



C A L I F O R N I A

DEPARTMENT OF JUSTICE

Report on the Investigation into the Death of Guillermo Huerta on March 18, 2023

Kern County AB 1506

September 2024

TABLE OF CONTENTS

BACKGROUND – AB 1506	1
PRIVACY STATEMENT	1
INTRODUCTION	3
SUMMARY OF INCIDENT²	3
INVESTIGATION	7
DOJ Response	7
Evidence Reviewed.....	7
Scene Description.....	7
Officer Processing.....	9
Evidence Recovery.....	9
Recovered Object	10
Body-Worn Camera (BWC) and Surveillance Video Recordings.....	10
Body-Worn Camera Documentation	10
Additional Video Evidence.....	15
Interviews of Involved Officers.....	16
Coroner’s Investigation.....	27
APPLICABLE LEGAL STANDARDS	27
Murder.....	27
Voluntary Manslaughter.....	28
Self-Defense.....	28
Burden of Proof	29
LEGAL ANALYSIS	30
CONCLUSION	31



INVESTIGATION OF A LAW ENFORCEMENT SHOOTING

BACKGROUND – AB 1506

Pursuant to California Assembly Bill 1506 (“AB 1506”), the California Department of Justice (“the Department” or “DOJ”) 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 have been handled primarily 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 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 discovered 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 Mr. Huerta. 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”), Mr. Huerta’s sister.
- Witness 2 (“W-2”), Mr. Huerta’s mother.
- Witness 3 (“W-3”), saw Mr. Huerta in the Luis Burgers parking lot.
- Witness 4 (“W-4”), saw Mr. Huerta outside of the Fastrip gas station.
- Witness 5 (“W-5”), saw Mr. Huerta attempt to break into the closed Popeyes restaurant.
- Witness 6 (“W-6”), W-5’s sister, also saw Mr. Huerta attempt to break into the Popeyes restaurant.
- Witness 7 (“W-7”), was in the Luis Burgers parking lot, heard officers tell Mr. Huerta to “drop the knife.”
- Witness 8 (“W-8”), saw Mr. Huerta run towards the 99 Cent Store.
- Witness 9 (“W-9”) was at the Fastrip gas station when Mr. Huerta tried to stab him with a screwdriver.

INTRODUCTION

On March 18, 2023, Bakersfield Police Department (BPD) Officer Bradley Mouser responded to a call regarding an individual with a knife in the City of Bakersfield. When Officer Mouser arrived, Guillermo Huerta ran at Officer Mouser while holding what appeared to be a knife, and Officer Mouser shot and killed Mr. Huerta. After Mr. Huerta fell, it was discovered that the weapon he held in his hand was a screwdriver.

The California Department of Justice (DOJ) investigated and reviewed the Officer-Involved Shooting (OIS) pursuant to Government Code section 12525.3 (enacted by Assembly Bill 1506 [2019-2020 Reg. Sess.]). This report is the final step in the DOJ's review of the fatal OIS of Luis Herrera and is limited solely to determining whether criminal charges should be brought against the involved officers and offering possible policy and practice recommendations, as required by Government Code section 12525.3, subdivision (b)(2)(B)(iii). The review does not encompass or comment on any potential administrative or civil actions. Upon thorough examination, and as discussed in detail below, we conclude that no charges will be filed as there is insufficient evidence to prove that Officer Mouser committed a crime.

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

SUMMARY OF INCIDENT²

As reflected in BPD's dispatch recordings and communications logs, on March 18, 2023, at 10:20 PM, BPD 911 operators received a "welfare check" call from W-3, reporting that a Hispanic male wearing black jeans, a black shirt, a black hat, and one shoe had an injured foot. He reported that the man was at 1519 White Lane at the Luis Burgers restaurant. He further stated that the man had a knife.

W-3 called BPD 911 a second time at 10:42 PM to report that the man was setting his pants on fire, and that the man was still at Luis Burgers. BPD dispatch broadcast a call for a welfare check at that location at 10:42 PM.

BPD dispatch logs show that Officers Christopher De La Cruz and Jason Perez responded that they were en route to the call at 10:44 PM and were on the scene at 10:47 PM. The officers were in a marked BPD patrol car.

When the officers arrived at the scene, they saw Guillermo Huerta near Luis Burgers. Mr. Huerta was holding what appeared to be a knife. Officer De La Cruz ordered Mr. Huerta to drop the knife. Mr. Huerta ignored him and walked away from the officers.

² This report generally includes information about facts and circumstances leading up to the OIS, even if some of the information was unknown to the officers, in order to explain and give context to the entire incident.



Screenshot taken from Officer De La Cruz's BWV showing Mr. Huerta holding what appeared to be a knife

Mr. Huerta walked across the street (White Lane) where he entered the Fastrip gas station's parking lot. The officers followed Mr. Huerta in their patrol car to the Fastrip gas station. Mr. Huerta ran from the officers, returning to the Luis Burgers parking lot. The officers again followed Mr. Huerta, but lost sight of him.



Video frame from Luis Burgers showing Officers De La Cruz and Perez arriving at Fastrip (in red box)



Video frame from Luis Burgers showing Mr. Huerta (in red box) running from Fastrip towards Luis Burgers



Fastrip surveillance video showing Mr. Huerta and Officers De La Cruz and Perez

When they next saw him, Mr. Huerta was back in the Fastrip parking lot. They saw that there was a fight going on, and that Mr. Huerta appeared to be punching another man. As W-9 later recounted in an interview, Mr.

Huerta attempted to stab him and another man with a screwdriver. Officers Perez and De La Cruz began to travel back to the Fastrip, but Mr. Huerta ran from them and again returned to the Luis Burgers parking lot.

Officers De La Cruz and Perez got out of their patrol car and followed Mr. Huerta on foot. During the course of the foot pursuit, Officer De La Cruz repeatedly ordered Mr. Huerta to “drop the knife.” Mr. Huerta ignored the officer’s commands and kept walking rapidly away from them. Officer De La Cruz then gave Mr. Huerta commands to stop and told him that he was about to be Tased. Mr. Huerta did not stop, and Officer De La Cruz discharged his Taser at Mr. Huerta in an effort to stop him. The Taser had no effect on Mr. Huerta, who stated, “back the fuck off me,” and fled. Mr. Huerta ran into traffic on White Lane and Officers Perez and De La Cruz followed. Mr. Huerta ran eastbound on White Lane. At one point during the pursuit, Mr. Huerta ran to the sidewalk and attempted to enter the fenced yard of a residence. He could not get into the yard and continued to run from the officers in traffic lanes.

Officer De La Cruz’s BWV captured his broadcast that Mr. Huerta was approaching Monitor Street and was armed with a knife.

At 10:56:07 PM, Officer Bradley Mouser was dispatched to the scene and responded that he was on the way to the call. At the same time, Officer Perez provided an update that “he’s running in and out of the roadway.” At 10:56:49, Officer Perez broadcast, “he has a knife.” Dispatch then broadcast at 10:56:53, “officer safety, suspect has a knife.” Officer Mouser told the Police Explorer who was riding in the patrol car with him to stay in the car because the suspect had a knife.

At 10:57:00, dispatch broadcast the suspect description, “Hispanic male, black jacket, black pants.” At 10:57:31 Officer Perez broadcast, “he’s running eastbound towards Monitor.” At 10:57:38 dispatch broadcast, “subject is running eastbound on Monterrey.” At 10:58:42 Officer Perez broadcast, “he’s running and we’re following.” At 10:59:13 Officer Perez broadcast, “guy on the bike is not involved.” At 10:59:42, dispatch broadcast that the suspect was “still eastbound.”

As Mr. Huerta continued to run eastbound on White Lane, Officer Mouser arrived at the intersection of White Lane and Monitor Street. Officer Mouser was in Mr. Huerta’s path of travel. Officer Mouser saw Mr. Huerta near the intersection.

Believing that Mr. Huerta was armed with a knife, Officer Mouser pointed his firearm and illuminated Mr. Huerta with his weapon light. Officer Mouser “saw a shine of an elongated like metal shaft,” which he believed was a knife. Officer Mouser noted that Mr. Huerta was running across lanes of traffic. There were motorists and residences nearby and Mr. Huerta had been “running after officers.”

Mr. Huerta ran towards Officer Mouser with the knife raised; Officer Mouser shouted at him to get on the ground and to show his hands. Mr. Huerta ignored these commands and continued running towards Officer Mouser.

According to Officer Mouser, he feared for his life based upon Mr. Huerta’s behavior, and he believed Mr. Huerta was about to stab him. Officer Mouser fired his handgun at Mr. Huerta, who changed directions and ran parallel to the officer. Officer Mouser stopped firing after Mr. Huerta had run past him. Officer Mouser continued to give Mr. Huerta commands which Mr. Huerta ignored. At 10:59:46 Officer Perez broadcast, “shots fired.” At 10:59:51, Officer Perez broadcast, “Units responding crossfire.”

Mr. Huerta turned and took several steps towards the officer while still holding what Officer Mouser believed to be a knife, in a raised position. When Mr. Huerta was approximately ten feet from Officer Mouser, and still was moving towards the officer, Officer Mouser fired another four times at Mr. Huerta. Just before the last shot was fired, Mr. Huerta turned away from the officer. Mr. Huerta took several steps, and then fell, still holding the knife

in his right hand. After Mr. Huerta fell to the ground, Officer Mouser approached to handcuff him and discovered that the object that Mr. Huerta was holding was a screwdriver, not a knife.

