

OFFICE OF THE DISTRICT ATTORNEY

September 8, 2023



REDACTED REPORT ON THE  
OCTOBER 4, 2020,  
SHOOTING OF AUSTIN MANZANO  
BY  
VENTURA COUNTY SHERIFF'S DEPUTY ROBERT MEDINA  
AND  
SENIOR DEPUTY GREGORY TOUGAS

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## I.

### INTRODUCTION

On October 4, 2020, at approximately 1:10 a.m., the Ventura County Sheriff's Office (VCSO) received a 9-1-1 call from Austin Manzano. Manzano told the dispatcher, "I have a gun and I'm here on Ripley Street in Camarillo. I'm going to start fucking shooting some people." During the 9-1-1 call, Manzano told the VCSO dispatcher he wanted to "end it all," and stated that he was suicidal. Manzano said he was in possession of a Sig Sauer handgun and a large knife. The dispatcher kept Manzano on the phone while two patrol units were dispatched to the area of 170 Ripley Street in Camarillo.

Manzano remained on the phone with the dispatcher as he walked down the street, towards the intersection of Bradford Avenue and West Calle La Sombra. Manzano said he could see the patrol unit that had arrived in the area. The dispatcher asked Manzano to put his gun down so he could speak with the deputies. Manzano refused and said, "[I] wouldn't be able to have them shoot," if he put the gun down. Manzano could be heard interacting with VCSO Deputy Robert Medina, the initial responding deputy.

VCSO Deputy Medina and Senior Deputy Gregory Tougas responded separately to the call of a suicidal subject armed with a gun. At approximately 1:14 a.m., Deputy Medina arrived on scene. Senior Deputy Tougas arrived within one minute later. Deputy Medina broadcast that Manzano had a gun in his hand and advised responding deputies to approach from a specific direction. Deputy Medina advised the next responding unit to deploy a less lethal option as Deputy Medina had his patrol rifle.

Manzano raised his gun in Deputy Medina's direction and started to sprint towards Deputy Medina. Deputy Medina fired two rounds from his department issued patrol rifle at Manzano. Both fired rounds struck Manzano in his abdominal area.

Senior Deputy Tougas also fired a single round towards Manzano, but the round did not hit him. Deputy Medina and Senior Deputy Tougas administered first aid to Manzano. Fire and paramedic personnel arrived on scene and transported Manzano to a local

hospital. Manzano suffered two gunshot wounds to his abdomen. Manzano died on October 17, 2020, due to complications from the gunshot wounds.

The Ventura County District Attorney's Office has a team of deputy district attorneys and investigators that respond to all officer-involved shootings in Ventura County. Upon receiving notification of this incident from the VCSO, the District Attorney's Office sent District Attorney Investigators Mike Scherbarth, Brandon Conger, and Dan Horan to the scene along with then Senior Deputy District Attorney Catherine Voelker. The District Attorney's Office personnel received a briefing on the incident from the lead VCSO investigator, inspected the crime scene, reviewed body-worn camera footage from both involved deputies, and monitored the VCSO interviews of Senior Deputy Tougas and Deputy Medina.

On June 14, 2021, VCSO investigators submitted their completed report on the incident to the District Attorney's Office, which has the responsibility of determining if the deputies acted lawfully when they used deadly force against Manzano. The scope of the District Attorney's review was limited to this question.

Senior Deputy District Attorney Melissa Suttner was assigned to review the case. The materials for review included more than 1,900 pages of police reports, transcripts of interviews, medical reports from the two hospitals where Manzano received treatment, body-worn camera footage, recordings of Manzano's call to the VCSO dispatch center, and the relevant VCSO radio traffic before, during, and after the incident.

Based on the materials submitted by VCSO, the District Attorney's independent review of those materials, and the applicable legal authorities, the District Attorney's opinions are that the shooting of Austin Manzano by Deputy Robert Medina, and the attempted shooting of Manzano by Senior Deputy Gregory Tougas, were justified uses of force and not criminal acts.

II.  
STATEMENT OF FACTS

Numerous individuals were interviewed, including the involved officers, emergency medical personnel, and civilian witnesses. Summaries of the pertinent witness statements are set forth below. There were no civilian percipient witnesses to the shooting.

