



OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF TULARE

Tim Ward, *District Attorney*

Date: 9/1/2020

From: Office of the District Attorney, County of Tulare

Subject: Final Report and Recommendation: Alexis R.
Porterville Police Department case #19-3862

The Tulare County District Attorney's Office has completed an independent review of the above referenced officer-involved shooting. This matter was investigated by the Porterville Police Department and their findings were submitted to the Office of the District Attorney.

The Office of the District Attorney's review, analysis and findings are limited to determine if there is sufficient evidence to support the filing of criminal action in connection with the shooting of Alexis R. For the reasons set forth in this final report, we conclude that the shooting by Deputy Rommel Verenzuela was not unlawful.

The Office of the District Attorney does not address issues of civil liability, tactics and departmental policies and procedures. These issues remain in the purview of the Tulare County Sheriff's Department.

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- I. Reviewed Information:
- a. TCSO report and photos #19-7302
 - b. TCSO report and photos # 19-7315
 - c. PPD report and photos #19-3862
 - d. TCSO report and photos #19-7320
 - e. TCSO report #19-7320 transcripts
 - f. TCSO report #19-7302 transcripts
 - g. TCSO report #19-7315 transcripts
 - h. PPD #19-3862 transcripts
 - i. Body Worn Camera footage Verenzuela
 - j. Body Worn Camera footage Gunderman
 - k. Body Worn Camera footage Bostai
 - l. Body Worn Camera footage Harper
 - m. Body Worn Camera footage other TCSO deputies
 - n. TCSO audio recordings #19-7302
 - o. PPD audio recordings #19-3862
 - p. Surveillance video from Delano neighbor
 - q. Richgrove Food Center surveillance video
 - r. Rite Aid surveillance video
 - s. Jack in the Box surveillance video
 - t. Dash Cam videos from Delano Police Department
 - u. GSR kits: Arturo Ramirez hands
 - v. GSR kit: Inside Chrysler 300
 - w. GSR kit: Outside Chrysler 300
 - x. Cell phone report item number 14
 - y. Cell phone report item number 22
 - z. Cell phone report item number 52/46
 - aa. Alexis R. RAP sheet
 - bb. TCSO radio traffic recordings
 - cc. TCSO # 19-7302 911 call
 - dd. TCSO #19-7315 911 call
 - ee. Arturo Ramirez Rodriguez RAP sheet
 - ff. Denny's surveillance video
 - gg. Perko's surveillance video

II. Summary of Facts

A. Events in Richgrove

1. PC 242 - Battery

On June 13, 2019, 19-year-old Brandon G. went to the Delano Hospital because he was in a fight at his home in Richgrove at about 4:00pm. Tulare County Sheriff's Deputy Rommel Verenzuela also went to the hospital to investigate the battery. Deputy Verenzuela recorded Brandon's interview and Brandon's tone of voice in the recording gives the impression that he was uncooperative. Brandon told Deputy Verenzuela that he just got home when a car pulled up in front of his house. The person got out of the car and ran at him and they fought. When asked if he knew him, Brandon said no. When asked if he had ever seen him before, Brandon said no. He also denied knowing where this subject lived. When asked why this "guy" would come to the house and do this, Brandon said he didn't know. Brandon said the car was a silver Chrysler 300 and the "guy's girlfriend" was with him. He didn't know *how* he knew it was his girlfriend, "I just do." Brandon could not explain what he based this conclusion on, yet he knew it was his girlfriend. This type of statement is indicative of his lack of cooperation. He also denied knowing or recognizing the female. After they fought, Brandon said the guy started looking around inside the car, Brandon thought he was looking for a weapon. The guy took off after that. Later in the interview, Brandon admitted he had seen the guy around Richgrove but didn't know him. He had no idea why the male would have a "beef" with him. Deputy Verenzuela took photos of Brandon's injuries. Some of these photos are shown below:



Figure 1: Brandon's Injuries

Deputy Verenzuela provided a voluntary interview on June 14, 2019 at the Delano Police Department, after the discharge of his weapon at the Best Western Hotel. He said Brandon told him that the subject said "hey, I'm going to come back, and I'm

going to come and shoot you and I'm going to kill you." However upon review, this statement is not in Verenzuela's recorded interview with Brandon at the hospital; rather, it is in Verenzuela's interview with Brandon's father, Benigno G. It should be noted Verenzuela interviewed Brandon first, then interviewed Benigno. Finally, Brandon did not say he saw a gun nor was he asked about a gun.

As stated, Deputy Verenzuela also spoke to Brandon's father at the hospital. Deputy Verenzuela is bi-lingual and Benigno only speaks Spanish so the interview was conducted in the Spanish language. Benigno told Verenzuela that his son was washing the car then came inside the house and said he was going to leave to put gas in it. Benigno heard yelling while Brandon was waiting outside for his twin brother, Bryan. Benigno went outside to separate Brandon and the male subject who had Brandon down on the ground and was hitting him. At that point, Bryan came out and then Benigno's wife came out.¹ Benigno said there was a female with the subject who was cheering the male on instead of trying to separate them. Benigno said the male was "Arturo Ramirez" and gave the deputy an address for Ramirez. Benigno also told Verenzuela that Ramirez has a "greyish 300" car. Benigno stated that at the end of the confrontation, "he came and told him, I'm going to come back he told him and I'm going to pop you. And I told him, I know that he, he, carries, carries a gun... because a lot have told me right. And I was scared."² Benigno said the male and female then drove away but immediately came back and stopped the car by the side of the house. He saw the female get out of the car and search the back seats and the trunk of the Chrysler. He did not know what she was looking for.

Benigno told Deputy Verenzuela that he didn't know the female's name but knew the male's name because "they told me what his name is right now" (presumably while at the hospital). It was never fully explained how Benigno came to know the subject's name; however, Benigno said he knew Ramirez because he worked at the same location. He said Ramirez was between 30-35 years old, Hispanic, long hair, tall and skinny. The transcript of Benigno's recorded statement reflects he told Deputy Verenzuela "I'm telling you we're all scared fearing he'll come back and I told you he has, was talking that he (unintelligible)." It is unclear what Benigno said; presumably, it was that Ramirez was armed because Deputy Verenzuela immediately asked Benigno how he knew he was armed and he said "because a lot of people that know him talked about him." Benigno never said he saw a gun, but only that he was afraid the male was going to come back with one. Based on the provided information, Deputy Verenzuela called TCSO and advised the suspect vehicle was a Chrysler 300, grey in color, the suspect lived on Road 210 Avenue 4 and the main possible suspect is Arturo Ramirez, long hair, tall and skinny.

It was not clarified until the following day when Benigno was re-interviewed by TCSO Detective Ellis if he heard the threat himself or if someone told him about this

¹ Benigno's wife was not interviewed by Deputy Verenzuela.

² Benigno repeated this threat during the same interview with Deputy Verenzuela stating: "they left, he told him he was leaving and he was going to shoot him like that and told him he was going to shoot him." It remains unclear whether Benigno heard this threat himself or if someone told him about it.

threat. Benigno told Ellis the “Arturo guy” said that he was going to shoot the house. Benigno heard this himself because it was said in Spanish and “he knows very well that I don’t know English.” Benigno further explained he knew of Ramirez because they had worked in the fields three months prior, until Ramirez was fired for being “problematic.” It remains unclear as to who told Benigno that Ramirez carries a gun as well as when he was told this.

Deputy Verenzuela then spoke to Bryan. The captured audio recording revealed that Bryan sounded as reluctant to talk to the deputy regarding the battery as Brandon. The deputy asked Bryan if he recognized the male who jumped his brother and Bryan said he knew him by “Chino,” but didn’t know his name, and he drove a grey Chrysler 300. Bryan didn’t recognize the female with Chino but thought it was Chino’s girlfriend. When asked if he and Brandon had a beef with Chino, Bryan responded that “*he* has a beef with *us*” but denied knowing why. With regard to the fight, Bryan tried to separate them, then his dad came out then the male left. Bryan did not say he saw or heard about a gun, nor was he asked about one by Deputy Verenzuela. Finally, Bryan does not mention a threat nor was he asked about one.