Officers Mouser and Perez handcuffed Mr. Huerta and moved him out of the roadway. They then began lifesaving measures. An ambulance was nearby, and paramedics assessed Mr. Huerta. They transported him to Kern Medical Hospital where he died of his injuries.

INVESTIGATION

DOJ Response

On March 29, 2023, the California Department of Justice (CA DOJ), Division of Law Enforcement (DLE), Bureau of Investigation (BI), California Police Shooting Investigation Team (CaPSIT), Southern California Region, was informed of this OIS and assumed primary jurisdiction of the case based on Assembly Bill 1506. The incident involved the BPD and was determined to be a qualifying event within Government Code section 12525.3. (For more information on the DOJ's practices and procedures, see <https://oag.ca.gov/ois-incidents>).

Statements were taken from the involved percipient police officers, paramedics, and civilian percipient witnesses. The DOJ team and reviewed body worn camera footage and surveillance video that captured the OIS.

The DOJ investigation into the death of Mr. Huerta was comprehensive, thorough, objective, and independent. As a whole, hundreds of hours of investigation were conducted by the DOJ, BPD, the DOJ BFS, and the LAPD Crime Lab.

Evidence Reviewed

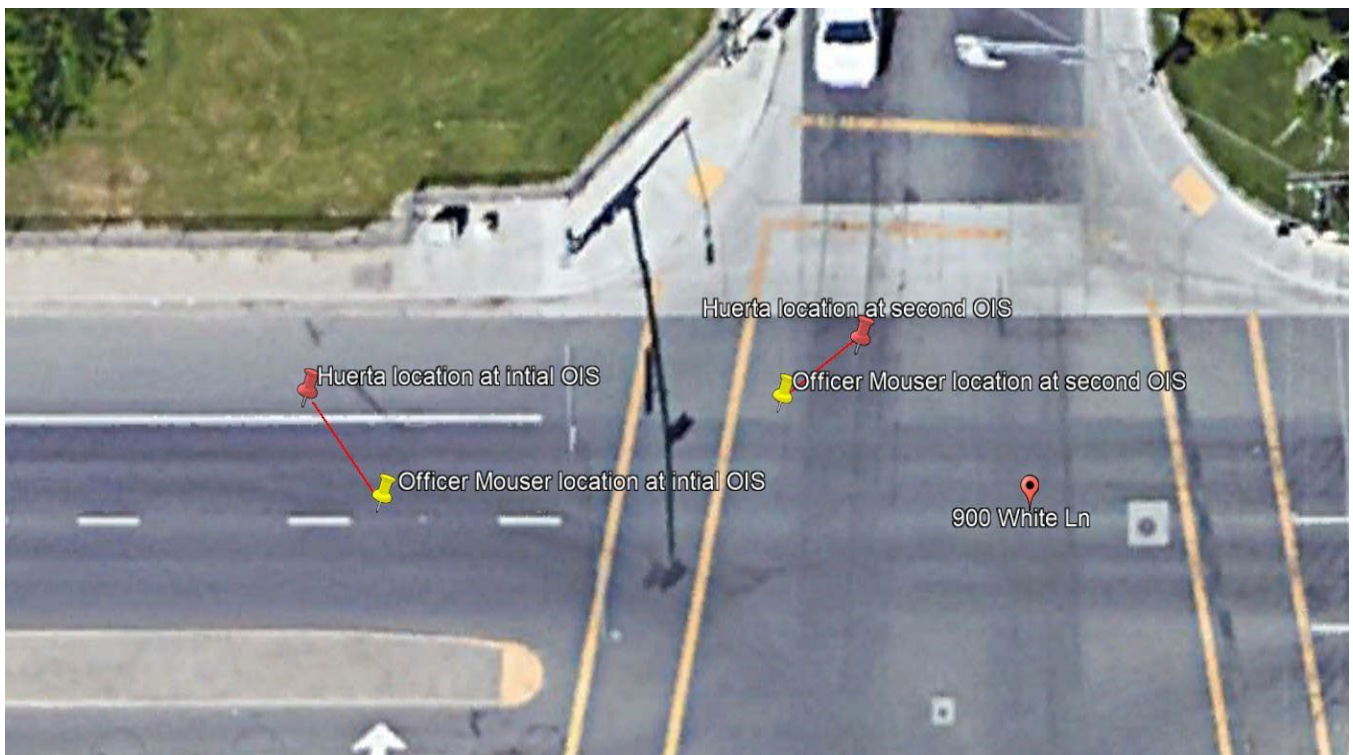
- The incident scene
- Body worn camera footage from the officers who were involved in the incident
- Security video from locations near the incident
- Interviews of the civilian witnesses associated with this incident
- Observation of the autopsy of Guillermo Huerta by Medical Examiner-Coroner, County of Los Angeles
- BPD Property Report
- BPD Forensic Services Division Reports
- Department of Justice Forensic Sciences Division Reports
- Photographs of incident scene and officers

Scene Description

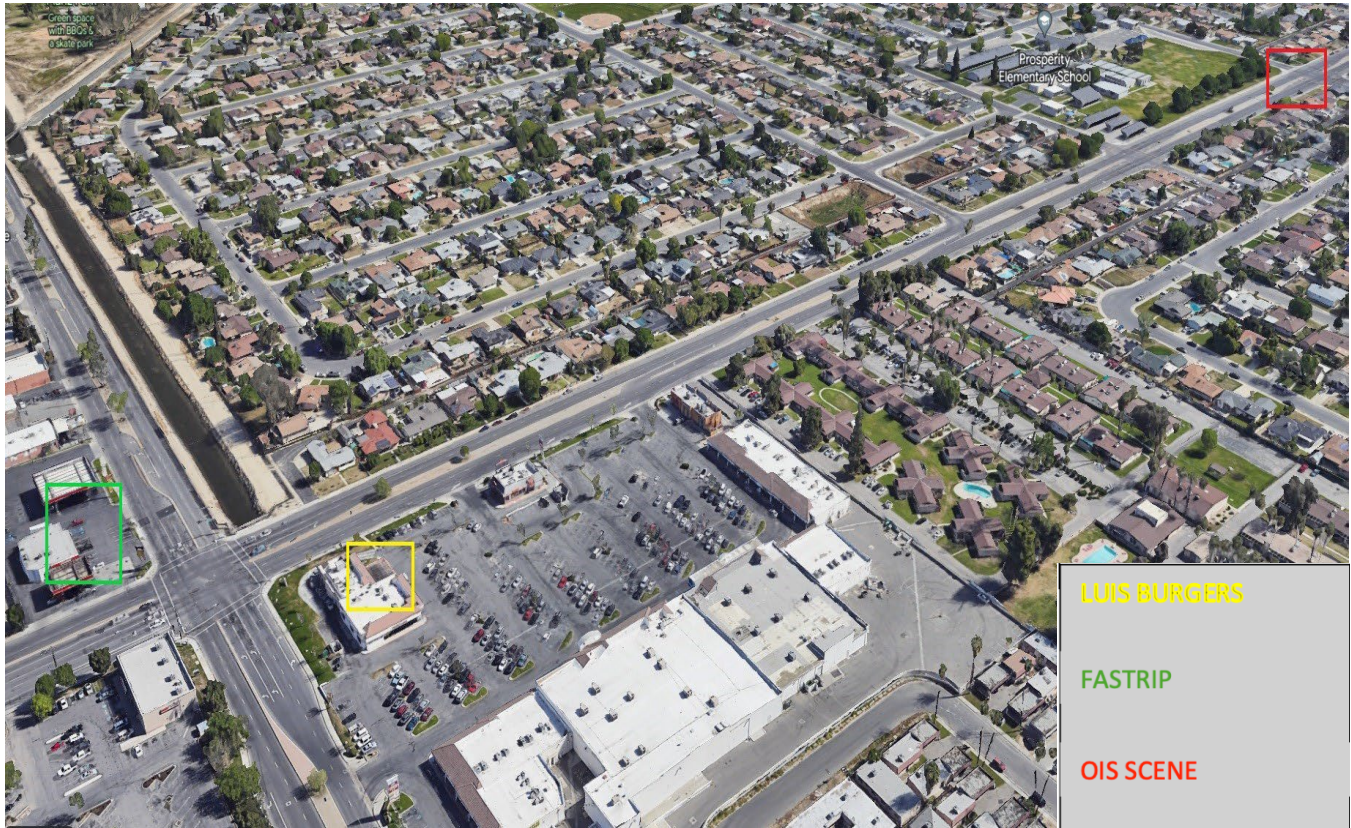
The following aerial photographs depict the areas where the relevant events occurred:



Shopping center overview with relevant locations and approximate directions of travel



Overview image provided by BPD depicting the first and second OIS



Overview image showing locations of key events

Officer Processing

On March 19, 2023, at approximately 3:20 AM, BPD Detectives Phillip Richardi and Carlos Arvizu completed the processing of Officer Mouser. Photos of Officer Mouser and his handgun were taken by BPD Crime Scene Technician Justine Jimenez.