A. Witness Statements

1. Deputy Robert Medina

On October 4, 2020, Deputy Medina, a 12-year law enforcement veteran with VCSO, met with VCSO detectives at the Camarillo Police Station. After speaking with his legal counsel, Deputy Medina agreed to provide a voluntary statement to detectives. His counsel was present throughout the interview.

Deputy Medina stated that on October 3, 2020, at 2:30 p.m., he began his patrol shift at the Camarillo Police Station, and was scheduled to end his shift on October 4, at 3:00 a.m. At approximately 1:11 a.m., Deputy Medina received a radio call of a suicidal subject with a firearm on Ripley Street. The subject was described as a male wearing a T-shirt and khaki shorts. Deputy Medina responded to the call.

When Deputy Medina arrived in the area, he turned north on Bradford Avenue from Ponderosa Drive, at which time he saw Manzano, dressed as described, standing in the middle of Bradford Avenue. Deputy Medina saw that Manzano was holding a handgun, so he stopped his patrol car, and backed up to create space between himself and Manzano.

After Deputy Medina stopped his patrol vehicle, he exited and retrieved his patrol rifle from the rear cargo area. Deputy Medina returned to the driver's side of the patrol vehicle and, using the driver's door for cover, began speaking to Manzano. Deputy Medina tried to calm Manzano down. Manzano paced back and forth in the middle of the street and did not acknowledge Deputy Medina's words.

Manzano walked toward Deputy Medina while still holding the handgun in his right hand. Manzano began running toward Deputy Medina, and raised the gun towards Deputy Medina, as if preparing to fire. Deputy Medina shouted at Manzano to stop. Manzano continued running toward Deputy Medina, while aiming the handgun at Deputy Medina. Fearing that Manzano was about to shoot him, Deputy Medina fired two rounds from his rifle, both of which struck Manzano in the abdomen.

After shooting Manzano, Deputy Medina rendered first aid. Deputy Medina saw the handgun lying on the ground and observed that the gun was a replica. Although a knife was later located near Manzano, Deputy Medina did not mention seeing Manzano possessing a knife in his other hand.

## 2. Senior Deputy Gregory Tougas

Senior Deputy Tougas, a 31-year law enforcement veteran with VCSO, was interviewed by VCSO detectives on October 4, 2020. He gave a voluntary statement after conferring with his legal counsel, who was present for the interview.

Senior Deputy Tougas stated he began his patrol shift at the Camarillo Police Station on October 3, 2020, at 6:00 p.m., and was scheduled to go off duty on October 4, at 6:30 a.m. At approximately 1:11 a.m., Senior Deputy Tougas was dispatched to a report of a suicidal subject with a firearm on Ripley Street. While in route to that location, Senior Deputy Tougas learned, via radio, that Deputy Medina had observed Manzano with a gun. Senior Deputy Tougas also heard Deputy Medina broadcast that he had deployed his patrol rifle and requested that responding deputies deploy a less-lethal weapon.

Senior Deputy Tougas intended to deploy the beanbag shotgun he carried in the rear cargo area of his patrol vehicle, but when he arrived at the location, he saw Manzano standing in the street holding a handgun. As he exited his vehicle, but before he could retrieve the beanbag shotgun, he saw Manzano run toward Deputy Medina while aiming the handgun at Deputy Medina. Believing Manzano was about to shoot Deputy Medina

or himself, Senior Deputy Tougas drew his service weapon and fired one round at Manzano, who fell to the ground. He and Deputy Medina approached Manzano and immediately began lifesaving efforts by applying bandages and direct pressure to his wounds.

### 3. Ventura County Fire Department Captain Guillermo Delarosa

On October 4, 2020, Captain Guillermo Delarosa was working as a fire captain at Ventura County Fire Station 50. Captain Delarosa and his colleagues were sleeping in their quarters at the station when they received a dispatch call of a suicidal subject. Captain Delarosa rode in the fire engine to the scene. The paramedic unit from his station also responded.