Deputy Verenzuela verified through a computer check that Ramirez’s address was the same one provided by Benigno. He also discovered that Arturo Ramirez did *not* have a Chrysler, or any other vehicle, registered to him. Dispatch advised Deputy Verenzuela that Ramirez was a Northerner (gang member) and had multiple prior contacts with law enforcement (although none of them with Deputy Verenzuela). Finally, dispatch confirmed that Ramirez did not have any warrants. After receiving this information, the deputy went to the address provided by Benigno and contacted Ramirez’s mother who said she hadn’t seen him and he hasn’t lived there for almost two years. The deputy left the residence and attended other calls.

2. PC 246 – Drive-by Shooting

On the same day of the battery at about 11:00pm, TCSO Deputy Brandon Harper, from the Pixley sub-station, and Deputy Verenzuela went to the G. residence. Dispatch had received a 911 call for a drive-by shooting (Penal Code section 246) at the G. home. When Verenzuela initially heard the call from dispatch as well as the address, he recognized it from the earlier battery report and believed “the same suspect came back and actually completed what he said, that he was going to come back and shoot him.”³ He told his sergeant, Sergeant Karl Bostai, “that’s my victim from earlier, from the 242.” Bostai told him to go to the 246 call since he already took the 242 incident.

³ TCSO Deputy Verenzuela June 14, 2019
OIS interview transcript page 22

Deputy Harper had his body worn camera turned on while he and Deputy Verenzuela looked around the road for evidence. Deputy Verenzuela is heard saying “The suspect is Arturo Ramirez.” Verenzuela told Harper “they – he was the victim of a 242 earlier (inaudible) the hospital.” Harper responded “and they believe it’s the same guy or they know it’s the same?” Verenzuela replied “it’s the same guy apparently.” Deputy Verenzuela took photos of the crime scene and talked to the family. While Deputy Verenzuela was still at the home, Deisy G. approached him and showed him a social media picture of Arturo Ramirez and said this is Arturo Ramirez. Deisy is Benigno’s daughter, and Bryan and Brandon’s sister. It is not clear how Deisy received the photograph. Deputy Verenzuela showed Benigno the photo and he positively identified the person in the photo as Arturo. Verenzuela then photographed the picture then proceeded to speak with neighbors to see if they saw or heard anything. As he was talking to a neighbor (Felipe R.), Ben, who is the older brother of the victim, showed Felipe a picture on his cell phone and said that they were looking for this guy. The picture was a Snapchat photo with words across the bottom of it. Felipe identified the person in the photo as his cousin, Arturo Rodriguez, and said he didn’t really associate with him. Presumably, the photo Deisy gave to Deputy Verenzuela was the same photo Ben showed Felipe (see page 6 for the photo). Felipe said Arturo was a suspect of another shooting that occurred, where he shot someone in the hip. Felipe didn’t know where he might be but did provide the deputy with information that Arturo lived in McFarland with his significant other.

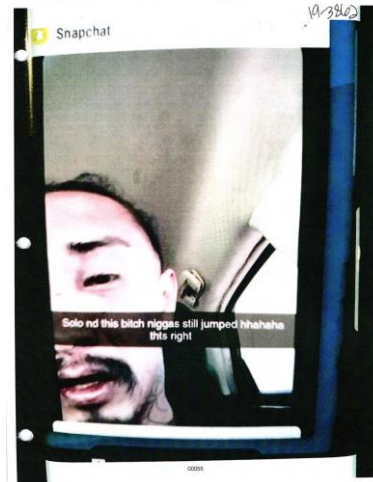


Figure 2: Social Media Photo of Arturo Ramirez

Before leaving the G. residence, Deputy Verenzuela reassured the concerned family that the case would “stick” (to Ramirez). Verenzuela explained to them that Ramirez had been identified by photograph, the family knew who he was and were, in fact, the ones to provide the photo. Not only did “everyone” recognize him, but “everyone” also knew he drove the Chrysler.

B. Deputy Verenzuela

On the same day of the battery and shooting, Tulare County Sheriff’s Deputy Rommel Verenzuela came to work 15 to 30 minutes prior to starting the 5:00pm shift. He started with TCSO almost two years prior and worked the Porterville sub-station nightshift, which was 5:00pm to 5:00am. Deputy Verenzuela’s practice was to come in prior to the start of shift so he could take his time getting detailed briefings of the day. On this particular day, he saw there was a call pending for a 245 (assault) but the information was vague. The reporting party said there was a gun involved but also said they didn’t see a gun. He didn’t think it was serious due to the confusion caused by the reporting party being “all over the place [by] giving confusing or contradicting

statements.” The deputy wanted to do more investigating to find out what really happened. Once the shift started, Sergeant Bostai told him to go to the Delano hospital to follow up on this pending 245. It should be noted the “245” is, in fact, the same case involving Brandon G. and the witness statements that were taken at the hospital later that day by Deputy Verenzuela.

Deputy Verenzuela resumed responding to calls for service after he left the Delano hospital and from speaking with the G. family. One of the calls for service was for a suspicious person in Lindsay. Deputy Verenzuela and other deputies responded to Lindsay. When Verenzuela arrived, he saw the male subject run so he followed him. The deputy followed the male inside a home and into a room where he saw the subject point a gun at him. Deputy Verenzuela pointed his service weapon back at him. At that moment, Deputy Verenzuela saw a baby laying on the bed right next to the male. Verenzuela chose not to shoot and told the subject to put the gun down. The subject complied and was subsequently arrested. Verenzuela said he was on high alert since a gun was involved and his thought was to be safe about it and to locate the suspicious person because of the potential threat to the public and officers who were attending the call. Deputy Verenzuela’s conduct demonstrated his self-restraint and composure under intense pressure. Under such life-or-death circumstances, Deputy Verenzuela demonstrated his ability to clearly and rationally analyze a situation and arrive at a safe and reasonable conclusion. It should be noted that Verenzuela last qualified with his firearm approximately one and a-half to two months prior to this day.⁴ As Deputy Verenzuela was winding down this call, he heard over the radio a 246 had just occurred.

C. 911 Calls

1. Reporting the Battery of Brandon Gutierrez

On June 13th at 4:19pm, Benigno G. called 911 to report that “some guys” came to his house to hurt his son. Mr. G. is Spanish speaking so the dispatcher contacted a Spanish interpreter to complete the call. Mr. G. said he was in the process of taking his son, Brandon, to the hospital. He reported that his son was washing the car when the subjects arrived. When asked if he knew the person’s name he said “yes, uh, no, no, no, I don’t know their name, but I do know where they live.” Dispatch told Benigno that a deputy will be sent out so he can show him where the subject lives but Benigno responded that he is going to the hospital because “my son’s in danger right now, I don’t know who, I’m just calling to make a report.” When asked about his son’s injuries and how he received them, Benigno said he had scrapes on his hands but also said “they have gun and they threatened him with the gun, but they didn’t take it out. They told him they were going, going to shoot him. But that’s why I want that report so that...” When asked to clarify if anyone saw the gun, Benigno said “no, they just said, yes, no, nobody saw it. They just, they just said that because...” When asked to describe the suspect vehicle and the persons involved, Benigno said it was two people, male and female and the car was similar to a Chrysler 300 and grey in color. The call ended with Benigno

⁴ TCSO department policy requires deputies to qualify every three months.

leaving for the hospital. The conflicting information from Benigno included whether or not he knew who the male was and whether or not he (or anyone else) actually saw a firearm. It is also unclear as to what Benigno personally saw as opposed to what he was told by family members.