During the OIS, Officer Mouser was in full uniform. He wore a blue colored BPD long sleeve uniform with an embroidered BPD badge on the left chest and BPD patches on each shoulder. Officer Mouser was wearing soft body armor under his uniform shirt and had a radio microphone and a BWC mount affixed to his shirt. He carried a radio, a Taser with two unfired cartridges, a Glock handgun and two handgun magazines on his duty belt. He also had a pocketknife in his pants pocket. He had a wood baton in his patrol car. He did not carry OC spray because he had recently run out of it.

Officer Mouser used his department-issued Glock 17, nine-millimeter semi-automatic handgun during this OIS. The handgun was equipped with a Surefire weapon light. When examined, the magazine from the handgun was loaded with six rounds of nine-millimeter ammunition; an additional live round of ammunition was in the chamber.¹

Evidence Recovery

¹ Other evidence showed that Officer Mouser fired 11 rounds during the OIS. It seems likely that the gun was initially loaded with 17 rounds in the magazine, plus one round in the chamber, which would account for the seven rounds remaining in the firearm after the OIS.

Because CA DOJ was not notified of the OIS at the time of its occurrence, all evidence was collected by BPD.

On April 17, 2023, DOJ DLE Special Agents (SA) B. Martin, U. Carlos, and D. Foster, went to the BPD Property Room where they were met by BPD Detective Lance Onesky who assisted with the transfer of evidence from BPD to CA DOJ. The following items were transferred from BPD to CA DOJ. These items included security video from DD's Discount Store, the 99 Cent Store, Luis Burgers, and Popeyes restaurant. Crime scene photographs were also provided.

Physical evidence that had been collected by BPD was also turned over to CA DOJ. This evidence included a Taser cartridge and pieces of the Taser, 11 spent nine-millimeter casings, one projectile, and a Philips screwdriver.

The crime scenes related to the OIS were photographed and documented by BPD. Additionally, the locations were scanned by BPD utilizing a Leica scanner. As part of DOJ DLE's investigation, the Leica scanner data was provided to CA DOJ Bureau of Forensic Services (BFS) for further analysis.

Recovered Object



Photograph of screwdriver found at the scene

The screwdriver which Huerta brandished was recovered from the scene of the OIS and is depicted above.

Body-Worn Camera (BWC) and Surveillance Video Recordings

Body-Worn Camera Documentation

During the course of the investigation, CA DOJ received seventy video files showing body worn camera (BWC) video for the BPD officers involved in various aspects of the OIS including Officers De La Cruz and Perez's initial contact with Mr. Huerta at Luis Burgers when they saw what they believed to be a knife in his hands; Officers De

La Cruz and Perez pursuing Mr. Huerta on foot, and the aftermath of the OIS including officers rendering medical aid to Mr. Huerta.

Officer Mouser’s BWC was among the files received and reviewed. This video, which is approximately 31 minutes long, shows Officer Mouser en route to the call, the OIS itself, and the officer’s activities immediately following the OIS.

Officer Mouser’s BWC shows that two separate OIS events occurred near the intersection of White Lane and Monitor Street. The first OIS event occurred approximately 9.9 seconds after Officer Mouser arrived at the intersection. He arrived as Mr. Huerta approached the intersection running eastbound on White Lane. The BWC video of the first OIS captures the sound of seven gunshots being fired by Officer Mouser. Initially, Mr. Huerta is seen running toward Officer Mouser, and the officer begins firing. After the fourth or fifth shot, Mr. Huerta changes direction and veers away from Officer Mouser, as Officer Mouser continues to fire.



The above image taken from Officer Mouser’s BWC shows Mr. Huerta’s path of travel running eastbound near the curb on the north side of White Lane



Based upon the sound of gunfire, the above image from Officer Mouser's BWC captures Mr. Huerta's position when Officer Mouser began firing. The image shows Mr. Huerta facing Officer Mouser; Mr. Huerta was moving from the northern curb line towards the white line and towards Officer Mouser.



During the first OIS incident, Mr. Huerta was holding what was later identified as a screwdriver in his right hand. The video shows that Mr. Huerta holding the screwdriver by the handle with the metal portion extended downward. Mr. Huerta's hand holding the screwdriver was raised to his head's level.

The second OIS incident occurred approximately 4.00 seconds after the last shot of the first OIS incident. During the second OIS incident, Mr. Huerta changed his direction of travel and turned to face Officer Mouser. BWC recordings from the second OIS captured the sound of four gunshots. The last shot was fired approximately 20 seconds after Officer Mouser arrived at the location.



The above image taken from Officer Mouser's BWC shows Mr. Huerta's position at the beginning of the second OIS incident. Mr. Huerta is facing Officer Mouser. Mr. Huerta stepped towards Officer Mouser while holding the screwdriver in his right hand.



During the second series of gunshots, Mr. Huerta moved towards Officer Mouser while raising his right hand which held the screwdriver.



Officer Mouser's final gunshot came as Mr. Huerta turned his body and fell to his right side.

Officer Mouser fired the third shot when Mr. Huerta was facing him. Mr. Huerta turned, and Officer Mouser fired a fourth and final shot, approximately 0.6 second after the third shot. Following the OIS, Mr. Huerta fell to the ground while still holding the screwdriver in his right hand. Mr. Huerta was taken into custody and was moved out of the roadway towards the curb line.



Mr. Huerta seated on the ground following the second OIS holding the screwdriver.



Mr. Huerta lying on the ground following the second OIS holding a screwdriver.

Additional Video Evidence

As part of CA DOJ's investigation, video recordings that BPD obtained from businesses near 1501 White Lane (where the initial call for service was made) were reviewed. This is a summary of the events recorded on each video:

- DD's Discount: Three low resolution video files (without audio) showing BPD's response and the foot pursuit of Mr. Huerta in the parking lot. Due to distance, poor lighting, and low resolution of the video, it could not be determined whether Mr. Huerta held anything in his hands.
- Luis Burgers: Six video files (without audio) from the exterior of the business showing the parking lot, drive through, and the Fastrip across the street. The camera located at the drive through showed a man, possibly Mr. Huerta, walking on the sidewalk. This same man was seen walking towards the parking lot twice. The camera pointed towards the Fastrip gas station showed a man, possibly Mr. Huerta, walking from Luis Burgers to the Fastrip. BPD can be seen arriving at the Luis Burgers. The man ran from Fastrip towards Luis Burgers with BPD following him in a marked police car. A group of people moved in the Fastrip parking lot as BPD arrived; the group directed the BPD officers to Mr. Huerta, who was running from Fastrip towards Luis Burger. A man on a bicycle was seen riding away from the Fastrip. The camera covering the Luis Burgers parking lot and Yoshinoya restaurant showed a person, possibly the person who reported Mr. Huerta to the police, walking outside of Yoshinoya. BPD arrived at the location and parked. The officers left the parking lot. Mr. Huerta returned to Luis Burgers and looked towards Fastrip. The patrol car returned to the parking lot. Mr. Huerta ran through the Luis Burgers drive through towards the parking lot. The officers got out of their patrol car and pursued Mr. Huerta on foot. They ran out of the parking lot and onto White Lane, out of the camera's view.
- Popeyes: One video file (without audio) showing the exterior of the restaurant and the parking lot near Popeyes front entrance. This video showed BPD officers chasing Mr. Huerta through the parking lot, running towards the 99 Cent store. Mr. Huerta ran towards White Lane with the officers following him on foot.
- Fastrip: One black and white video (without audio) showing the gas station's front entrance and parking lot. Mr. Huerta walked onto the property and looked towards Luis Burgers. A marked BPD patrol car arrived, and Mr. Huerta walked onto South H Street away from the patrol car. Mr. Huerta returned to the Fastrip, and a physical altercation occurred in the parking lot between Mr. Huerta and individuals standing outside of the Fastrip. While the video does not clearly show the altercation, W-9 described Mr. Huerta as having repeatedly attempted to stab him and another man with a screwdriver.

Interviews of Involved 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.) All of the BPD officers who were involved in this incident provided voluntary statements.

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.

Officer Bradley Mouser

On March 23, 2023, at 1:00 PM, Officer Mouser provided a voluntary statement. The interview was conducted by BPD Detectives Richardi and Arvizu at the BPD station. Officer Mouser was represented during his interview by his attorney Kasey Castillo. The interview was audio and video recorded by BPD.

Officer Mouser had been employed by BPD since July 2020, when he attended the police academy. He began his field service in February 2021. He was assigned to the south zone of Bakersfield on shift one. On the night of the

OIS, he was responding to a “459” call (459 is the California Penal Code section for Burglary) in the central zone and had a ride-along with him in his patrol car (a ride-along is a non-police officer, normally a civilian, who is spending a shift with a police officer). While responding to the call, Officer Mouser heard Officer Perez broadcast over the police radio that he was involved in a foot pursuit. Officer Mouser decided to respond to Officer Perez’s location to assist. As he was heading towards Officer Perez’s location, Officer Mouser heard updates over the police radio informing him that the suspect had a knife and was assaulting people at the Fastrip. Officer Perez continued to broadcast updates regarding the suspect’s (Mr. Huerta’s) location. Officer Mouser told his ride-along to stay in the patrol car because the scene was “heightened,” and Mr. Huerta had a knife.

