or even in the near future].)

“Totality of the circumstances” means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force. (Pen. Code, § 835a, subd. (e)(3).) De-escalation methods, tactics, the availability of less than lethal force, and department policies may be used when evaluating the conduct of the officer. However, when an officer’s use of force is evaluated, it must be considered “from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” (Pen. Code, § 835a, subd. (a)(4); accord, *Graham v. Connor* (1989) 490 U.S. 386, 396-397 [“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight”]; *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082-1083 [to determine

whether use of force is objectively reasonable for self-defense, trier of fact must consider all the circumstances that were known or appeared to the officer as well as consideration for what a reasonable person in a similar situation with similar knowledge would have believed]; *People v. Bates* (2019) 35 Cal.App.5th 1, 9-10 [knowledge of another person’s prior threatening or violent conduct or reputation for dangerousness may provide evidence to support a reasonable belief in imminent harm].)

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

### **Burden of Proof**

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

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

## **LEGAL ANALYSIS**

The issue presented in this OIS is whether Officer Silva acted lawfully in self-defense or defense of others, and whether his actions are subject to criminal prosecution. The evidence in this case establishes that Officer Silva actually and reasonably believed that Mr. Alaniz posed an imminent threat of death or serious bodily injury to himself and to his partner. Therefore, a criminal prosecution is unsupported by the evidence. Several key facts support this analysis:

- Officers Silva and Van Dragt were informed by multiple radio broadcasts that Mr. Alaniz was attempting to run in front of vehicles on the 105 Freeway;
- One broadcast informed Officer Silva that bystanders had attempted to restrain Mr. Alaniz to prevent him from running in front of cars but were unsuccessful because of Mr. Alaniz’s aggressive conduct;



- When the officers first approached him, Mr. Alaniz did not comply with the Officers' commands to put remove his hands from his pocket;
- Mr. Alaniz charged at Officer Van Dragt while simultaneously removing his hands from his pockets and producing an object;
- Mr. Alaniz raised the object in both hands and pointed it at Officer Van Dragt in a shooting stance; and
- Mr. Alaniz was undeterred by Officer Van Dragt's use of less lethal force and continued to charge at the officer.

Officer Silva clearly stated he used deadly force because he believed Mr. Alaniz was armed and posed an imminent threat of harm to him and Officer Van Dragt. According to Officer Silva, Mr. Alaniz had pulled out "a long cylindrical silver thing, which at the time, I identified as a gun."

As the incident quickly evolved, Officer Silva stated, "I was placed in a situation where I either remain where I am and am unable to assist my partner or step out with no cover and be prepared to get shot." "I waited til the last fucking minute, took a step out; I hear a pop." Officer Silva described the sound of the pop as that of a gunshot and observed Officer Van Dragt doing a "weird side-step thing where I wasn't certain if he was it." At the same time Officer Silva observed Mr. Alaniz continue to charge towards him in a shooting stance. Mr. Alaniz's hands were fully stretched out in front of him as he charged towards Officer Silva. "And the rest, it was just automatic; what I was trained to do."

Officer Van Dragt believed that he had exhausted all efforts to de-escalate the situation and did not have time to consider other use of force options due to the rapidly evolving nature of the incident.

Although Officer Van Dragt was able to see that the object held by Mr. Alaniz was not a firearm, he was closer to Mr. Alaniz than Officer Silva and had a few seconds longer to observe him. By contrast, Officer Silva only had a second to observe Mr. Alaniz at a time when Mr. Alaniz was charging him and pointing the object as if it were a firearm. Therefore, Officer Silva's mistaken observation was reasonable. W-1 similarly reported that he believed Mr. Alaniz was holding a firearm.

The use of deadly force was not unreasonable in this case. Mr. Alaniz did not comply with the officers' multiple commands to remove his hands from his pocket. Instead of complying with the officers' commands, Mr. Alaniz advanced on Officer Van Dragt, who continued to back up and attempted to deescalate the situation by creating distance and issuing several commands for Mr. Alaniz to stop. None of these tactics worked and Officer Van Dragt attempted to use less than lethal force by deploying his taser. The taser, however, did not immobilize Mr. Alaniz, and he continued to charge at the officer.

Unaware that a taser was deployed and that it was ineffective, Officer Silva heard a loud pop that he mistook for the discharge of a firearm and observed Officer Van Dragt stumble backwards. The sound pop from the use of the taser is audible on the WMVARS video from Officer Van Dragt's car. Officer Silva then saw Mr. Alaniz continue to charge at Officer Van Dragt, pointing an object at Officer Van Dragt in the same manner that a person would point a firearm. From Officer Silva's point of view, the size, shape, and color of the "long cylindrical silver" object that he observed could have been consistent with a firearm. Officer Silva responded by discharging his firearm five times in an attempt to eliminate the threat. Under the circumstances, a prosecution could not prove beyond a reasonable

doubt that a reasonable officer in the same situation as Officer Silva would have acted differently, or in other words, that Officer Silva's belief that Mr. Alaniz posed an imminent and deadly threat to him and to Officer Van Draght was objectively unreasonable.