2. Reporting the Drive-by Shooting

Brandon G. called 911 at 10:55pm – 5 ½ hours after Benigno called to report the battery. Brandon reported that “someone shot” at his house but he didn’t know *who* shot because he was asleep when the gunshots hit the window. Brandon told dispatch that they had talked to Officer Verenzuela earlier that day. After calling 911, Brandon called his sister, Deisy, who also lives in Richgrove. He told her what happened so she left her home to go to her parents’ house.

Five minutes later, dispatch received another 911 call regarding the gunshots. Deisy called from her mother’s house and said that her brother told her he just got shot [at] and “the guy he’s turning he’s, I live in Richgrove and the guy, he took off right now by County Line Road going to Delano.” The car she was referring to was a grey or silver “300.” When asked if she knew who it was, Deisy responded “I’m pretty sure.” Deisy told dispatch that “my brother he had problems today earlier and they, he just, say that they shot my mom’s house right now.” Dispatch asked how she knew it was the same car and Deisy said “he just cruising around Richgrove and I know that’s the car and he went towards Delano right now.” Dispatch asked if she thought it has something to do with what happened earlier at the house and she said she thinks so because “as soon as he seen me cause I was driving and as soon as he seen me, he followed me and then he turned to Delano” on County Line Road. Dispatch told Deisy two deputies were on the way.

Deisy drew several inferences during this call. She believed, from her conversation with her brother (who also believed), that the people he had problems with earlier in the day were the same people who shot at the house. She also “knew” the car she saw heading toward Delano after the shooting was the same car from the earlier battery. She assumed “he” was following her. She also assumed whoever was driving the 300 recognized *her* because she also assumed the driver turned toward Delano once the person saw her. It is worth noting that Deisy never expressly said *who* was driving the 300. Also, Deisy did not witness either the battery or the shooting; what she knew was completely derived from what she was told by family members after the events occurred.

D. Events Leading up to the Best Western Hotel

Deputy Verenzuela stated during his interview on the 14th after the shooting at the hotel: “I recognized the address from the 242 because it was in my head. In that moment I believed that it was my victim, and the same suspect came back and actually completed what he said, that he was going to come back and shoot him.” Verenzuela contacted his

sergeant to brief him on what had transpired. He told him that the suspect is a Northern gang member, he's armed because he just committed a 246, there are two suspects, a male and a female, but it was unknown at that time as to which one was shooting. Deputy Verenzuela also heard Deisy call to report she just saw a Chrysler 300 heading toward Delano on County Line Road. He knew Deisy to be the victim's sister and he was under the belief that she was there when the "whole 242 happened" and that "she recognize[d] the car to be the same one as the 242." Deputy Verenzuela also understood that Deisy did not see who was in the Chrysler as it drove toward Delano due to the darkness.

While Deputy Verenzuela was processing the crime scene, the neighbor, Felipe, gave Verenzuela the last known phone number for Arturo. Verenzuela went back to the victim and the victim told him he had seen the Chrysler parked on the 1800 block of Cascade Avenue in Delano. According to the CAD report, Verenzuela put out a BOL to both Delano Police Department ("Delano PD") and Kern County Sheriff's Office, including an officer safety warning regarding the Chrysler 300. During Deputy Verenzuela's interview, he stated he "put a[n] 836 for him."⁵ Deputy Verenzuela asked for the "officer safety" notice because he knew there was a gun out there, the suspect was a gang member who shot at a house, "he's going to shoot, you know." He said gang members have the mentality "fuck the cops or whatever it might be." They are more violent and a gang member "can care less, even if he dies, you know. He's going to go down fighting. That's my mentality. I mean, if he just shot at some random kid for just because he hates him, or whatever it might be, like, what does that say to anyone else?"

Deputy Verenzuela then asked his sergeant for permission to ping Ramirez's number since it involved a violent crime, the suspect was a Northerner with a handgun, and there was a showing by the suspect of a progression toward violence. His request was granted. Verenzuela requested a ping for that number on June 14th at 12:34am. At 12:38am TCSO dispatch CAD remarks show Deputy Verenzuela requested Delano Police Department "ATC [attempt to contact] susp [sic] Arturo Ramirez 11/24/96 gry Chry [sic] 300 w/ chrome rims at 1824 Cascade Ave." The Delano Dispatch CAD report further showed the message "armed with firearm, unk [sic] what type" and "if located, detain for TCSO to pickup."

At some point, Sergeant Bostai with the Porterville substation contacted Sergeant Gunderman with the Pixley substation. During Gunderman's interview on June 14th, he said he was briefed about the 246 and was asked if it constituted a detective callout. Gunderman asked Bostai if they had a suspect phone number and Bostai said they did. Gunderman said "well, have dispatch ping it." The CAD report shows dispatch pinging the phone with ATT at 12:44am. At 12:47am, the phone pinged at the County Line Best Western Hotel in Delano. This hotel is located in Tulare County just north of the county line abutting Kern County. Before Delano PD officers could act upon the request to go to the house on Cascade Avenue to locate the Chrysler, Delano dispatch notified the Delano officers that the suspect's phone pinged at the hotel. The Delano dispatch CAD report shows this message at 12:49am:

⁵ Deputy Harper stated in his June 20th interview that he heard Verenzuela "call in the 836 to dispatch."

call was pinged to the far west end of Best Western, check hotel for Chrysler 300 with chrome rims. *****towards the rear of the hotel, use of safety, susp might be armed with firearm*****

At 12:52am, the phone pinged for a second time at the same location. Deputy Verenzuela contacted his sergeant to ask him if he wanted him to go to the location and he was told no, they will have a Pixley substation sergeant go to see if the Chrysler was at the hotel.

At 12:52am, the TCSO CAD report shows that Pixley units will attempt to contact. At 1:06am, TCSO received a third ping at the same location. According to Gunderman, he was looking at the call on the computer and also talking to Bostai on the cellphone. Gunderman told Bostai that he'll go to the hotel and see if he "can get eyes on the car." At 1:08am, Sergeant Gunderman requested dispatch to run the license plate number for a Chrysler 300 located at the Best Western. Gunderman located the car on the south side of the Best Western. At 1:32am, a fourth ping was received from the same location. At 1:48am, dispatch returned license plate information that the 300 was registered to Alexis R. who resided at 483 Road 210. This was the same location that Benigno gave Verenzuela earlier in the day during the 242 investigation, the location where Benigno thought Ramirez lived. This was also the same location where Verenzuela personally contacted Ramirez's mother hours earlier.

E. Events at the Best Western Hotel

Sergeant Gunderman called Deputy Verenzuela and said he located the Chrysler and Verenzuela said that was the car he was looking for. While Gunderman maintained visual of the Chrysler, Delano Police Department ("Delano PD") Sergeant Julian Ortiz pulled up next to Sergeant Gunderman and asked what the plan was. Gunderman said he told Ortiz "the Porterville guys are working this, but, you know, we're kind of here to assist or whatever." Gunderman told Ortiz that they (Porterville deputies) were en route and he imagined they would do a knock-and-talk. There was no discussion as to *how* TCSO and Delano PD were going to communicate during the knock-and-talk.