When he arrived, Officer Mouser positioned his vehicle to block eastbound vehicle traffic as there were motorists in the area. Officer Mouser got out of his vehicle and drew his firearm because he had not seen Mr. Huerta and did not have any information about him other than that Mr. Huerta was armed with a knife. While standing in the westbound lanes of White Lane, Officer Mouser saw Mr. Huerta running towards him with Officer Perez about sixty yards behind; he also observed another individual on a bicycle. Officer Mouser did not know whether the suspect was Mr. Huerta or the man on the bicycle. As a result, Officer Mouser pointed his handgun with an illuminated weapon light toward the individual on the bicycle. That man told him that Mr. Huerta was the suspect.

Officer Mouser then pointed his firearm and illuminated Mr. Huerta with his weapon light. Officer Mouser then “saw a shine of an elongated like metal shaft,” which he believed was a knife, in Mr. Huerta’s hand. Officer Mouser noted that Mr. Huerta was running across lanes of traffic. There were motorists and residences nearby and Mr. Huerta had been “running after officers.” Officer Mouser approached Mr. Huerta and told him to “get the fuck on the ground let me see your hands.” Officer Mouser believed this would make Mr. Huerta cooperate. Mr. Huerta did not respond to Officer Mouser’s commands, nor did he respond to having the officer’s firearm pointed at him. Mr. Huerta made eye contact with Officer Mouser; Mr. Huerta’s eyes widened, and then Mr. Huerta took three or four “aggressive almost a dead sprint steps,” toward Officer Mouser. Officer Mouser had been trained that people can close distances “extremely fast,” and Officer Mouser did not have time to use any weapon other than his handgun, “especially when he (Mr. Huerta) has a knife.” He felt that his Taser would not have been an appropriate weapon for him to use both because it would have made Mr. Huerta clench his muscles, and also because Officer Mouser had no time to transition to his Taser.

Based upon Mr. Huerta’s behavior, Officer Mouser feared for his life, as he believed that Mr. Huerta was about to stab him. Officer Mouser recalled firing five times, stopping when Mr. Huerta flinched and changed directions, jogging away from him. Officer Mouser continued to give Mr. Huerta commands, which Mr. Huerta ignored. Mr. Huerta then changed directions so that he was facing Officer Mouser and made “two aggressive stances,” towards the officer. Because Mr. Huerta was now approaching him, and had charged at him with a knife, Officer Mouser recalled firing another five rounds at Mr. Huerta.² Mr. Huerta fell to the ground and rolled onto his back, still clutching the knife.

Once Mr. Huerta fell to the ground, Officer Mouser realized the object Mr. Huerta was holding was a screwdriver and not a knife. Following the OIS, Officer Mouser continued pointing his firearm at Mr. Huerta until Officers Perez and Orozco arrived at his location. Once these other officers arrived, and the screwdriver was “out of the way,” Officer Mouser holstered his firearm and put handcuffs on Mr. Huerta. Officers Perez and Mouser then

² The sound of seven gunshots can be heard on Officer Mouser’s BWC during first volley, and the sound of four gunshots can be heard during the second volley. A total of 11 casings were found at the OIS scene.

moved Mr. Huerta out of the roadway for his safety. Officer Mouser lifted Mr. Huerta's shirt and noted one bullet hole in his chest.

Once Officer Orozco learned that Officer Mouser was the shooting officer, he took Officer Mouser to the side and assigned other officers to secure the scene.

During his interview, Officer Mouser was asked to list the other force options he had available to him and explain why they were not used. Officer Mouser stated he had a baton in his vehicle, but he did not have time to retrieve it and he did not have OC spray due to his previous supply being empty. Officer Mouser explained that he had a Taser, but Mr. Huerta was too far away for him to effectively use it. He further explained that even if the Taser worked, Mr. Huerta would have been disabled for five seconds and then would have been "back up again." Officer Mouser explained that he was alone, and Mr. Huerta was armed with a deadly weapon, which prompted Officer Mouser to match deadly force with deadly force.

During the course of the interview, Officer Mouser was asked to recall various distances related to his proximity to Mr. Huerta at key moments. According to Officer Mouser, when he first saw Mr. Huerta, Mr. Huerta was about thirty to thirty-five yards away and closed the distance by running. When Officer Mouser began giving commands to Mr. Huerta, Mr. Huerta had closed the distance between them and was about twenty feet away. After being given commands, Mr. Huerta made eye contact with Officer Mouser, Mr. Huerta's eyes widened, and he changed his stance. When the first series of shots was fired, Mr. Huerta was about ten to fifteen feet away from Officer Mouser. During the second series of shots, Mr. Huerta was about 10 feet away from Officer Mouser.

Officer Mouser was also asked described Mr. Huerta's actions that prompted him to shoot. For the first series of gunshots, Officer Mouser explained that Mr. Huerta changed from jogging to an "aggressive full-on sprint," and made three or four steps towards him. Mr. Huerta's posture was an aggressive "stabbing position." Officer Mouser recalled that during training he was taught how quickly people can close a distance; a person could close a ten-foot distance in about one and a half seconds, leaving no time to use any force option other than deadly force. Officer Mouser stated he stopped firing when Mr. Huerta changed directions and was no longer a threat. For the second series of gunshots, Officer Mouser said he fired when Mr. Huerta changed his direction and came towards him again. He stopped firing when Mr. Huerta stopped charging towards him. During both series of gunshots Officer Mouser said he was "scared for his life" and believed Mr. Huerta intended to kill him.

When asked to describe the position in which Mr. Huerta held the screwdriver during the first and second series of gunshots, Officer Mouser explained it was lifted up at "shoulder length" during both events and the blade (what he perceived as a blade) was pointed downward towards Mr. Huerta's pinky finger. Officer Mouser recognized the positioning of the screwdriver as a grip someone uses to stab someone.

Officer Mouser confirmed he first learned Mr. Huerta had a screwdriver instead of a knife when he saw Mr. Huerta on the ground on his back after the OIS. Officer Mouser stated that a screwdriver, like a knife, can be used to stab someone.

Officer Christopher De La Cruz

On March 19, 2023, at 6:30 AM, Officer Christopher De La Cruz was interviewed by BPD Detectives Phillip Richardi and Carlos Arvizu. Officer De La Cruz had been a Police Officer since January 2020 and on the night of the OIS was working patrol in a two-person unit with Officer Jason Perez.

According to Officer De La Cruz, he and Officer Perez responded to a welfare check call regarding a man stabbing himself in the foot with a knife and lighting himself on fire. The officers arrived at the Luis Burgers parking lot and got out of their patrol car. Officer De La Cruz said he first contacted Mr. Huerta in the outdoor patio area of Luis Burgers. Mr. Huerta then walked away; he was holding a long silver object which Officer De La Cruz believed was

a knife. Officer Perez ordered Mr. Huerta to drop the knife; Mr. Huerta responded but Officer De La Cruz was unable to hear Mr. Huerta's response. Officer De La Cruz asked Mr. Huerta in Spanish if he needed the police, but Mr. Huerta did not respond and continued to walk away. Mr. Huerta headed towards the Fastrip gas station across the street. Officers De La Cruz and Perez got back in their patrol car and followed Mr. Huerta, who began running in the parking lot. The officers did not see his knife at that point.

Mr. Huerta then started to return to the Luis Burgers. As he crossed the street, he kept looking at the officers in a "paranoid" fashion. Once Mr. Huerta returned to Luis Burgers, he ran around the back of the restaurant. The officers followed to make sure that Mr. Huerta was not a danger to the public. After one or two minutes, the officers saw Mr. Huerta return to the Fastrip and Mr. Huerta began fighting with two people. Officers De La Cruz and Perez drove to the Fastrip and turned on their patrol car's lights and sirens. This caused Mr. Huerta to immediately run back to Luis Burgers. The officers followed him and got out of their patrol car. Mr. Huerta ran through the Luis Burgers parking lot towards the 99 Cent Store. The officers pursued him on foot and ordered him to stop and drop the knife many times. Mr. Huerta hid behind a pillar. Officer De La Cruz had his Taser out. Once Officer De La Cruz had a good angle, he fired his Taser at Mr. Huerta. Only one Taser probe contacted Mr. Huerta and the Taser had no effect on him. Mr. Huerta twice told the officers, "Back the fuck off me." Mr. Huerta ran away from the officers, travelling southbound towards White Lane. At one point Mr. Huerta said, "fuck you" to the officers and continued running across White Lane towards the other sidewalk. Officer De La Cruz described Mr. Huerta as "incoherent," "violent," and "paranoid." He believed Mr. Huerta was under the influence of a drug.

Officer De La Cruz followed Mr. Huerta on foot while Officer Perez, who was also on foot, ran either on the south side of the street or in the center median. Mr. Huerta was running away from the officers and was not close enough to the officers that Officer De La Cruz perceived him to be a deadly threat.

Mr. Huerta continued running eastbound. He tried to get into the fenced yard of a residence but was not able to get in and then continued running eastbound. Mr. Huerta ran into traffic, which caused the traffic to swerve and stop to avoid hitting him. Officer De La Cruz believed that Mr. Huerta was trying to stop the cars to carjack them, but Mr. Huerta did not carjack anyone and kept running. Mr. Huerta may have crossed over the center median and onto the south sidewalk; Officer De La Cruz was unsure of this because he had become tired and was losing sight of Mr. Huerta. Officer De La Cruz broadcast Mr. Huerta's description and that Mr. Huerta had a knife. As Mr. Huerta approached Monitor Street, Officer De La Cruz heard a volley of shots. Soon after, he heard a second volley of shots. He was still a block away when he heard the shots fired, and his view of the shooting was obstructed by a semi-truck and trailer. By the time he arrived at Mr. Huerta's location, Mr. Huerta was already in custody and was receiving medical aid. Officers had handcuffed him and were trying to put pressure on Mr. Huerta's wounds. Paramedics arrived and transported Mr. Huerta from the OIS scene.