Before the fire engine arrived, dispatch advised that the call now involved a subject suffering a gunshot wound. Dispatch said that VCSO personnel on scene advised that it was clear for fire personnel to come directly into the scene. Captain Delarosa coordinated the staging of the fire engine and paramedic unit to park out of the way so that the ambulance could directly access Manzano, who was lying on the asphalt in the intersection. The fire engine and paramedic unit parked on West Ponderosa Drive.

As Captain Delarosa approached Manzano, he saw a black, semi-automatic handgun lying on the asphalt approximately six feet away from him. Captain Delarosa believed that it was an actual handgun. Captain Delarosa observed that Manzano had two gunshot wounds and heard Manzano groaning. As fire personnel began to render aid to Manzano, Captain Delarosa coordinated over the radio for the ambulance to drive directly into the scene to expedite transport of Manzano to a local hospital.

### 4. Ventura County Fire Department Engineer Ronald D'Aunoy

On October 4, 2020, Engineer Ronald D'Aunoy was working at Fire Station 50. In the early morning hours, exact time unknown, Engineer D'Aunoy was sleeping in his quarters at the station when a call came out. As they prepared to leave the station,

Engineer D'Aunoy learned from dispatch that it was a call of a suicidal subject with a firearm. Engineer D'Aunoy drove the fire engine to the scene. The paramedic unit from Fire Station 50 also responded.

Before they arrived on scene, Engineer D'Aunoy heard dispatch advise that the call now involved a subject suffering from a gunshot wound. VCSO personnel advised that the location was safe for fire personnel to come into the scene. Engineer D'Aunoy parked his fire engine beyond the scene so the paramedic unit could park behind him.

Engineer D'Aunoy secured the fire engine while his colleagues entered the scene and rendered aid to Manzano. Engineer D'Aunoy saw a handgun, black in color, and a knife lying on the asphalt to the west of Manzano. Engineer D'Aunoy believed that the knife was closer to Manzano, and the handgun was lying further away. The ambulance arrived, and drove directly to Manzano, who was immediately moved inside the ambulance.

#### 5. American Medical Response Paramedic Joseph Vasquez

Paramedic Joseph Vasquez and his partner, Paramedic Frey Archury, received a call of a subject with a "gunshot" at Bradford Avenue and West Calle La Sombra. As they arrived, a uniformed deputy directed them to where Manzano was lying in the street. Fire personnel were already on scene, treating Manzano. Vasquez believed he saw that Manzano had a gunshot exit wound on the lower right quadrant of his back, and two entry wounds around Manzano's abdomen. During an evaluation, Vasquez noticed that Manzano was alert, oriented, and verbally responded to questions.

Vasquez and Archury placed Manzano onto a gurney and into the ambulance. Two Ventura County Fire Department paramedics and a uniformed deputy entered the back of the ambulance with Vasquez and Manzano. During the ride to the hospital, Vasquez heard Manzano say multiple times, "It was my fault. It was my fault. I'm sorry." Upon arriving at the hospital emergency room, hospital personnel assisted Manzano.



## 6. Neighbor Jeremiah Robledo

On October 4, 2020, Jeremiah Robledo lived southeast of the crime scene, on the south side of Ponderosa Drive. From his balcony, there is a view of the intersection of Calle La Sombra and Bradford Avenue.

At approximately 1:00 a.m., Robledo said he was awake and using his phone when he heard gunshots. Robledo walked out onto his balcony and heard a deputy ask another deputy if he was okay. The deputy responded by saying, “yes,” but he appeared to be “rattled” and “distressed.” Robledo said one of the deputies asked the other deputy what happened. Robledo heard the deputy say, “He came at me with a gun.”

Robledo said that there were initially two deputies, but a third deputy arrived later, followed by the fire department and a fourth deputy. Robledo said he saw the deputies walking around with flashlights but could not see exactly what they were doing because of the distance between his balcony and the scene.

### B. Body-Worn Camera Video

Both Deputy Medina and Senior Deputy Tougas activated their body-worn cameras upon arriving at the location. Both deputies wore their body-worn cameras at chest level, facing forward, and thus, the cameras did not capture everything the deputies may have perceived during this incident. When confronting Manzano, who they believed to be armed with a handgun, both Deputy Medina and Senior Deputy Tougas used parts of their patrol vehicles for cover. Based on their respective positioning, their cameras were prevented from capturing much of Manzano’s actions leading up to the shooting.