Sergeant Bostai and Deputies Verenzuela and Harper soon arrived to the hotel. During Sergeant Gunderman's second interview on June 26th, he further explained the briefing he had with Sergeant Ortiz. He said Ortiz pulled up in his car and asked Gunderman what they (TCSO) needed from Delano PD. Gunderman said he responded that the plan was to go up and knock on the door. Gunderman further told Ortiz "So, you know, just in case this guy runs out the back door of the hotel or whatever, you know, if you could throw a unit" on the northwest corner of the hotel "that would be helpful." Gunderman continued to describe the conversation with Ortiz and told him that he (Gunderman) was watching the car. He told Ortiz "'if the car takes off, obviously, we're going—you know, we'll pull a stop on it,' or whatever. And he – he asked me, he goes, 'well, are you guys going to take the lead on the pursuit or on the stop?' And I said, 'well,

sure, you know.' I said if it – you know, if it kind of goes into the city of Delano and kind of keeps on going or whatever, I said, 'we've got this guy identified. We know who he is.' I said, 'So we'll probably terminate it,' and, you know, go after him tomorrow or turn it over to detectives or whatever." Gunderman further explained in his interview on June 26th that once he received the social media photo of Ramirez, he, Sergeant Bostai, Deputies Verenzuela and Harper rallied up and "the plan was to go up, knock on the door, and if the guy didn't answer, we were walking away and that was it." He went on to say "I know my intent was that if he answered the door and stepped out of that hotel room, based on my knowledge, this guy was going to jail" for the earlier drive-by shooting at the Gutierrez residence.

Sergeant Ortiz said during his interview on June 15th that once the suspect's phone pinged back to the hotel, he wanted to formulate a plan "that was best for security purposes." Ortiz got a Delano SWAT officer and paired him up with another Delano police officer to check the hotel parking lot for the Chrysler. Ortiz was then able to contact TCSO Sergeant Bostai who told Ortiz another sergeant (Gunderman) was at the hotel, watching the car. At this point, the two Delano police officers located the Chrysler so Sergeant Ortiz told them to keep an eye on it. Sergeant Ortiz contacted Gunderman who told him the case involved a shooting that escalated from a fight earlier in the day. Ortiz said Gunderman was "trying to get his logistics going" and only had a few deputies available. Ortiz was under the impression Gunderman was trying to get more people. Ortiz said Gunderman advised him they were going to contact the hotel clerk to see if Ramirez was there then find the room and do a knock-and-talk. Ortiz said "[t]hey wanted to try and get him into custody, if it's him." Gunderman asked Ortiz if Delano PD would set up as an external perimeter of the hotel in case the vehicle left.

Deputy Verenzuela said during his interview on June 14th that they (TCSO) were going to confirm if Alexis R. and Ramirez were staying at the hotel or if they were simply there in the car. The plan was to contact TAGNET [Tulare Area Gang and Narcotics Enforcement Team] to see if they wanted "to do a *Ramey* warrant and contact this guy at the hotel." For unknown reasons, the TAGNET unit didn't go out so Verenzuela, Sergeant Bostai, and Deputy Harper went to the Best Western. Once at the hotel, Sergeant Bostai told Verenzuela that they were going to confirm that Ramirez and Alexis R. were there. Verenzuela said the plan was to "brief it out" after they got information from the hotel clerk.

While sergeants Bostai and Gunderman waited outside, Deputies Harper and Verenzuela were sent into the hotel to speak with the desk clerk. The clerk found no guest with the name of "Arturo Ramirez." Verenzuela had the clerk check to see if an "Alexis R." was checked in and the clerk found such person checked in at 11:17pm into room 218. Room 218 is on the second floor of an interior hallway, on the west side of the hotel. The receipt showed she checked in for a single night, for two guests with a Senior/AARP discount. The clerk said she checked in alone; they showed her the photo of Ramirez and she said she didn't see him come in. The deputies then went back outside and briefed the sergeants. Alexis R., who is 22 years old, checked in at 11:17pm which is right after the 246 shooting. TCSO made the final decision to do a knock-and-talk to see

“if they want to come out or what’s going on.” Two Delano police officers went to the exterior, northwest corner of the hotel in their patrol car to cover the back part of it. Verenzuela explained that the Delano officers were there to assist TCSO if a suspect fled or “whatever might happen.”

Sergeant Karl Bostai said during his interview on June 14th that after they obtained the room number from the hotel clerk, he “made a game plan to where we were going to go up to the room, knock on the door, and ask the female to step out. If no one were to answer, we were going to leave and have the vehicle towed for evidence and forward the case to our TAGNET detectives.” Sergeant Gunderman stated in his interview on June 14th that he and Sergeant Bostai decided that if nobody answered the door to room 218 “we were going to walk away – turn it over to our gang unit the following day.”

Deputy Harper stated in his interview that after he and Verenzuela confirmed Alexis R. had checked in, they briefed with Bostai and Gunderman. Sergeant Bostai was on the phone with the gang detectives. Sergeant Gunderman came up with the idea to do a knock-and-talk to see if they can make contact with the female, see if she knew “this guy.” Delano PD was positioned at the west-facing, back side of the hotel. Deputy Harper was not on or scanning Delano PD’s channel.

At most, there was only a generalized plan in place at the hotel between both agencies. Moreover, the mode of communication was not addressed between the two agencies, who were also from two different jurisdictions. Although all four deputies were wearing body worn cameras, none of the cameras were activated at this time which would have captured what exactly was discussed or explained.

F. Second Floor Events

Four sheriff deputies and the Delano police sergeant went back inside the hotel and told the desk clerk that they were going upstairs to “knock and see if they want to have contact with us.” Deputy Verenzuela said at this moment,

[a]t this moment what’s going through my head is the threat levels are very high, officer safety is high. There’s two suspects armed. They – for what I know, they both might be armed. The – since they – since the drive-by shooting to a residence is very difficult to have – to be done by one person, I believe there has to be a driver and a shooter, because on the 242 incidents [sic] the female and the male were there. I believe that, you know, one of them was the shooter and the other one was the driver. So to me they’re both suspects, they’re both armed. We don’t even know if they have more weapons other than the one that they used to shoot on [sic] the drive-by shooting on the residence.

The four deputies went upstairs to the second floor while Ortiz went half way up the same stairs. Ortiz had a visual down the interior hallway, almost to room 218, and he

could also see the front lobby. The Delano police officers on perimeter, Delano Sergeant Ortiz and the four TCSO deputies inside the hotel were communicating by way of each agency's own dispatch. In other words, each agency was on its own radio channel and were only communicating by dispatch relay which admittedly created a delay of information. Harper stood north of the doorway while Verenzuela stood to the south of it. Verenzuela referred to this as the "fatal funnel."

"Fatal funnel" is a term usually used pertaining to building-clearing operations. It refers to areas such as stairwells, hallways and doorways that are generally narrow, confining areas that offer little or no cover or concealment and potentially limit an officer's tactical options if they have to go into combat. The literal translation and image of a Fatal Funnel is a choke point where you're going to die. Therefore, the term "fatal funnel" implies that officers will die if they are in these locations when the fight breaks out. *Policemag.com*

Both TCSO sergeants stood behind Verenzuela. At 1:57am, Sergeant Bostai advised dispatch they were attempting to contact the subject. Deputies Harper and Verenzuela began to knock several times and announce their presence. Verenzuela could not hear any noise coming from inside the room. He continued to knock and started to hear "stuff inside" but could not quite tell what was going on. Verenzuela said he believed:

I believe that the threat levels went even higher at that moment because they know that we're – they know that we're at the door. They're both armed. I don't know, you know. And it seems like they don't – they don't want to surrender, obviously, because I'm knocking on the door and no one's answering, no one's coming at the door like, "who is it?" Nothing. I believe that they're making a plan to either escape or to barricade or whatever it might be, loading their guns. I don't know. I was concerned for my safety and my two sergeants and my fellow deputy because we're in a hallway, there's no cover, and you know, at any moment one of those two suspects can come out with a gun and just basically stick his hand out and spray, you know.

Verenzuela continued to knock and speak. Delano Police Department Sergeant Ortiz said he could hear the knocking and speaking. During his interview on June 15th, Ortiz said at one point "they stated there was movement inside." One of the Delano officers in the back outside area of the hotel, Corporal Strand, said the suspect was poking his head out. He then reported that he's going back in. Ortiz relayed this to the deputies; he yelled down the hall. Ortiz then went downstairs, thinking the suspect may flee out the back.