Officer Jason Perez – Witness officer (BPD Interview Report)

On March 19, 2023, at 5:16 AM, Officer Jason Perez was interviewed by BPD Detectives Philip Richardi and Carlos Arvizu. Officer Perez had been a police officer for five years with BPD. Aside from patrol duties, Officer Perez was on the SWAT team, an academy instructor, a defensive tactics instructor, a field training officer, and a member of the Strategic Response Team.

On March 18, 2023, he was assigned to patrol in a two-man unit with Officer De La Cruz. They were initially dispatched to a welfare call at the Luis Burgers restaurant near White Lane and South H Street regarding a male Hispanic wearing dark clothing and who was possibly armed with a knife. The reporting party said that the man needed medical aid because he might have been stabbing himself in the foot. The call was originally a low priority call but was later updated to a high priority call because

it was reported that the man was lighting something on fire. He and Officer De La Cruz responded after the update.

When he and Officer De La Cruz responded, they found Mr. Huerta in front of Luis Burgers. The officers got out of their patrol car, approached Mr. Huerta, and asked him what he needed. Upon seeing the officers, Mr. Huerta immediately stood up and started walking away from them. The officers tried to get Mr. Huerta to stop. Officer Perez saw that Mr. Huerta was holding what appeared to be a knife in his left hand. The object was silver, approximately 5 inches long and appeared to be the blade of the knife. Mr. Huerta did not point the knife in a threatening manner towards the officers. When they contacted Mr. Huerta to check his welfare, Mr. Huerta walked away. The officers then went to the location where they had first seen Mr. Huerta because they had information that he had been lighting something on fire and they wanted to confirm that nothing was on fire at the time. They found a shoe but did not see any blood on it. When Officer Perez looked back at Mr. Huerta, he saw that Mr. Huerta had walked to the other side of the building and was walking away from the officers. He and Officer De La Cruz made several additional attempts to talk to Mr. Huerta to check on his welfare. Mr. Huerta did not seem to want the officers' help and walked across the intersection towards the Fastrip gas station. The officers returned to the patrol car and followed Mr. Huerta to make sure he was not going "to go terrorize the public or anything." When the officers entered the Fastrip parking lot, Mr. Huerta again ran away from them. Officer Perez did not see anything in Mr. Huerta's hands at that time. There were several people in the parking lot, but Mr. Huerta was not threatening anyone or trying to get into the Fastrip store.

Mr. Huerta ran from the officers, back to the Luis Burgers restaurant. The officers followed in their patrol car. When they returned to the Luis Burgers parking lot they lost sight of Mr. Huerta. They remained in the parking lot for several minutes, and then Officer Perez observed a fight breaking out in the Fastrip parking lot. He saw Mr. Huerta fighting with another man, punching the man five or six times. Four or five people approached the victim of the assault and tried to push Mr. Huerta away. Two other people threw punches at Mr. Huerta. Because Mr. Huerta had committed a violent misdemeanor in their presence, Officer Perez and De La Cruz returned to the Fastrip and turned on their patrol car's lights and siren. Mr. Huerta saw the officers' approach and ran eastbound on White Lane. Mr. Huerta weaved in and out of traffic as he ran back to the Luis Burgers parking lot. Mr. Huerta held the same knife that he had when the officers originally contacted him. The officers drove close to Mr. Huerta in an effort to detain him. Officer Perez got out of the patrol car and pursued Mr. Huerta on foot through the parking lot and towards the 99 Cent store. Officer Perez told Mr. Huerta to stop and warned Mr. Huerta that he was going to get Tased as Officer De La Cruz ran towards Mr. Huerta with his Taser.

Because Mr. Huerta was armed with a knife, Officer Perez believed the only non-lethal force option he and Officer De La Cruz had was the Taser. Officer Perez indicated a Taser was the only viable option because Mr. Huerta was running away from them and a Taser can be used at a distance, unlike a baton or pepper spray. They could not approach Mr. Huerta close enough to use a baton or pepper spray because Mr. Huerta was armed with a deadly weapon and could have used the weapon against them.

While Officer De La Cruz pulled out his Taser, Officer Perez provided cover with his handgun because Mr. Huerta was armed with a knife. Mr. Huerta slowed as he approached the 99 Cent store, and Officer Perez was concerned that Mr. Huerta might enter the store. Mr. Huerta hid behind one of the pillars outside of the store. Officer De La Cruz used his Taser in an effort to take Mr. Huerta into custody. One of the Taser probes missed Mr. Huerta, and the Taser had no effect on him. Mr. Huerta ran northbound out of the parking lot. Officer Perez was able to close the distance between himself and Mr. Huerta and pulled out his Taser, but Mr. Huerta ran further away and out of Taser range. Officer Perez then unholstered his firearm as he continued to run after Mr. Huerta, who was running in and out of traffic on White Lane. Officer Perez gave Mr. Huerta commands to stop. As he ran, Mr. Huerta stopped at a residence on White Lane and tried to open the fence. Officer Perez gave him commands to not enter the residence, because he was concerned that Mr. Huerta might enter the residence and take a

hostage. Mr. Huerta seemed angry and very agitated, and Officer Perez suspected that Mr. Huerta might be under the influence of PCP because Mr. Huerta's behavior was so aggressive.

Mr. Huerta then continued running in and out of traffic. Both Officer Perez and Officer De La Cruz broadcast that Mr. Huerta was armed with a knife and was approaching Monitor Street. Officer Perez saw a patrol car coming southbound on Monitor Street with its lights and sirens activated. The patrol car stopped in the intersection of White Lane and Monitor Street, and Officer Perez advised the unit that he and his partner were in pursuit. Officer Perez continued running after Mr. Huerta in the center median of White Lane. A transient person rode up on his bicycle and told Officer Perez that he was going to cut off Mr. Huerta. Officer Perez told the bicyclist to be careful. Officer Perez saw Officer Mouser stop his patrol car in the intersection. Officer Perez was still approximately 100 feet away. Officer Mouser got out of his patrol car and yelled something, some sort of a command, at Mr. Huerta. Mr. Huerta stopped running, turned, and took a step towards Officer Mouser. Mr. Huerta still held the knife in his hand and was pointing it at Officer Mouser. Officer Perez perceived Officer Mouser to be in a deadly force situation. Officer Perez saw Mr. Huerta turn around and lunge at Officer Mouser. Mr. Huerta was within 15 to 20 feet from Officer Mouser. Officer Perez was concerned that Mr. Huerta was going to kill Officer Mouser.

Officer Perez saw Officer Mouser fire his handgun five to ten times. Mr. Huerta appeared to have no reaction; he did not flinch or stop. Mr. Huerta continued running "like nothing ever happened." He ran 15 or 20 feet and then turned around and took a step towards Officer Mouser. Mr. Huerta got within 10 to 15 feet of Officer Mouser and was still holding the knife in his hand, pointing the knife towards Officer Mouser. Officer Mouser fired his handgun again.

Another patrol car was coming towards Officer Mouser on White Lane and Officer Perez was concerned about possible crossfire, so he broadcast to that unit. When he looked back towards Officer Mouser, Mr. Huerta was lying on his back, still holding the knife in his hand. As Officer Perez approached Mr. Huerta, he saw that Mr. Huerta was holding a long screwdriver, about five inches in length.

Senior Officer Orozco arrived and told the officers to take Mr. Huerta into custody. They rolled Mr. Huerta over and placed handcuffs on him. Officer Perez told Officer Mouser to take Mr. Huerta out of the roadway so they could start performing lifesaving measures on him. He and Officer Mouser got Mr. Huerta out of the roadway and Officer Mouser checked Mr. Huerta for gunshot wounds.

Senior Officer Jaime Orozco – Statement of activity (BPD Report)

Senior Officer Jaime Orozco provided a written report, dated March 21, 2023, documenting his activity. Senior Officer Orozco stated he heard a call regarding a subject fleeing from officers with a knife and began heading toward the call. While en route to the call, Senior Officer Orozco stated he heard that the OIS had occurred.

When Senior Officer Orozco arrived at the scene of the OIS, he saw Officer Mouser and Officer Perez pointing their guns at Mr. Huerta who had a screwdriver next to him. Senior Officer Orozco and Officer Perez then "went hands on," to secure Mr. Huerta so medical aid could be given. Once secured, Senior Officer Orozco said Officer Mouser placed handcuffs on Mr. Huerta who was then moved from the roadway to the curb. Senior Officer Orozco indicated he instructed officers to provide medical aid and broadcast that the scene was clear for medics to arrive. He estimated medics arrived and began providing aid about one to two minutes after the scene was clear.

Kevin Sandoval – BPD Police Explorer / Officer Mouser's Ride-Along

On April 23, 2023, BPD Detectives Philip Richardi and Carlos Arvizu interviewed Kevin Sandoval. At that time, Sandoval was 18 years old and had been a Cadet with BPD's Explorer Program for eight or nine months.