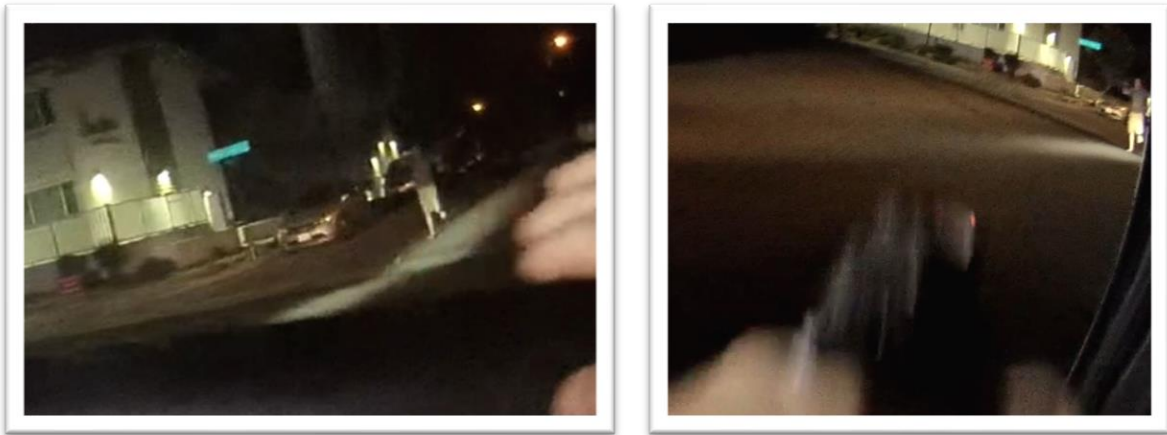
#### 1. Deputy Medina’s Body-Worn Camera

Deputy Medina’s body-worn camera activated while he was traveling to the scene in his patrol vehicle. The body-worn camera audio recording began when Deputy Medina arrived at the scene. In the audio recording, Deputy Medina assessed the situation upon

arrival, broadcasted instructions to other responding deputies, requested a less lethal force option, and attempted to deescalate the situation by calmly talking with Manzano, even pleading with him to drop his weapon. Manzano can be heard screaming incoherently as he charged at Deputy Medina. The shots are audible. Deputy Medina walked up to Manzano and said, “Looks like a fake gun. God dang it.” Deputy Medina’s body-worn camera video shows that he and Senior Deputy Tougas performed lifesaving efforts immediately after the shooting.

## 2. Senior Deputy Tougas’ Body-Worn Camera

Senior Deputy Tougas’ body-worn camera video captured brief glimpses of Manzano as he began running toward Deputy Medina. Manzano had his arms outstretched at chest level with the gun in his hand as he ran towards Deputy Medina. The replica gun is seen, and the knife flew from Manzano’s hands as he fell after being shot.



*Still images from Senior Deputy Tougas’ body-worn camera show Manzano running toward Deputy Medina while holding the replica gun in his right hand and the hunting knife in his left. The photo on the right shows Manzano extending his right arm as if preparing to fire.*



*Another still from Senior Deputy Tougas' body-worn video shows Manzano falling after being struck by Deputy Medina's gunfire. The replica gun and knife can be seen flying in the air.*

### C. Austin Manzano's Background

Austin Manzano was born on January 18, 1996, and was 24 years old when he died.

[REDACTED]  
[REDACTED] Austin had one older sister, who lived in Tennessee, and a younger sister and brother who lived with their mother. Austin lived with his father, Manuel Manzano, in Camarillo, and attended Ventura Community College. Austin also worked at Wal-Mart. On the night of this incident, Austin called his mother, Jessica Manzano. [REDACTED]  
[REDACTED]

Manuel and Austin Manzano lived on Ripley Street. When police arrived at the home that evening, Manuel showed them to Austin's bedroom. The light was on and a sheath, that corresponded to the same style knife found at the scene, was located in Austin's bedroom.