As Deputy Verenzuela continued to knock and speak, Verenzuela heard dispatch say the subject was going out the window. At 2:01:16 am, TCSO Sergeant Bostai advised dispatch "that Delano PD is advising the subject was possibly trying to go out the

2nd story window...then advised he went back inside.” Note, this is approximately four minutes after the knocking started.

Sergeant Gunderman stated he heard communication from the TCSO channel that the suspect was trying to escape through the room window. He didn't know if the information was coming from Delano PD on the TCSO channel or if it was Delano PD through dispatch to them (Gunderman, Bostai, Verenzuela and Harper). Gunderman stated during his interview that based on the timeframe and how quick everything took place, “I imagine that they had flipped over to our channel.” Nonetheless, the information was somehow being relayed. He then heard through communications that the suspect went back inside.

Deputy Harper said that Ortiz then suggested to Bostai to have the hotel staff call the room to see if they can get them to come out. Deputy Harper said he asked Sergeant Ortiz if he had units in the back and he said he did. Harper thought at this point something bad could happen or they (the people in room 218) would cooperate, knowing they were surrounded. He also thought this could turn into a hostage situation, knowing or believing Ramirez was armed.

Harper and Bostai decided to go downstairs to have the front desk call room 218. Verenzuela then moved to the north side of the door, replacing where Harper previously stood. At this point, Verenzuela was on the north side and Gunderman was on the south side of the door. Verenzuela had his hand resting on holstered firearm while Gunderman had his taser out. Verenzuela continued to knock and speak. Deputy Verenzuela heard: “10 [to] 12 consecutive shots coming from inside the room. I didn't know what was going on. I don't know if they were shooting at Delano PD. I don't know if they were shooting at Sergeant Bostai and Deputy Harper. I don't know if – I don't know who – you know, if both were shooting at the same time and that's why I heard so many shots consecutive.” He thought he (Ramirez) was shooting from inside the room. He thought “this is going to be a firefight.” The time between the first knock on the door by TCSO and the gunshots was 4 minutes and approximately 15 seconds.

Sergeant Gunderman said he heard “a volley of gunfire. And at the time I couldn't tell if it was outside the building or inside that hotel room.” He thought there were eight gunshots in rapid succession. He then heard someone announce, “shots fired.”

Deputy Harper said he heard about 12 gunshots while still standing at the bottom of the stairs. At that moment, he was trying to figure out where it was coming from. It sounded like it was coming from the west side. He thought there “was a gunfight going on from the hotel room or from somewhere nearby the hotel.” He based this on his knowledge of the earlier 246 and thought it was possible Ramirez was shooting at either TCSO deputies through the door or shooting at the Delano officers. Harper said he thought something is going on, either somebody is shooting at officers, or officers are shooting at somebody.

Delano Police Department Sergeant Ortiz said he was in the lobby with the TCSO sergeant, telling him he could get a key. He then heard the deputies upstairs say they were going to tow the car then he heard gunfire. It sounded like it was from the room. He then heard Delano Police Department officer Strand say “shots fired.”

In the meantime, Sergeant Bostai stated as the phone was ringing to room 218, he heard several gunshots. He said the shots were coming west of their location but couldn't tell if it was upstairs or outside. He ran back upstairs with Harper and Sergeant Ortiz. At 2:01:45am, Sergeant Bostai reported to dispatch “shots fired.”

G. Footage of Body Worn Camera in Hallway

The audio portion of both Sergeant Gunerman's and Deputy Verenzuela's body worn cameras captured the fired shots. Sergeant Gunerman's body worn camera footage showed Deputy Verenzuela in the hallway where he removed his firearm from its holster and took several steps to the north and to the east of the door to room 218. Gunerman signaled to Verenzuela to come to his side of the door. Verenzuela understood it was to avoid a crossfire. However, Gunerman said during his first interview that he signaled for Verenzuela to come to his side of the door because Verenzuela was up against the long, blank wall to room 218 which was a dangerous spot for him to be. No further explanation was provided. At the exact same moment Verenzuela crossed the doorway to room 218, into the fatal funnel, the door rapidly opened. Verenzuela didn't “see anything other than someone coming at him.” In his mind, “someone was coming out to shoot.” He didn't see hands, he only saw the torso of a person. He didn't distinguish between whether it was a male or a female coming out because both were a perceived threat to him. Deputy Verenzuela discharged his firearm a single time into the open doorway as he continued his path of travel to the south side of the doorway of room 218. The time between the sound of the multiple gunshots and Verenzuela firing his handgun was 10 seconds. Both Gunerman and Verenzuela retreated back to where room 212 was located.

1. Deputy Verenzuela's Body Worn Camera

The following is the pertinent excerpt of Deputy Verenzuela's body worn camera as it captured the events in the Best Western second floor hallway as described above. The below video is from the perspective of Deputy Verenzuela.



Figure 3: Deputy Verenzuela's Body Worn Camera

Deputy Verenzuela stated in his interview on the 14th that he had three forms of nonlethal weapons on him at the time of the shooting: a baton, OC spray and a taser. He stated he chose to draw his firearm because he just heard a series of rapid gunfire coming from inside room 218. If he chose the baton, spray or taser, he would have been shot. When asked “[s]o how are you trained when you’re approaching a situation like that? Is it – are you trained to have both where you know somebody inside may have a gun or they may want to come out and surrender? Are you trained that both – both be on less lethal, or are you trained to have one on lethal and one on less lethal? Deputy Verenzuela responded: “[w]e train both ways. But in this case, Sergeant Gunderman decided to deploy⁶ his taser, I decided to deploy lethal. That way we had both options and whatever might...” [the interviewer interrupted the deputy to ask another question so the answer wasn’t finished.] Deputy Verenzuela thought Sergeant Gunderman switched to his firearm after “shots fired” was called out. He said the door opened very quickly and he shot at whatever was coming at him. He believed that if the door had opened slowly, “I think, you know, I wouldn’t have shot. But it was just kind of, like, opened as in, like, someone was going to come out to start shooting.”

⁶ Sergeant Gunderman drew his taser, but he never actually deployed it.

2. Sergeant Gunderman's Body Worn Camera

The following is the pertinent excerpt of Sergeant Gunderman's body worn camera as it captured the events in the Best Western second floor hallway as described above. The below video is from the perspective of Sergeant Gunderman.



Figure 4: *Sergeant Gunderman's Body Worn Camera*

From Sergeant Gunderman's viewpoint, he said during his interview on June 14th that the "door opened *right now*. It wasn't like it cracked open or it opened slowly. I mean, that door came flying open." Verenzuela was directly in front of it when it came open. There was no cover for either of them. Verenzuela fired one shot into the room. As soon as he shot, Deputy Verenzuela fell in behind Gunderman. Sergeant Gunderman saw Alexis R. slide out of the room, "kinda hands first." He told her to crawl to him and asked her if she was hit which she replied yes. As Gunderman and Verenzuela retreated to the front of room 212 with their firearms drawn, they start yelling "show me your hands! Show me your hands!" Alexis R. started to crawl on the ground, leaving room 218, because she was shot in the abdomen. At this moment, Deputy Verenzuela didn't see her hands and didn't know if she still had a gun with her or dropped it or "tucked it." Both deputies had their firearms drawn and pointed at Alexis R. as well as downrange to room 218. Gunderman ordered her multiple times to "crawl to me, come to me." Alexis R. kept looking back to room 218. Sergeant Gunderman asked her "where's Arturo?? Where's Arturo??" As she crawled, she responded twice, "he's still in there." Her response confirmed to Deputy Verenzuela that Arturo was still there and he feared that "he was going to pop his gun out and start shooting down the hallway. Like I said, we didn't have no cover." Verenzuela contacted dispatch to start medical. Gunderman and

Verenzuela knocked on the door to room 212 and the occupant opened the door, so they were able to take cover in there. Verenzuela grabbed Alexis R. and dragged her into room 212 with them and checked her for weapons. Alexis R. was asked again where Arturo was and she said the cops got him, he wouldn't let her open the door. Sergeant Gunderman maintained cover down the hallway toward room 218. He asked Alexis R. if there was anyone else in the room and she said no.