On March 18, 2023, Cadet Sandoval was on a ride-along with Officer Mouser. His shift started at 9:00 PM and was to continue until 7:00 AM the following morning. It was Cadet Sandoval's fifth ride-along. He was assigned to ride with Officer Mouser, whom he had not previously met. Cadet Sandoval and Officer Mouser were responding to another call when they heard the call at White Lane and Monitor Street, that a man was running from officers. One of the officers chasing the suspect called it in and Cadet Sandoval heard it on the radio. Officer Mouser told Cadet Sandoval that the suspect had a knife and directed Cadet Sandoval to stay in the police car for his safety.

Officer Mouser drove fast and activated the patrol car's lights and sirens. When they arrived, Officer Mouser drove their patrol car into the middle of the intersection of Monitor Street and White Lane. Cadet Sandoval saw two men, one on a bicycle and one on foot. Officer Mouser stopped the patrol car, got out of the car, and told Cadet Sandoval to stay in the car. Cadet Sandoval saw a man running with a knife in his hand. Officer Mouser told the man to stop. Officer Mouser drew his gun and pointed the gun at the man, who was running towards Officer Mouser. The man was seven feet from Officer Mouser, holding the knife in his hand, and running towards Officer Mouser when Officer Mouser fired at the man four times. Cadet Sandoval believed the man was going to hurt Officer Mouser. After that, the man ran in a "zigzag" pattern and Cadet Sandoval lost sight of him and Officer Mouser. Cadet Sandoval remained in the patrol car. He believed he was between 30 and 40 yards away from Officer Mouser at the time shots were fired. Cadet Sandoval only heard four gunshots.

Brandon Moor – Paramedic for Hall Ambulance

On March 20, 2023, Brandon Moor was interviewed by BPD Detective Phillip Richardi. Paramedic Moor indicated he was employed as a paramedic for Hall Ambulance and had been dispatched to stand by in the area regarding a person having a knife. From his position on White Lane, Paramedic Moor said he saw police arrive at the area.

While continuing to stand by, Paramedic Moor said he saw someone (later identified as Mr. Huerta) coming toward him. A semi-truck had to hit its brakes to avoid hitting Mr. Huerta. Paramedic Moor further noted that Mr. Huerta was running in traffic and causing a hazard. In an effort to illuminate the area, Paramedic Moor activated his ambulance's lights. As Mr. Huerta ran past the ambulance, Paramedic Moor said he saw what he thought was a knife in Mr. Huerta's hand. Paramedic Moor described the knife as having a yellow handle. After Mr. Huerta passed the ambulance, Paramedic Moor moved the ambulance to avoid being hit by possible gunfire. As he started to move the ambulance, Paramedic Moor said he heard gunfire. Paramedic Moor responded to the scene of the OIS in less than a minute and began providing care to Mr. Huerta. While on scene Paramedic Moor said he saw a yellow-handled screwdriver.

Johnny Amaro – Hall Ambulance EMT

On June 19, 2023, DOJ SAs Santiago and Foster interviewed Johnny Amaro, who was employed as an Emergency Medical Technician (EMT) for Hall Ambulance and was present at the scene prior to and following the OIS. EMT Amaro and his partner, Brandon Moor, were standing by on White Lane. There had been a call for service reporting that a person was attempting to light himself on fire. While standing by, EMT Amaro said he saw police units respond to the area. Five to six minutes later, he saw someone running on the center divider in the middle of the street, being chased by two police officers. In an effort to alert the officers of their presence and to possibly cause the man who was running from the police to stop, Paramedic Moor turned on the ambulance's emergency lights. The activation of the ambulance's lights did not stop man and he continued to run. EMT Amaro thought the man was holding something because his hands were clenched, but EMT Amaro could not see what the man was holding.

About five to six seconds after the man ran past the ambulance, EMT Amaro heard a radio broadcast about shots being fired. He did not hear the gunshots. After receiving word that the scene was clear, EMT Amaro and his partner responded to the scene of the OIS where they rendered medical aid and transported Mr. Huerta to Kern Medical Center.

Interviews of Civilian Witnesses

As a part of the OIS investigation, BPD Detectives and DOJ Special Agents conducted multiple canvasses for witness to the incident. The canvasses resulted in the discovery of several witnesses who were identified and interviewed. All of the interviews were digitally recorded. Please note that the interviews contain facts relayed by the witnesses that may be inaccurate or inconsistent with the facts of this incident as they are currently understood.

Statement of W-1, Mr. Huerta's Sister

On April 17, 2023, DOJ Special Agents Carlos and Foster spoke with Mr. Huerta's sister (W-1) at her residence. W-1 last saw her brother, Mr. Huerta, in early March 2023. He was walking down the street near the intersection of Planz Road and Wible Road, in the area of Valley Plaza, Bakersfield. W-1 said she did not stop to talk to her brother but thought he looked "clean and normal." W-1 said her last contact with her brother occurred when she received a phone call from him; this was around the same time their mother got Mr. Huerta into a hotel. During their conversation, Mr. Huerta asked W-1 to come get him, asked for a toothbrush, and said his belongings were gone. W-1 thought Mr. Huerta was having a schizophrenic episode and told him to call their mother; she then ended the call and went to work.

W-1 did not know when she had last had in-person contact with her brother, since he had been in and out of custody; she thought it may have been in late 2021 or early 2022. Mr. Huerta had gone to her home and had broken into her husband's truck in an attempt to steal it. This resulted in Mr. Huerta's arrest for felony vandalism. W-1 later went to court to obtain a restraining order against Mr. Huerta. Mr. Huerta was arrested for violations of the restraining order and probation violations. W-1 said she was not afraid of her brother, but she tried to stay away from him because he was not on his medication, and she did not want him around her children. When Mr. Huerta was in custody, W-1 said she did not visit him but would maintain communication through mail and phone calls. Mr. Huerta was on medication while he was in jail, so he was "acting normal."

W-1 was asked to describe Mr. Huerta's behavior when he was not on his medication. W-1 described his behavior as "bizarre"; he would hear things in his mind and would be aggressive towards objects but not towards people. However, W-1 said that Mr. Huerta had been arrested about ten years earlier for domestic violence against his ex-wife. W-1 further described Mr. Huerta as a "troubled" person who was most likely using drugs. When asked if Mr. Huerta used drugs, W-1 responded, "oh yea," and said that he had used drugs in the past, but she was not sure whether he had used them recently. W-1 was unaware of which drugs Mr. Huerta was using but said he had used "meth" in the past and also drank alcohol. W-1 thought Mr. Huerta might have been using "whatever he can get ahold of."

W-1 was not involved in helping Mr. Huerta with his medication or doctors' appointments, but their mother did help Mr. Huerta with these matters. She did not know whether Mr. Huerta had seen a doctor after he was released from custody, nor whether he was taking his medication. W-1 believed Mr. Huerta needed to receive a higher level of care and suggested that Mr. Huerta should have been sent to "Atascadero."³

W-1 said that Mr. Huerta had had previous employment doing construction, warehouse work, solar installation, and working agriculture in the fields, but was not working at the time of his death.

³ Atascadero State Hospital is a maximum-security state forensic institution which houses mentally ill convicts who have been committed to psychiatric facilities by California's courts.

Statement of W-2, Mr. Huerta's Mother

On April 17, 2023, DOJ Special Agents Carlos and Foster spoke with Mr. Huerta's mother (W-2) at her residence. W-2 confirmed that Mr. Huerta was her son and W-1 was her daughter.

W-2 explained that her son had been "living on the streets," since he was released from jail. Mr. Huerta had been diagnosed with schizophrenia; he had not been taking his prescribed medication. She explained that Mr. Huerta had been released from custody on February 17, 2023, and had returned to an area near W-2's home and called her from a street corner. W-2 agreed to meet with Mr. Huerta but explained to him that he could not be near her home due to the restraining order she had against him.

Mr. Huerta told W-2 he was living on the streets, which prompted W-2 to find a hotel and pay for Mr. Huerta's hotel stay. W-2 could not recall the name of the hotel, but remembered it was near the intersection of Union and Fairfield in Bakersfield. While Mr. Huerta was living in the hotel, W-2 would visit him about every three days to bring him food and clothing. This routine continued until Mr. Huerta broke a sink in his room and the hotel manager told him he could no longer stay there.

After Mr. Huerta was evicted from the hotel, W-2 picked up Mr. Huerta and his belongings and took him out to breakfast. After breakfast, W-2 drove Mr. Huerta to a park on California Street, in Bakersfield and left him there. W-2 said she wanted Mr. Huerta to "hit rock bottom" so he would start taking his medication; she thought living in the park would get him there.

The day after she left Mr. Huerta, W-2 looked for him because the weather was rainy and windy. She did not find him at the park and continued to look for him. After several days, her daughter called and said she would come over to W-2's house; when her daughter arrived, she told W-2 that Mr. Huerta had died in an OIS.

Mr. Huerta was previously in custody because he would not take his medication and exhibited odd behavior while living in their home. This odd behavior included walking around, climbing on the roof, showering at one in the morning, and hearing voices. Mr. Huerta had asked W-2 if she could "hear those men," but the voices were in his head. Due to Mr. Huerta's behavior, W-2 went to court and obtained a restraining order which Mr. Huerta violated on several occasions. W-2 had called the police because Mr. Huerta had broken into her home and would not leave; she did not want him living there anymore. He had broken windows and doors and attempted to get inside so he could resume living there. W-2 estimated that these events occurred about eight months prior to Mr. Huerta's death. W-2 said she could not have a good life with Mr. Huerta living there.