Manuel told officers that Austin called his mother earlier that day. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

On October 4, 2020, at approximately midnight, Manuel was awakened by his cell phone. Manuel received a text from Jordan, Austin's sister, referring to Austin calling his mother. Manuel also received a text from Jessica, [REDACTED]  
[REDACTED] talking about committing suicide. Manuel got up, went to Austin's room, and knocked on the door. Manuel saw that Austin was on the phone with his mother, [REDACTED] Manuel did not expand on his opinion. Manuel told Austin that based on how he looked and what he was saying, he did not think it was a productive conversation and suggested that Austin end the call and talk to her again another day. Austin ended the conversation with his mother. After the call ended, Manuel spoke with Austin and Austin mentioned committing suicide. It took Manuel a while to calm Austin down. After calming Austin down, they both went to bed.

Manuel heard movement in the house, so he got up to see what was happening. Manuel saw Austin awake and asked why he was up. Austin told Manuel that he was getting some water. Manuel did not think anything of it, so he went back to bed. Manuel was awakened to police knocking on the front door.

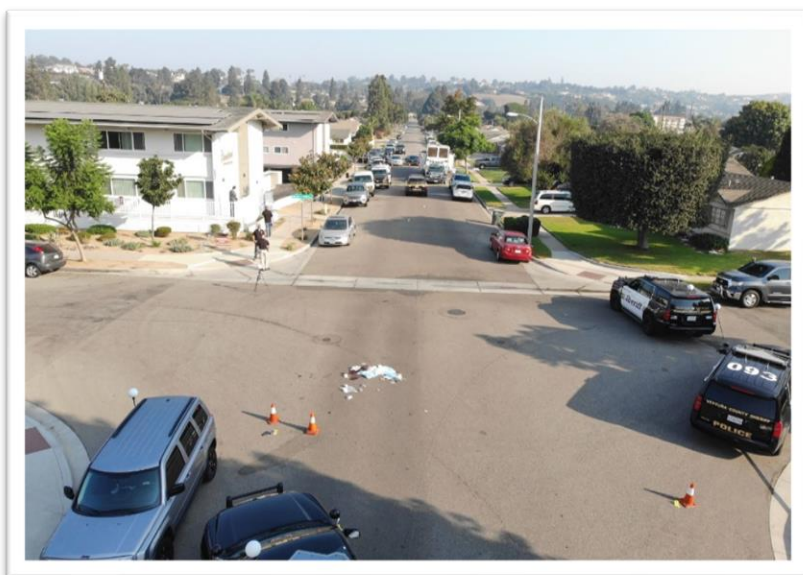
[REDACTED]  
[REDACTED]  
[REDACTED] Investigators discovered two handwritten suicide notes in Austin's bedroom at his residence, one directed to his family, the other to a friend.

### III. PHYSICAL EVIDENCE

#### A. Crime Scene

The incident occurred in Camarillo, at the intersection of Bradford Avenue and Calle La Sombra. It is a residential area, with single-family homes and multi-unit apartment buildings. Manzano lived on Ripley Street, to the north and west of where the shooting occurred.

Several items of evidence were identified and collected at the scene, including a replica handgun and a hunting knife carried by Manzano at the time he was shot. Both items were in the southwest quadrant of the intersection, where Manzano dropped them after being shot.<sup>1</sup> The knife was 12 inches in length. The knife had a metal fixed blade that was black in color. There was a hilt separating the handle and the blade. The blade was sharpened on one edge and the tip of the blade was slightly curved. The blade measured seven inches in length.



*Image taken by an unmanned aerial vehicle, looking north on Bradford Avenue at Calle La Sombra. The debris at the intersection indicates where Manzano fell after being shot and was first treated for his injuries. The VCSO vehicle at lower left was Deputy Medina's, where he was taking cover when he fired at Manzano.*

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<sup>1</sup> The distance of evidence marker 1 (casing from Deputy Medina's gun) to pooling of Manzano's blood was 34 feet; the distance from evidence marker 9 (casing from Deputy Medina's gun) to pooling of Manzano's blood was 30 feet; the distance from evidence marker 4 (casing from Senior Deputy Tougas' gun) to pooling of Manzano's blood was 29 feet.