## **CONCLUSION**

Based upon a thorough review of the evidence obtained by the Department of Justice, the applicable statutes and legal principles, and the totality of circumstances involved in this incident, there is insufficient evidence to support a criminal prosecution of Officer Silva for his use of deadly force against Mr. Alaniz. As such, no further action will be taken in this case.



C A L I F O R N I A

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# DEPARTMENT OF JUSTICE

Policy and Practice Recommendations for  
the California Highway Patrol Related to the  
Officer-Involved Shooting of John Joseph Alaniz on May 4,  
2022

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

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July 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).) Therefore, the DOJ conducts a supplemental review of the information obtained through the criminal investigation, which may include a review of policies concerning body-worn camera footage, interview recordings, video recordings, witness statements and other records, as well as the publicly-available policies of the agency employing the officer(s) 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. DOJ’s goal is that these recommendations will assist the agency and the officer(s) involved in the incident in understanding, from an independent perspective, improvements that could be made to address what was observed through this incident.

Pursuant to its obligations under Government Code section 12525.3, subdivision (b)(2)(B)(iii), the DOJ advises that the California Highway Patrol (CHP) review and implement the five recommendations described below.

### 1. EFFECTIVE COMMUNICATION REGARDING ELECTRONIC CONTROL DEVICE DEPLOYMENT

During his voluntary interview, Officer Van Dragt stated that, after determining that the object Mr. Alaniz was holding while in a shooting stance was not actually a firearm, he holstered his firearm and unholstered his electronic control device (ECD). Officer Van Dragt then deployed his ECD but, as he explained, he did not yell “TASER,” the brand name of the ECD, or any other information indicating a less lethal use of force prior to deployment. Officer Silva saw Mr. Alaniz running towards Officer Van Dragt in a shooting stance with something in his hands that he believed was a firearm and heard a “pop” and thought, as he stated in his voluntary interview, that “. . . somebody fired a round off.” The “pop” Officer Silva referred to appears to have been Officer Van Dragt’s ECD deployment, but because Officer Van Dragt did not communicate that he was deploying less lethal use of force, Officer Silva misidentified it as a firearm discharge. Officer Silva then saw Officer Van Dragt “kind of doing this weird side-step thing where I wasn’t certain if he was hit and . . . that same moment, there’s a person still charging at me in a shooting stance.” However, since Officer Silva saw Mr. Alaniz holding “a cylindrical silver thing in his hand” which Officer Silva thought was a firearm, Officer Silva believed that Mr. Alaniz might have shot Officer Van Dragt and was going to shoot at him next. Officer Silva then fatally shot Mr. Alaniz.

CHP’s current Electronic Control Device policy, which was revised after this incident, states, “When feasible, prior to discharging an ECD, the uniformed employee should announce an ECD is going to be discharged.”<sup>1</sup> This requirement helps to potentially prevent sympathetic fire from the other officers who hear the deployment of an ECD and confuse it for the sound of a gunshot, as Officer Silva appears to have done in this incident. Here, Officer Van Dragt never alerted Officer Silva that he was going to

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<sup>1</sup> *California Highway Patrol Manual*, Chapter 29: Electronic Control Device (Revised September 2023).

deploy his ECD. Had Officer Van Dragt done so, that additional fact may have given Officer Silva reason to believe that Mr. Alaniz was not armed with a firearm, because using a Taser on a lethally-armed subject is not a typical practice.

CHP should evaluate whether the responding officers, at the time of the incident, properly followed policies, processes, and procedures, and had taken relevant trainings related to ECDs, or whether additional revisions to those policies, processes, procedures and training are necessary, particularly as to the circumstances that would make an announcement feasible.

## **2. BODY-WORN CAMERAS (BWC)**

As of the date of this report, CHP does not equip all of its officers with BWCs. While CHP patrol vehicles do have a Wireless Mobile Video/Audio Recording System (WMVARS), the WMVARS do not always capture incidents in their entirety, as is the case here. The interaction with Mr. Alaniz did not occur directly in front of a CHP patrol vehicle's WMVARS, which limited the ability to assess the incident fully.

Here, CHP did not issue either Officer Van Dragt or Officer Silva a BWC. Officer Silva personally owned a BWC and elected to activate it during this incident. Had CHP issued a BWC to Officer Van Dragt, this review, and CHP's own review of the incident would have had the benefit of an additional point of view from which to evaluate the incident.

The DOJ again recommends that CHP equip all of its officers with BWC, as we did in our May 24, 2023 report on the shooting death of Leonel Chavez.<sup>2</sup> Generally, having this additional visual information would enable CHP, as well as any oversight or investigatory agency, such as the DOJ, to identify any legal and/or tactical deficiencies in the officer's conduct in a more complete manner. BWC footage would also provide CHP with valuable insight into gaps in training, policy, and procedure. Further, BWC may be a useful tool in scenario-based trainings, providing CHP officers with real-world examples of how to engage in traffic stops or other law enforcement activity in a manner that would best promote public safety as well as officer safety. Finally, evaluating BWC may, in the aggregate, provide CHP with valuable insight into patterns that exist in how the agency's policies are being implemented.