During his interview, Delano Police Department Sergeant Ortiz said he heard what sounded like a door slam then a shot come from the room area. Delano Sergeant Ortiz said he started to go back upstairs but then heard Delano police officer Strand indicate the subject was running southbound. Ortiz said “[s]o I was under the impression the shots had been fired at deputies in the room, maybe through the door, and then he jumped out the window and was running southbound.” This made the most sense to him. He was under the impression the suspect “had shot at the deputies and that the deputies had possibly returned fire” because he heard a pistol round discharge in the hallway. Sergeant Ortiz ran out the hotel to assist the Delano officers and he saw Sergeant Bostai go up the stairs to help the deputies. During his interview, Sergeant Ortiz confirmed Delano PD and TCSO were on separate communication channels. In other words, Ortiz was able to hear the transmission of the Delano officers in the rear of the hotel, but the TCSO deputies could not.

Sergeant Bostai went back upstairs with a room key so they conducted a protective sweep of room 218. No one was located inside the room. Arturo Ramirez had jumped out the window.

In the meantime, Deputy Verenzuela put his gloves on and applied pressure to Alexis R.'s injury. He stayed with her, assuring her that EMT was on the way. While they were waiting for the ambulance, Alexis R. asked Verenzuela “why did you guys shoot me?” Verenzuela replied “we heard the shots and someone opened the door.” She responded “oh, okay.” Verenzuela continued to tell her “we didn't know if it was going to have a hand coming out.” Tulare County Fire Department and Lifestar Ambulance arrived and Alexis R. was taken to the hospital. She made no statements at that time.

H. Alexis R. Interviews

Alexis R. was interviewed on June 14th at 1:45pm at the hospital. The police spoke to her for almost an hour. She said she was asleep but woke up because she heard the cops at the door. She was going to answer the door but had to put some clothes on. She said Arturo “he got all crazy. And then he was like, no, don't go outside. Yes, I have to. I have to. I have to.” She said “he got, like, panicked out. And I was trying to open the door, and then he jumped out the window. And so I heard, like, gunshots and I ran towards them, the cops, and they shot me.” She spoke some more about the moments prior to the shooting. She said she heard the police say “[o]pen up, Alexis. Something. They were going to tow my car. I was like, oh, hell no. I'm going to go out. You know,

like, no. And he was just freaking out, removing the window. Like, what the fuck is the thing to do? And I was crying. “Don’t do this to me. Don’t this to me.” Like, you’re going to get me in trouble, you know? Don’t be jumping. I heard gunshot fires and I ran out, and they shot me.” She said “I was watching him. And I was like, “Dude, don’t leave.” And I was crying, like, banging my hands on the bed. And I just heard the gunshots.” When asked what made her run out of the room she said “not running out, but like, to tell them, like – like, look, look, you know?” She also said she heard the cops call her name and say the car is being towed. “But I mean, I was going to go out. I’d never not open the door for a cop, you know?”

Alexis R. was interviewed a second time on the 14th at 6:38pm. She spoke for an hour. During the course of the interview, she said she heard the knocking. “So I got up and was like oh my god, oh my god, oh my god, and I told them, I was like what’s...what’s happening?” like, you know. And so he woke up, and I had to put my clothes on. I didn’t have my pants on and I didn’t have my bra on. So I put that back on and then he was trying to jump out the window and I was like “Dude, no don’t do this to me. Don’t do this to me. Like I don’t need to get in trouble.” You know? Nope he jumped and I think I heard shots fired and I ran out the front door. Like not run, but like, you know, “Help.”

III. Evidence Analysis

Cartridge Casing

One WIN 40 S&W spent casing located in the hallway, east of the door to room 216.

Duty Weapon

Deputy Verenzuela carried a Glock 22 handgun with three 15 round magazines. A round count of the handgun and magazines revealed a total of 45 rounds of .40 caliber ammunition (one was in the chamber). Deputy Verenzuela was not asked during his interview how many rounds he had when he started his shift.⁷

Video Footage

AXON body worn camera footage from Deputy Verenzuela, Deputy Harper, Sergeant Gunderman and Sergeant Bostai were reviewed. All surveillance videos were reviewed.

⁷ On January 13, 2020, Porterville Police Detective Vang, who conducted the round count, said she routinely has three full magazines and one round in the chamber for a total of 46 rounds. Presumably, Deputy Verenzuela applied the same practice because one .40 caliber casing was located in the second floor of the Best Western hallway and 45 rounds were still in his firearm.

Audio Recordings

All audio recordings from the TCSO and PPD police reports were reviewed.

Cellphone Extractions:

Three cellphones were located at the Best Western hotel. Two were located inside room 218. A third one was located in the Chrysler's driver's side front door. On June 20, 2019, a full extraction was conducted for one of the cellphones. This phone was located on the nightstand of room 218. Alexis R. was determined to be the owner based on the phone's content. Nothing of relevance to this matter was located in the cellphone.

A second cellphone was identified as belonging to Alexis R. because she identified it as belonging to her when she met with the crime lab on June 26th to unlock the phone. This cellphone was located on the bathroom vanity of room 218. Although Alexis R. said the cellphone belonged to her, she could not unlock it because she could not remember the password. Crime lab was unable to extract any data.

A partial extraction of the third cellphone located at the hotel revealed minimal information due to the software used for extraction. This cellphone was located in the Chrysler parked at the hotel.

On September 18th, PPD crime lab was able to finally view the data from the third phone. The crime lab concluded this cellphone belonged to Arturo Ramirez Rodriguez based on selfies and messages directed at him. One of the selfie photos was the one used to identify him in this case:



This cell phone also contained text messages suggesting that Ramirez was involved with the sales of marijuana and methamphetamine. Gang related indicia for the Northern gang and photographs of firearms were also located. Text messages between presumably Ramirez and an unknown person and Ramirez and a person by the name of "Chepis" were located. The following are the exchanges from June 13, 2019 which was the same day as the PC 242 with Brandon Gutierrez:

Unknown at 5:59pm:	...are u in town
Ramirez at 6:00pm:	Im in Visa I got jump gee
Unknown at 6:02pm:	Are you ok tho
Unknown at 6:02pm:	And who was it
Ramirez at 6:02pm:	Black eye but I got mines they all jumped me
Unknown at 6:02pm:	Don't come to town

Ramirez at 6:02pm: Why wassup
Unknown at 6:02pm: Ima send a squad
Unknown at 6:03pm: To the twins pad
Ramirez at 6:03pm: Ok handle it gee fosho homie its about tht time bro
Unknown at 6:03pm: A huevo
Ramirez at 6:04pm: Yea my face a lil fucked up but I mean I aint no
bitch u kno
Unknown at 6:05pm: I know g but we gotta step it up take to another
level now
Ramirez at 6:09pm: Im wit tht gee

The above exchange shows that Ramirez was involved in a fight on June 13th. The twins are believed to be Brandon and Bryan G. The twins' house is where the initial battery occurred.

.....

Ramirez at 10:14pm: Chepis
Chepis at 11:18:47pm: Ay
Chepis called Ramirez at 11:18:52pm
Ramirez at 11:43pm: Chepis??
Chepis at 11:47pm: Sup
Chepis at 11:53pm: There aint no cops
Ramirez at 11:54pm: Yea they were on scanner wheres herenandez street
Chepis at 11:54pm: O neta
Ramirez at 12:01am: Wheres Hernandez street at?
Chepis at 12:03am: Where oreo lives atWya
Ramirez at 12:04am: Delano
Chepis at 12:05am: Fuckfuck

It is unknown where they are referencing when discussing police presence. It could be the Best Western Hotel, the G. residence, Ramirez's residence or some place else. It is unclear what the above conversations are about but they occurred around the time of the drive-by shooting at the Gutierrez residence on Hernandez.