*The replica handgun (above) and hunting knife (below) carried by Manzano.*





*A closeup of Manzano's replica Sig Sauer pistol (L), and an actual Sig Sauer model P-226 semi-automatic pistol (R), presented for comparison.*



*(L) A training replica Sig Sauer P-226, similar to Manzano's, as it appears without makeup. (R) A tube of black makeup found in Manzano's bedroom.*

Manzano's handgun was found to be a replica of a Sig Sauer model P-226 semi-automatic pistol. It was made of blue polymer material but had been painted black with makeup in an apparent effort to make it appear genuine.

As the replica gun lay at the crime scene, its blue color was visible only on the grip, the portion held by Manzano and concealed from the deputies' view at the time they fired. The makeup from the grip had transferred to Manzano's right hand and was noted by those treating him at the scene and at Ventura County Medical Center.

After the shooting, detectives served a search warrant at Manzano's home. Among the items collected in Manzano's bedroom were two suicide notes and a tube of black makeup, which he had evidently used to make his blue replica handgun appear genuine.

#### B. Autopsy

On October 4, 2020, Manzano was admitted into the hospital and underwent multiple surgeries. Manzano survived his injuries but became septic. On October 17, 2020, Manzano died. On October 19, 2020, Dr. Christopher Young, chief medical examiner for Ventura County, performed an autopsy on Manzano. Dr. Young found that Manzano had sustained two gunshot wounds, both entering his abdomen and exiting his back. Dr. Young determined the cause of death to be complications from the gunshot wounds.

#### C. Toxicology Report

A sample of Manzano's blood was drawn during his hospital treatment and was analyzed for drugs and alcohol at the Ventura County Sheriff's Office Forensic Sciences Laboratory. The analysis revealed his blood-alcohol level to be 0.089, slightly above the legal limit for driving a motor vehicle. [REDACTED]

[REDACTED]

[REDACTED]



D. Emergency 9-1-1 Call

**Date of Incident:** October 4, 2020

**Time of Incident:** 1:10 a.m.

**Legend:**

DM = Dispatcher Araceli Marron

AM = Austin Manzano

DM: 9-1-1, this is Araceli. What are you reporting?

AM: Yeah. I have a gun and I'm out here on Ripley Street in Camarillo. I'm going to start fuckin' shooting some people.

DM: Sir, where are you?

AM: I'm going to go ahead --

DM: What's your address?

AM: Ripley Street.

DM: What?

AM: Yeah, Camarillo, 170.

DM: What is your name?

AM: Austin.

DM: What's going on there, Austin?

AM: I -- I just want to end it all.

DM: Are you outside or inside?

AM: Outside.

DM: Are you under the influence of any drugs or alcohol?

AM: Alcohol.

DM: Okay. Are you being suicidal?

AM: Yeah. I've been suicidal all day.

DM: Okay. And where do you have the gun?

AM: In my hand.

DM: What type of gun is it?

AM: A Sig Sauer.

DM: Okay. Are you --

AM: Handgun.

DM: It's a handgun? Okay. [REDACTED]

DM: Okay. How old are you?

AM: Twenty-four. I also got a knife. You don't care. I'm going to start -- I'm hurting people.

DM: Austin, Austin.

AM: Yeah.

DM: Okay. I have help on the way right now. What type of knife do you have?

AM: Please. I have a big one, like a Bowie knife.

DM: What's your last name?

AM: Manzano, M-a-n-z-a-n-o.

DM: And what's your date of birth?

AM: January 18th, 1996.

DM: Okay. Do you live there at 170 Ripley?

AM: Yeah.

DM: Okay. Are your parents home? Is anyone home there?

AM: My dad's home. He doesn't know that I just -- that I'm doing this right now.

DM: Okay. And what are you wearing right now so the deputies see you when they get there?

AM: Brown shirt and a khaki pants, a khaki shorts.

DM: Okay. What's been going on today?

AM: I don't know, nothing. I'm just -- I just -- I just want out.