In short, equipping all CHP Officers with BWC would promote public transparency and accountability, and, in the long run, improve CHP's policies, procedures, and tactics.

## **3. RADIO CHANNEL EQUIPMENT, POLICY, AND TRAINING**

Officer Silva was initially dispatched to investigate a separate traffic collision in CHP's East Los Angeles Area when he heard the initial reports relating to Mr. Alaniz. Separately, Officer Van Dragt was assigned to a Caltrans project in CHP's Santa Fe Springs Area at the time he heard the dispatch reports relating to Mr. Alaniz.<sup>3</sup>

During his voluntary interview, Officer Van Dragt explained that each CHP Area has its own radio frequency. As Officer Silva explained in his voluntary interview, there were three potential overlapping jurisdictions that could have responded to Mr. Alaniz, and "[Officer Silva] had no communication with

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2 Final Report of the President's Task Force on 21st Century Policing, Office of Community Oriented Policing Services (2015) at pp. 31-32, Final Report of the President's Task Force on 21st Century Policing ([usdoj.gov](https://www.usdoj.gov)); see also Report on the Investigation into the Death of Leonel Chavez on September 28, 2021, California Department of Justice (May 2023), [2023\\_05\\_Chavez\\_AB1506\\_Report.pdf](https://www.cdj.ca.gov/Details/Content.aspx?ContentID=1506) (ca.gov).

3 CHP is geographically divided into eight Divisions, with several "Areas" within each Division. The East Los Angeles and Santa Fe Springs Areas are both within the Southern Division Los Angeles. <https://www.chp.ca.gov/CHPCareersSite/Pages/CHP-Map.aspx>.

the other unit [Officer Van Dragt] responding because he was from a different [A]rea.” Because they came from different CHP Areas with different radio frequencies, Officers Silva and Van Dragt did not communicate with each other via radio or have an opportunity to coordinate plans or tactics prior to arriving on the scene and during the course of the incident.

While it is unknown whether such communication would have changed the outcome in this incident given Officer Van Dragt’s on-scene shift from lethal to less lethal force, the DOJ recommends that CHP review its policies and training for how CHP officers from different CHP Areas can communicate when operating in an area of overlapping jurisdiction. More effective radio communication between officers from different CHP Areas would allow for better preparation and improved public safety and officer safety when responding to incidents that take place in bordering zones.

#### **4. USE OF FORCE POLICY:**

As the DOJ stated in our May 24, 2023 report on the shooting death of Leonel Chavez, the DOJ reviewed CHP’s Use of Force Policy HPM 70.6 and noted that the policy was last updated in December 2020. The “Deadly Force” policy is missing statutory language under Penal Code section 835a for use of deadly force that the threat must be “imminent”:

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

While there is a separate provision in the “Self-Defense and/or Defense of Others” policy immediately following the “Deadly Force” policy that discusses the statutory requirement that the use of deadly force must only be used if death or bodily injury is “imminent,” that critical component is absent from the above quoted paragraph from the “Deadly Force” policy. To ensure clarity and fully comply with the amended statute, the DOJ repeats its recommendation it first made in our May 24, 2023 report that CHP make clear that deadly force is not merely “necessary in defense of human life” but rather that the use of deadly force is “necessary to defend against an imminent threat of death or serious bodily injury,” consistent with Penal Code section 835a.

DOJ also again recommends that CHP modify its definition of “Objective Reasonableness” in its policy, as that indicates that the legal standard to determine lawfulness of a use of force is set forth in “*Graham v. Connor*” (sic), however, there is no distinction in that definition regarding deadly force under state law which requires that the force be “necessary” as opposed to “objectively reasonable” as stated in that definition. We further recommend that CHP update any trainings that conflate the *Graham v. Connor* standard with the current deadly force standard under California Penal Code section 835a.

#### **5. POSTING POLICIES ON THE CHP WEBSITE**

SB 978, which was signed into law in September 2018, added Section 13650 to the California Penal Code, and required POST and all local law enforcement agencies to “conspicuously post on their Internet Web sites all current standards, policies, practices, operating procedures, and education and training materials . . . .” (Pen. C., § 13650.)

Although the law took effect on January 1, 2020, it did not include state law enforcement agencies such as CHP. CHP has elected not to post these materials on its website voluntarily, as, for example the California Department of Justice's Division of Law Enforcement has. The absence of these posted materials makes it challenging and burdensome for a member of the public to seek out policies for which they would ordinarily be entitled to with most law enforcement agencies throughout the state.

DOJ first recommended that CHP post these materials onto its website in our May 24, 2023 report on the shooting death of Leonel Chavez. While we acknowledge that CHP is not required to comply with this law, in light of the goal of law enforcement agencies being more transparent with the community they serve and the need for state-level agencies to lead by example, the DOJ reiterates its recommendation that CHP demonstrate leadership by updating its website to include all current standards, policies, practices, operating procedures, and education and training materials.