None of the exchanges clearly express a plan to do a drive-by shooting, other than a vague statement from an unknown person about taking it up a step. Porterville Police Department gang expert, Officer Cardoza, reviewed the text messages as well as the gang indicia on Ramirez' cellphone and formed the opinion that the author was going to send a gang squad to the G. home for retaliation. However, it was concluded that most of the conversations were hard to decipher due to them being in street slang.

Maps

Google maps of the City of Richgrove and the City of Delano were reviewed. It should be noted it takes approximately 10 minutes to get from Richgrove to Delano.

GSR Kits:

Three gunshot residue (GSR) kits were collected. The kits were sent to Los Angeles County Department of Medical Examiner-Coroner. The collections and results are as follows:

1. Arturo Ramirez right hand: five or more particles commonly associated with GSR (lead and antimony). Left hand: one particle consistent with GSR (barium and antimony) and five or more particles commonly associated with GSR (lead and antimony). The findings were deemed inconclusive.
2. Front driver door of the Chrysler: no particles of GSR found. Front passenger door of the Chrysler: one particle commonly associated with GSR (lead). The findings were deemed inconclusive.
3. Chrysler steering wheel: two particles commonly associated with GSR (lead and antimony). Gear shift: two particles commonly associated with GSR (lead). The findings were deemed inconclusive.

IV. Criminal Backgrounds

A. Alexis R. DOB X.XX.XXXX

1. RAP

Nothing

2. Damion Adult Case Management System

Nothing

(Juvenile case information, should it exist, is confidential and would be redacted)

B. Arturo Ramirez Rodriguez DOB 4.25.95

Ramirez was involved in a number of other cases. At the time of this incident, he also had a restraining order with the protected person being Alexis R.

1. RAP

2017: PC 459 1st felony conviction, *PCF337158* – probation
2017: PC 487(c) felony conviction, *PCF337796* – probation
PCF337158 and PCF337796 facts: A woman went for a walk with her niece and as they were returning to her home in Richgrove, she saw two subjects walking away from her home. When she got home, she saw her home was burglarized. The niece recognized one of the subjects as “CE” who was a juvenile. CE was contacted and admitted to going to the residence but denied breaking in, claiming Ramirez was responsible. A photo lineup was conducted with the niece and she positively identified Ramirez. An arrest warrant was issued because he could not be located. A month later, TCSO was dispatched for a welfare check in Richgrove. CE reported the previous night he was contacted by Ramirez who was asking him if he told the cops on him regarding the residential burglary. He told Ramirez he didn’t then Ramirez asked if he had anything on him. Before CE could respond, Ramirez searched him and took \$400 cash from him. Ramirez then told CE that if he told anyone, he would put a bullet in his head.

2017: PC 273.5 felony conviction and PC 243(e)(1) conviction, *PCF344798* – probation.

PCF344798 facts: On November 24, 2016, Alexis R. reported that she was in a dating relationship with Ramirez for the past three years and lived with his parents in the City of Richgrove. They have a one-year-old child in common. She and Ramirez got into an argument that ended up on the ground of the front yard. He was choking Alexis. Ramirez’s mom started to hit Ramirez with a broom to get him off of Alexis but Ramirez took the broom from her and began to swing the broom wildly at his mom and Alexis. He eventually dropped the broom and went inside. A Domestic Violence Restraining Order was issued with an expiration of 6.16.2020.

2017: PC 148(a)(1) conviction, *PCM 346556* - probation

PCM346556 facts: On January 30, 2017, two TCSO deputies conducted a warrant service for *PCF344798* at Ramirez’s parents’ home in Richgrove in an attempt to locate Ramirez. As the deputies approached from the east, they heard voices coming from the back of the home. Alexis R. approached them and they asked her if Arturo was there and she said he was. Ramirez then approached the deputies and asked why they were there. They told

him he had an active warrant and told him to come outside of the gate. Ramirez became upset and started to pace back and forth, saying they were harassing him. He started to argue with them for ten minutes and refusing their instructions. A third deputy approached from the west side and arrested Ramirez.

2. Damion Adult Case Management System

2015: PC 422 rejected for further investigation.

PC422 facts: On October 25, 2015 at 6:35am, Ramirez's sister called the police to report that he threatened to stab everyone with a knife. When TCSO arrived at the Richgrove home, Ramirez and Alexis was gone so they spoke to his sister, Carla, and his mom. Carla said she heard arguing out front so she went outside and saw her mom trying to get Ramirez and Alexis to stop fighting. Carla said she and Ramirez started to argue and that's when he reached inside his car and pulled out a knife and told her to shut up before he shanks her so she slapped him. Alexis saw this so she started to argue with Carla. The three of them continued to argue and fight. Ramirez and Alexis left. The mom said she only heard the initial arguing between her son and Alexis and did not hear or see any threats or fighting. TCSO located the car Alexis and Ramirez were in and conducted a traffic stop. Ramirez complied with the deputy's demands and was detained. A black folding pocket knife with a stainless steel blade was located in the car. Alexis said she and Ramirez were arguing because she told him she didn't want to go to work and that made him mad. They argued then his mom got involved then his sister. Carla slapped him but at no time did Ramirez pull out a knife or threaten to stab anyone. Ramirez's statement was consistent with Alexis's statement; however, he admitted that he may have threatened to stab Carla because he was mad at her.

2017: VC 14601.1, 16028 and 22349(b) charged as infractions

(Juvenile case information, should it exist, is confidential and would be redacted)

V. Prior Law Enforcement Contacts

A. Alexis R.: see above IV.A.

B. Arturo Ramirez Rodriguez: see above IV.B.

VI. Legal Standard

A. Lawful contacts

A temporary detention requires an officer to have a reasonable suspicion the person detained may be committing a crime, had committed a crime, or was about to commit a crime. (*United States v. Cortez* (1981) 449 U.S. 411, 417-8.) Reasonable cause demands some minimum level of objective justification, but considerably less than is required for probable cause to arrest. (*United States v. Sokolow* (1989) 490 U.S. 1, 7; *Terry v. Ohio* (1968) 392 U.S. 1, 22.)

Reasonable cause to detain must be supported by specific articulable facts, rather than inchoate suspicion or hunch. (*United States v. Sokolow, supra*, 490 U.S. at pp. 7-8.) These facts can be drawn from an officer's personal observations, citizen reports, or reports of other officers. The facts must be evaluated in light of the officer's specialized training and experience. (*United States v. Mendenhall* (1980) 446 U.S. 544, 563-564; *Terry v. Ohio, supra*, 392 U.S. at pp. 22-23.) An experienced officer may draw inferences and make deductions from observed facts that might well elude an untrained person. (*United States v. Cortez* (1981) 449 U.S. 411, 418.) "Experienced police officers naturally develop an ability to perceive the unusual and suspicious which is of enormous value in the difficult task of protecting the security and safety of law-abiding citizens." (*People v. Courtney* (1970) 11 Cal.App.3d 1185, 1190.)

A warrantless custodial arrest is reasonable under the Fourth Amendment whenever a police officer has probable cause to believe the person arrested has committed a criminal offense. (*People v. Kraft* (2000) 23 Cal.4th 978, 1037; *People v. Moore* (1975) 51 Cal.App.3d 610, 616; *People v. Braun* (1973) 29 Cal.App.3d 949, 966-967.) The probable cause standard applies to all offenses, from felonies to very minor criminal offenses punishable only by a fine. (*Atwater v. City of Lago Vista* (2001) 532 U.S. 318, 323, 340, 353; *People v. McKay* (2002) 27 Cal.4th 601, 605, 618.) Probable cause to arrest exists when the facts and circumstances within the officers' knowledge and of which they had reasonably trustworthy information would lead an officer of ordinary care and prudence to entertain an honest and strong suspicion that the person arrested has committed a crime. (*Beck v. Ohio* (1964) 379 U.S. 89, 91; *People v. Kraft, supra*, 23 Cal.4th at p. 1037; *People v. Price* (1991) 1 Cal.4th 324, 410; see also *People v. Scott* (2011) 52 Cal.4th 452, 474.) It requires only a fair probability of criminal activity, not a prima facie showing.