DM: Do you live there with your parents?

AM: Yeah. I see the -- I see the car.

DM: Okay. And where do you have the gun right now?

AM: In my hands.

DM: Is it armed? Is it loaded?

AM: Yeah. Yeah.

DM: Okay.

AM: You mind if I put the phone down so I can --

DM: Okay. Hold --

AM: -- stay and deal with this situation?

DM: Well, I just want you to be safe right now. So --

AM: Look, I'm just about to end it.

DM: Austin?

AM: Yeah.

DM: Okay. Where's the knife?

AM: It's in my -- it's under my arm since I don't have a free hand.

DM: Okay. Are you able to put the gun down?

AM: I am, but I don't want to just 'cause I want this over.

DM: Okay. But are you a- -- can you put the gun down so the deputies can talk to you and you're safe also and everyone's safe?

AM: I could, but then I wouldn't be able to have them shoot me.

DM: No. You don't want that. I mean, your -- your -- your parents -- isn't your dad there now? Isn't he inside the house?

AM: My dad's at home, yeah. But I'm a -- I'm a coward. Yeah, I just want to --

DM: It doesn't --

AM: I just want to get it over with.

DM: Okay. Just stay on the phone, okay? Just stay on the phone with me. Can you -- can you put the gun down?

AM: No. I'm not going to put it down.

DM: Do you see the deputies?

AM: If I -- if I put it down, you won't shoot me. Yeah, I -- yeah, I know. I'm on the phone with the 9-1-1 operator right now. If I put it down, you won't shoot me. I -- I want it to be over.

Now, what's your name, on the line?

DM: Mine's Araceli.

AM: Araceli?

DM: Yes.

AM: All right. I'm -- I'm sorry about this.

DM: Just go ahead --

AM: (INAUDIBLE).

#### IV. LEGAL PRINCIPLES

##### A. Law of Homicide and Self-Defense

Homicide is the killing of one human being by another, either lawfully or unlawfully. Homicide encompasses murder and manslaughter, which are unlawful, and acts of excusable and justifiable homicide, which are lawful.

Homicide is justifiable when committed by any person “resisting any attempt [by another] to murder any person, or to commit a felony, or to do some great bodily injury upon any person.” (Penal Code §197(1).)

CALCRIM 505 sets forth the specific jury instructions on self-defense. It provides that a person is not guilty of murder or manslaughter if: 1) that person “reasonably believed that [the person] [or] someone else . . . was in imminent danger of being killed or suffering great bodily injury;” 2) that person “reasonably believed that the immediate use of deadly force was necessary to defend against that danger”; and 3) that person “used no more force than was reasonably necessary to defend against that danger.”

CALCRIM 505 further provides that in deciding whether that person’s “beliefs were reasonable, consider all the circumstances as they were known to and appeared to [that person] and consider what a reasonable person in a similar situation with similar knowledge would have believed. If [that person]’s beliefs were reasonable, the danger does not need to have actually existed.” It also provides that “[a person] is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger has passed. This is so even if safety could have been achieved by retreating.”

Police officers may use deadly force “only, when necessary, in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources

and techniques if reasonably safe and feasible to an objectively reasonable officer.”  
(Penal Code § 835a(a)(2).)

“[T]he decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” (Penal Code § 835a(a)(4).)

A police officer “is justified in using deadly force upon another person only when the officer reasonably believes based on the totality of the circumstances, that such force is necessary . . . [t]o defend against an imminent threat of death or serious bodily injury to the officer or to another person” or “[t]o apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.” (Penal Code § 835a(c)(1)(A) & (B).)

A police officer “need not retreat or desist from their efforts by reason of the resistance or threatened resistance of the person being arrested.” However, “‘retreat’ does not mean tactical repositioning or other deescalation tactics.” (Penal Code § 835a(d).)

Police officers have a duty “to maintain peace and security” and “to protect citizens from harm.” (*Batts v. Superior Court* (1972) 23 Cal.App.3d 435, 438.) A police officer may use deadly force when the circumstances create a reasonable fear of death or serious bodily injury in the mind of the officer. (*Graham v. Conner* (1989) 490 U.S. 386, 396-397.) Reasonableness includes “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.”