W-2 said she had taken Mr. Huerta to Sierra Vista Clinic the "week he was killed," for an infected chest injury. Mr. Huerta claimed he went once for mental health treatment, but W-2 did not know where he went. Mr. Huerta claimed he was not sick, and he was "fine." W-2 provided copies of Mr. Huerta's medical records, which included information that he had been prescribed medications for treating depression, the side effects of anti-psychotic drugs, and opioid overdose. W-2 stated she was unaware if Mr. Huerta was taking his prescribed medications. When asked about drug use by Mr. Huerta, W-2 said she thought Mr. Huerta used drugs because it was "obvious," based on Mr. Huerta's mannerisms and his paranoia. W-2 said Mr. Huerta drank alcohol when he was younger, but not recently. W-2 did not know Mr. Huerta to be violent towards other people.

Statement of W-3

On March 18, 2023, at 11:07 PM, W-3 was interviewed by BPD Officers Fujihara and Nabors. W-3 was working as a security guard at the shopping center in which Popeyes Chicken is located. He saw a man in front of Popeyes who was stabbing his shoe with a metal object. The man then went to Luis Burgers and began setting his pants on fire. W-3 saw officers arrive in a marked BPD police car. The officers were in uniform. He saw the officers

chase the suspect to the 7-Eleven⁴, then to the front of the 99 Cent Store. While the officers were in front of the 99 Cent store, W-3 heard the officers order the suspect to stop running and to drop the knife. W-3 heard an officer discharge his Taser, but the suspect continued running eastbound through the parking lot. W-3 lost sight of the suspect and the officers as they continued running eastbound on White Lane. W-3 then heard seven gunshots followed a few seconds later by three gunshots. He did not see the shooting.

Statement of W-4

On March 19, 2023, at 7:38 PM, W-4 was interviewed by BPD Officer Neal McDonald. W-4 said she was outside of the Fastrip and saw someone holding a screwdriver run towards the east entrance to the store. W-4 stated she also saw the person wave the screwdriver at multiple people outside of the store. According to W-4, she believed the person had the intent to cause serious bodily injury to others. W-4 stated the person ran from the location when BPD arrived. He ran towards the Luis Burgers restaurant.

Statement of W-5

On March 20, 2023, W-5 was interviewed by BPD Detective Lance O’Nesky and Detective Mundhenke. W-5 stated on the Saturday of the OIS, at approximately 10:00 PM, she and her sister were parked near the Popeyes restaurant (in the same shopping center as Luis Burgers) waiting for her friend to get off work. She, her sister (W-6), and her friend all worked at the restaurant. She was driving her silver Hyundai Sonata. While waiting for her friend to come out of the restaurant she was doing her homework on her computer, glancing up periodically to see if her friend was coming. While waiting, she saw a male Hispanic, who she described as about five feet seven inches tall, in his thirties, with a thin build, and wearing dark clothes, walk up to Popeyes. The restaurant was closed, and he attempted to open the door by shaking the door. He had an object which she thought was a knife which he used to try to pry open the Popeyes door. W-5 thought the person was trying to break into the Popeyes. Upon seeing this, W-5 called her friend inside of the Popeyes to warn her and then saw the person place the knife into his pants pocket. She saw the man walk towards the stop sign at White Lane. The man crossed 8th Street and was hopping as though he needed medical assistance. The man took off his shoe and sat down on the curb. He put his shoe back on and stared at her car while walking towards her car. The man walked back to the door of the Popeyes restaurant. Her sister told her that he was approaching their car again. W-5 saw the man standing within feet of her car and staring at her with a “dead stare.” She started her car because she was afraid he would use the knife to break her car window. Due to his behavior, W-5 said she drove away, and he appeared to follow her car. W-5 drove around the parking lot and then returned because she did not want to abandon her friend. She called 911 and then returned to approximately the same location. Upon her return, W-5 said she saw the same person in a different part of the parking lot. A security guard, the Popeyes Manager, and her friend came out of the restaurant, and the security guard said he would call the police. The man walked out of the area.

Statement of W-6

On March 20, 2023, W-6 was interviewed by BPD Detective Lance O’Nesky and his partner Detective Mundhenke. W-6 said that on Saturday (March 18, 2023), she was with her sister (W-5) in her sister’s car. They were parked in the Popeyes restaurant parking lot waiting for a friend who worked at Popeyes. W-6 saw a man trying to break into the restaurant by inserting a knife between the locked front doors. She saw the man sit down on the curb and take his shoe off. He then walked towards another restaurant. The man then approached their car, staring at the driver’s window for approximately 30 seconds, and her sister drove off. They returned to the parking lot and the man approached the car again, close enough to touch it, and he was looking into the windshield of the car. He was

⁴ While W-3 indicated that the suspect ran towards 7-Eleven, this appears to be an error, as the other witnesses and video evidence shows that the suspect ran to Fastrip.

staring in the car window for about 30 seconds before they drove off again. She and her sister then returned to the parking lot and picked up their friend. The man walked off towards another restaurant, in the direction of White Lane. She described the person as a male Hispanic, about twenty-nine to thirty years old, five feet five inches tall, “kind of skinny,” wearing dark clothes.

Statement of W-7

On March 18, 2023, at 11:08 PM, W-7 was interviewed by BPD Officer Belkys Ripoll. W-7 stated he was in the 99 Cent Store parking lot to pick up his girlfriend (W-8). While waiting in the parking lot, W-7 said he saw BPD arrive and contact a man he had seen walking around the parking lot. W-7 saw officers chase the person through the parking lot and try and use the Taser on him when the man was near the 99 Cent store. The Taser did not work, and the man kept running away from the officers. W-7 heard officers give the person commands to “drop the knife,” and heard the person say, “what up,” and take a fighting stance in response. He saw the man continue to run until he ran out of the parking lot and out of W-7’s view.

After a period of time had passed, W-7 said he heard about seven gunshots followed by a pause of six to seven seconds and four to six additional gunshots.

Statement of W-8

On March 18, 2023, shortly after 11:08 PM, W-8 was interviewed by BPD Officer Belkys Ripoll. W-8 stated while she was sitting in the passenger seat of the vehicle driven by W-7, she saw a man run toward the 99 Cent store. She then lost sight of the man and did not see or hear anything after that.

Statement of W-9

March 23, 2023, W-9 was interviewed by BPD Detectives Philip Richardi and Carlos Arvizu. W-9 stated he was homeless and lived near the train tracks behind Planz Park in Bakersfield. W-9 said he did not have any diagnosed mental or mental health issues and did not use any prescription drugs; however, he had used marijuana about five to six hours before the OIS occurred.

W-9 was at the Fastrip at approximately 8:45 PM on March 18, 2023. He saw a man (later identified as Mr. Huerta) running out of the DDs Discounts Parking Lot.⁵ Mr. Huerta cut through traffic on White Lane and almost got hit by a car. As a police car pulled into the Fastrip parking lot, Mr. Huerta ran away and ended up losing the police officers. W-9 saw the officers looking around Luis Burgers. Mr. Huerta then “showed back up at the Fastrip out of nowhere.” Based on Mr. Huerta’s behavior, W-9 told him to “get the hell out of here.” Mr. Huerta asked about a bicycle in the parking lot and who it belonged to. W-9 responded, “it’s my fucking bike.” Mr. Huerta had no shoes on and had a screwdriver in his hand. W-9 described Mr. Huerta as “locin up”⁶ on people, so W-9 once again told him to “get the hell out of here.” Mr. Huerta became confrontational after being told to leave. He began trying to stab W-9 with a screwdriver which had a yellow handle. W-9 was with a person named Chris⁷ during this encounter. Mr. Huerta tried to stab Chris while W-9 tried to push Mr. Huerta away. The police arrived and Mr. Huerta took off running.

The police followed Mr. Huerta back towards DDs Discounts. It appeared that Mr. Huerta was “toying” with the officers, who chased Huerta towards the 99 Cent Store. W-9 got on his bicycle and noticed Mr. Huerta was running away from the officers on White Lane. W-9 was angry and did not want Mr. Huerta to get away because he was armed with a screwdriver. Mr. Huerta was a good distance ahead of the officers, so W-9 rode his bike in

⁵ This is the common parking lot for Luis Burgers, the 99 Cent Store, and DDs Discount Store.

⁶ Street vernacular for “going crazy” or “going loco.”

⁷ There was no further identification of Chris, and he was never located or interviewed.

an effort to catch up with Mr. Huerta. He believed that Mr. Huerta was high on methamphetamine because of the speed at which Mr. Huerta ran, Mr. Huerta's showing no sign of exhaustion, and because Mr. Huerta had massive amounts of energy.

Mr. Huerta was at the corner of White Lane and Monitor Street when a police officer arrived and told Mr. Huerta to get down on the ground. Mr. Huerta did not listen to the officer's commands and kept running until he was five feet away from the officer. W-9 saw the officer fire 6 to 8 times followed by a three second pause.⁸ W-9 believed the officer fired warning shots. Mr. Huerta did not comply and ran at the officer, who shot Mr. Huerta four more times. W-9 believed the officer shot Mr. Huerta in self-defense because Mr. Huerta ran at him with a screwdriver.

Coroner's Investigation

Guillermo Padron Huerta was a 35-year-old Hispanic male adult with black hair and hazel eyes. According to Department of Motor Vehicle records, he was five feet three inches tall and weighed 140 pounds.