(*Illinois v. Gates* (1983) 462 U.S. 213, 235; *People v. Lewis* (1980) 109 Cal.App.3d 599, 608; *People v. Moore* (1970) 13 Cal.App.3d 424, 436; see also *Safford Unified School Dist. #1 v. Redding* (2009) 557 U.S. 364, 371 [129 S.Ct. 2633, 2639, 174 L.Ed.2d 354, 361].)

PC 836 states:

(a) A peace officer may arrest a person in obedience to a warrant, or, pursuant to the authority granted to him or her by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, may arrest a person whenever any of the following circumstances occur:

(1) The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.

(2) The person arrested has committed a felony, although not in the officer's presence.

(3) The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.

“It is well settled in California officers can make arrests based on information and probable cause furnished by other officers. [Citations.]” (*People v. Ramirez* (1997) 59 Cal.App.4th 1548, 1553.) “Reliable information furnishing probable cause for an arrest does not lose its reliability when it is transmitted through official channels to arresting officers, and the latter may rely upon it when making an arrest.” (*People v. Hogan* (1969) 71 Cal.2d 888, 891; see also *People v. Alcorn* (1993) 15 Cal.App.4th 652, 655; *People v. Conway* (1990) 222 Cal.App.3d 806, 810.)

B. Self-Defense and Defense of Another

Possible charges for a shooting, such as this one, include attempted murder, attempted manslaughter and assault with a firearm. However, before a conviction for such charges can be had, the prosecution must prove beyond a reasonable doubt that the shooter did not act in lawful defense of oneself or another person. If the prosecution does not meet this burden, the jury must find the shooter not guilty. CALCRIM 3470 provides the jury instruction for this legal defense. Whether or not the officer's actions warrant criminal charges must be analyzed using the applicable law and this long recognized rule of law. An individual acts in lawful self-defense or defense of another if:

1. The individual reasonably believed that he or someone else was in imminent danger of suffering great bodily injury;
2. The individual reasonably believed that the immediate use of force was necessary to defend against that danger; and
3. The individual used no more force than was reasonably necessary to defend against that danger.

CALCRIM 3470 further states that:

Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be. The individual must have believed there was imminent danger of bodily injury to him or someone else. The person's belief must have been reasonable and he must have acted because of that belief. He is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation. If he used more force than was reasonable, he did not act in lawful self-defense or defense of another.

When deciding whether the individual's beliefs were reasonable, consider all the circumstances as they were known to and appeared to him and consider what a reasonable person in a similar situation with similar knowledge would have believed. If his beliefs were reasonable, the danger does not need to have actually existed.

If you find that the person knew that [Arturo Ramirez or Alexis R.] had threatened or harmed others in the past, you may consider that information in deciding whether the person's conduct and beliefs were reasonable.

More specifically, the court in *Graham v. Connor* (1989) 490 U.S. 386, 396-397, held that excessive force claims are analyzed under the Fourth Amendment and its reasonableness standard and the proper inquiry focuses upon whether the officer acted reasonably in the shooting. The reasonableness test is an objective one, viewed from the vantage of a reasonable officer on the scene. It is also highly deferential to the police officer's need to protect himself and others. The *Graham* case further explained that, "the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The question is whether the officers' actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation."

The *Graham* court said "calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving about the amount of force that is necessary in a particular situation." *Id.* at 396-397.

VII. Legal Analysis

In the present case, Deputy Verenzuela started his usual shift and was asked to go to the hospital to follow up on a pending 242 (battery) call. He did so and

received information that a person named Arturo Ramirez, who was in a Chrysler 300, went to the victim's house and attacked the victim. After the attack on the victim, the male said "hey, I'm going to come back, and I'm going to come and shoot you and I'm going to kill you." The victim's father said he was scared because he knew this guy carries a gun. During the course of the 242 investigation, Dispatch advised Deputy Verenzuela that Ramirez was a Northerner and had multiple prior contacts.

Within hours of investigation the 242, Deputy Verenzuela heard Dispatch advise of a 246 (drive by shooting) and recognized the address to be the same one as the earlier 242. He believed the same suspect was involved and came back to complete what he said. He went to the home and spoke to family member and neighbors. Deputy Verenzuela received Ramirez's cell phone number and TCSO pinged it to the Best Western in Delano. Alexis R. is the registered owner of the Chrysler who had the same address as Ramirez. TCSO confirmed that Alexis was at the hotel and checked into room 218. TCSO decided to go to room 218 to "knock and see if they want to have contact with us."

Four deputies went to the second floor while Delano Police Department positioned themselves at the perimeter of the hotel. Deputy Verenzuela proceeded to knock several times and talk through the door. He could not hear any noises coming from inside the room. Ramirez was seen going out the second story window then going back inside. Deputy Verenzuela knocked on the door to room 218 a few more times.

After four minutes of knocking, Deputy Verenzuela heard 10, 12 consecutive shots come from what he believed to be inside the room. Sergeant Gunderman signaled for Verenzuela to come to his side of the door. Verenzuela understood it was to avoid a crossfire. At that moment, Deputy Verenzuela stepped in front of the doorway to room 218 and into the fatal funnel. Only 10 seconds had transpired between hearing the rapid gunfire and the door to room 218 quickly open. Deputy Verenzuela fired a single shot inside the room as he proceeded to where Sergeant Gunderman was standing. Deputy Verenzuela shot Alexis R. in the abdomen as she was coming out room 218.

In light of the facts and circumstances confronting Deputy Verenzuela on June 14, 2019, the only conclusion that can be reached is that the Deputy's actions were objectively reasonable and made in self-defense and in defense of others based on the following evidence:

- Ramirez was identified as a suspect of a 242
- Ramirez was the suspect of a drive by shooting at the same home as a 242 hours prior

- Deputy Verenzuela was notified Arturo Ramirez is a Northerner with prior contacts
- There are two suspects, a male and a female
- When shots rang out it was unknown who was shooting
- There is a showing of progressive violence
- Verenzuela's state of mind was that gang members are more violent
- Once inside the Best Western hotel, Verenzuela believed the threat levels were high – as was officer safety
- Threat levels increased after announcing TCSO's presence
- Verenzuela and other officers are in an interior hotel hallway with no cover
- Based on the information Verenzuela had at that point, he believed there was a possibility that someone could stick his hand out and shoot
- Verenzuela heard 10, 12 consecutive shots coming from inside the hotel room
- Verenzuela thought it was possible they were shooting at Delano PD
- Verenzuela thought it was possible they were shooting at Bostai and Harper
- Only 10 seconds elapsed from the time Deputy Verenzuela heard the shot and when he discharged his firearm
- Verenzuela was inside the “fatal funnel”
- Verenzuela had no cover
- The door rapidly swung open
- He saw nothing other than someone coming at him
- He discharged his weapon a single time
- Deputy Verenzuela could not use a nonlethal weapon due to the events unfolding in seconds. He feared he could have been shot since he heard a mere 10 seconds prior a series of gunfire from inside the room

In order to secure a conviction against Deputy Verenzuela, the People must prove beyond a reasonable doubt that the Deputy did *not* act in lawful self-defense or defense of others. Given the facts and circumstances summarized above, it is unlikely that the prosecution would be able to meet that burden.

VIII. Recommended Action

Significant evidence supports the conclusion that the actions of Deputy Rommel Verenzuela were reasonable, as he acted in defense of himself as well as others when he shot Alexis R. on June 14, 2019. Accordingly, this matter should be deemed closed.