On April 5, 2023, Dr. Robert Whitmore conducted an autopsy of Mr. Huerta at the Kern County Sheriff's Department – Coroner Section in Bakersfield. Also present were BPD Detective Lance O'Nesky, DOJ SA Foster, and Criminalist Christopher Johnson.

Dr. Whitmore found that Mr. Huerta sustained two gunshot wounds to his body. One gunshot wound entered the medial left lower anterior chest and exited the lateral right lower back. The other entered the lateral left mid back and did not exit; a deformed, jacketed, medium to large caliber bullet was recovered from right side of the chest. Dr. Whitmore determined that the cause of death was multiple gunshot wounds, and the manner of death was homicide. Toxicology reports show that Mr. Huerta had methamphetamine and THC in his blood.

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; *People v. 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.4th 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.)

⁸ W-9 estimated he was fifteen to twenty feet behind the officer at this time.

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. Moye* (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; see *People v. Breverman* (1998) 19 Cal.4th 142, 156 [when defendant claims self-defense or defense of others, or there is substantial evidence supportive of defense, the jury will be instructed that prosecutor bears the burden of disproving this defense beyond a reasonable doubt].) 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 DOJ has completed an independent investigation and review of the facts and circumstances that lead to the death of Guillermo Huerta. This review and analysis is based on the totality of evidence provided to the DOJ in this matter, including witness statements, forensic evidence, coroner's report, autopsy photographs, BWC footage, security camera video, police recordings and police reports.

Because a prosecuting agency would need to affirmatively prove beyond a reasonable doubt that Officer Mouser did not act in lawful defense of himself or others, this is the primary issue in determining whether his actions should subject him to criminal prosecution.

A detailed analysis of the evidence surrounding the conduct of the officer demonstrates that a prosecuting agency would not be able to establish that Officer Mouser was objectively unreasonable in his determination that lethal force was necessary to protect himself or others, or that he did not actually hold this view. Accordingly, the examined evidence does not support the contention that the shooting of Mr. Huerta violated any criminal law.

Officers Perez and De La Cruz were the first BPD officers to encounter Mr. Huerta. They observed that Mr. Huerta carrying what they believed was a knife. Officers Perez and De La Cruz repeatedly told Mr. Huerta to drop the knife. He did not comply and ran away from the officers. Mr. Huerta attempted to evade the officers by running from the Luis Burgers' parking lot to the Fastrip gas station parking lot across the street. When the officers followed, Mr. Huerta ran back to the Luis Burgers' parking lot. The officers lost sight of Mr. Huerta until they observed him punching another man in the Fastrip parking lot. They drove back to Mr. Huerta's location, and he again ran across the street to the Luis Burgers' parking lot.

Officers De La Cruz and Perez believed that Mr. Huerta posed a threat to others, as he was armed, and he assaulted another person. The officers pursued him on foot, again ordering Mr. Huerta to drop the knife. Mr. Huerta did not heed these commands. Officers De La Cruz and Perez then attempted to use less than lethal force to take Mr. Huerta into custody. Officer De La Cruz warned Mr. Huerta that he would Tased, and then discharged his Taser at Mr. Huerta, to no effect. Mr. Huerta then ran from the officers and into the roadway, where oncoming traffic had to swerve to avoid hitting him. As the officers pursued Mr. Huerta on foot, he attempted to open a gate to a residence, which Officers De La Cruz and Perez believed posed a further danger to the public.

Officers De La Cruz's and Perez's actions support the conclusion that they believed Guillermo Huerta possessed a real knife. They repeatedly told him to "drop the knife," and they broadcast that they were in pursuit of a suspect who was armed with a knife. Similarly, W-5 and W-6 both believed that Mr. Huerta possessed a knife when they saw him.

Officer Mouser heard the information that Mr. Huerta was armed with a knife while he was on the way to assist Officers De La Cruz and Perez. He told his ride-along to stay in the patrol car because the suspect was armed with a knife.

Officer Mouser, arriving on scene, saw Mr. Huerta brandishing what Officer Mouser believed was a knife. Cadet Sandoval and Paramedic Moor similarly described Mr. Huerta as holding a knife.

Mr. Huerta held the "knife" in a stabbing position and ran towards Officer Mouser. Mr. Huerta ignored Officer Mouser's command to stop and get on the ground and continued running towards Officer Mouser. This presented an apparent emergency that precluded the officer's use of less than lethal weapons such as CS-spray or a Taser.

Instead of retreating when he saw Officer Mouser, Mr. Huerta ran at the officer with his knife held in a stabbing position. As Officer Mouser fired his gun, Mr. Huerta changed direction slightly and ran parallel to and past the officer. Officer Mouser's gunshots were fired in rapid succession; the entire volley was fired in approximately one second. Mr. Huerta eventually turned to run past Officer Mouser, and Officer Mouser fired two to three more times. Studies show that when facing a potential threat, the responding officer has to perceive a threat, make the decision to take action, and then take action. Each step requires time measured in fractions of a second and the entire process can have a significant range of total response time depending on the complexity of the variables. Tobin and Fackler's 2001 study⁹ found a rough average of 1 second for total response time for shooting decisions. This delay between stimuli and response is what is often referred to in the industry as the "reactionary gap." Officer Mouser did not have sufficient time to recognize that Mr. Huerta had changed direction before he stopped firing.

Mr. Huerta then turned back to face Officer Mouser and charged at him again. Mr. Huerta closed the distance between himself and Officer Mouser. He got within ten feet of Officer Mouser and brandished the knife-like object. Officer Mouser fired the second volley of shots. Mr. Huerta fell, still clutching what appeared to be a knife. Officer Mouser's fourth shot was fired 0.6 seconds after his third shot. Mr. Huerta had begun to turn away from the Officer Mouser at the time this shot was fired. Again, due to the delay between stimuli and response (the "reactionary gap"), Officer Mouser would not have had sufficient time to recognize that Mr. Huerta had turned away from him before his fourth shot.

Based on the totality of the circumstances, the evidence shows that Officer Mouser reasonably believed that Mr. Huerta was holding a knife, even though the object was later determined to be a screwdriver. Further, Officer Mouser subjectively believed that the threat of death or great bodily injury was imminent. The evidence also demonstrates that a reasonable officer in the same situation as Officer Mouser would reasonably have believed that that Mr. Huerta was armed and posed an imminent threat of great bodily injury or death given that Mr. Huerta appeared to have the present ability, opportunity, and intent to cause death or great bodily injury to him.

Officer Mouser fired his handgun based on his belief that he needed to stop Mr. Huerta from stabbing and potentially killing or injuring him. Given the totality of the circumstances, we cannot prove beyond a reasonable doubt that the involved officer's use of deadly force to defend against what he believed to be an imminent threat of death or great bodily injury from Mr. Huerta was unreasonable and unjustified.

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 Officer Mouser. Therefore, no further action will be taken in this case.

⁹ Tobin, E. J., & Fackler, M. L. (2001). Officer decision time in firing a handgun. *Wound Ballistics Review*, 5, 8-10. See also Jason, A. (2010). Shooting Dynamics: Elements of Time & Movement in Shooting Incidents. *Investigative Sciences Journal*, 2(1), 1-19.



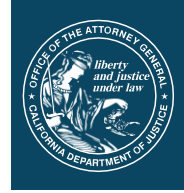
C A L I F O R N I A

DEPARTMENT OF JUSTICE

Policy and Practice Recommendations for the Bakersfield Police Department Related to the Officer-Involved Shooting of Guillermo Huerta on March 18, 2023

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

September 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 Department of Justice (DOJ) through its Police Practices Section (PPS) 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 officers who are subject to the criminal investigation.

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.

The shooting officer in this case works for the Bakersfield Police Department (BPD). BPD and the City of Bakersfield (City) entered into a stipulated judgment with the DOJ on August 27, 2021.¹ The judgment followed a civil investigation of the BPD pursuant to Civil Code section 52.3 and is being overseen by an independent monitor. The judgment requires BPD to make extensive revisions to its use of force policies and practices. DOJ’s report herein is separate and apart from the judgment and ongoing monitoring of BPD and will not serve to limit or otherwise impact that process.

As background, on March 18, 2023, at approximately 10:56 p.m., BPD Officer Bradley Mouser responded to a dispatch broadcast from another BPD officer regarding an individual with a knife who had assaulted a civilian and was fleeing from the police. When Officer Mouser arrived, Guillermo Huerta ran at Officer Mouser while holding what appeared to be a knife, and Officer Mouser shot and killed Mr. Huerta. After Mr. Huerta fell, it was discovered that the weapon he held in his hand was a screwdriver.

After a thorough review of the Division of Law Enforcement’s investigation, and our evaluation of the evidence, PPS does not have recommendations to modify the policies and practices of BPD as it concerns this specific shooting incident.²

1 <https://static1.squarespace.com/static/61bcb5437bc9701c216d1b9c/t/620e920177c90271fbbbe861/1645122053663/Bakersfield%2C+CA+Stipulated+Judgement+Order.pdf>.

2 Separately, BPD should evaluate the investigatory actions it conducts after critical incidents, including ensuring proper crime scene documentation by collecting all necessary measurements and information, and the preparation of investigative reports that are authored and reviewed by different individuals, and are presented in a more coherent manner.