Under the Fourth Amendment, police are “not required to use the least intrusive degree of force possible” but may use only such force as is objectively reasonable under the circumstances. (*Forrester v. City of San Diego* (9th Cir. 1994) 25 F.3d 804, 807.)

An officer’s use of deadly force is reasonable only if “the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.” (*Tennessee v. Garner* (1985) 471 U.S. 1, 3.) Furthermore, “If police officers are justified in firing at a suspect in order to end a severe threat to public safety, the officers need not stop shooting until the threat has ended.” (*Plumhoff v. Rickard* (2014) 572 U.S. 765, 777; 134 S.Ct. 2012, 2022.)

“The test of reasonableness in this context 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.” (*Martinez v. County of L.A.* (1996) 47 Cal.App.4th 334, 343 (quoting *Graham* 490 U.S. at 396-397).) The reasonableness test requires careful attention to the facts and circumstances of each particular case, including: 1) “The severity of the crime at issue”; 2) “whether the suspect poses an immediate threat to the safety of the officers or others”; and 3) “whether [the suspect] is actively resisting arrest or attempting to evade arrest by flight.” (*Graham, supra*, 490 U.S. at 396.)

#### B. Austin Manzano’s Criminal Conduct

\_\_\_\_\_ he was engaged in criminal behavior at the time he encountered law enforcement personnel. All available evidence leads to the conclusion that he engaged in this criminal conduct with the specific intent of bringing about the tragic outcome that resulted. Nevertheless, had Manzano survived, he may have been subject to prosecution for the following crimes:

- Assault on a peace officer likely to produce great bodily injury, in violation of Penal Code § 245(c);
- Exhibiting a deadly weapon in a rude, angry, or threatening manner, in the immediate presence of a peace officer, violation of Penal Code § 417(e)(1);
- Exhibiting an imitation firearm in a threatening manner, in violation of Penal Code § 417.4.

V.  
ANALYSIS

Austin Manzano's conduct caused the deputies to use deadly force, and he persisted in this conduct even as the 9-1-1 operator and Deputy Medina tried to deescalate and disarm him. Although, in hindsight, we know Manzano possessed a replica handgun that posed no actual threat of death or serious injury to the responding deputies, Manzano did have a 12-inch large knife in his hand when he charged at Deputy Medina. As noted above, in both the U.S. Supreme Court case of *Graham v. Connor* and the applicable California Penal Code sections, we evaluate this or any police use of force without the benefit of hindsight, but rather on the totality of the circumstances known to the officer at the time of the incident.

The evidence is clear that Manzano obtained a replica handgun and applied black makeup to it to make it appear genuine to the deputies responding to his 9-1-1 call. He also obtained a large hunting knife of indisputably lethal potential and carried both items to the street near his home. He placed a 9-1-1 call to the VCSO dispatch center and made threats that were certain to bring a response from Sheriff's deputies.

It was apparent to the emergency operator and the responding deputies that Manzano was attempting to induce an armed response and deputies were obligated to assume Manzano's threats to harm people were sincere. The incident unfolded in a residential neighborhood, and there was no way of knowing what criminal acts Manzano may have been willing to commit against the deputies or any passerby to bring about the desired result.

The emergency operator attempted to calm Manzano and dissuade him from following through with this course of action, engaging him in conversation while Deputy Medina and Senior Deputy Tougas were responding to the scene. Manzano provided information to the operator that was consistent with being armed with a loaded firearm. Manzano chose to end the telephone conversation with the operator. He apologized to her and placed his phone on the ground as Deputy Medina arrived at the scene.

Deputy Medina observed Manzano armed with what appeared to be a genuine handgun. Deputy Medina backed up his patrol vehicle to create more distance between him and a man displaying deadly force. Like the emergency operator, Deputy Medina believed Manzano was attempting to force an armed confrontation and he requested the response of a deputy armed with a less-lethal weapon in the hope such a weapon could be used to subdue Manzano before lethal force became necessary. Senior Deputy Tougas intended to deploy the beanbag shotgun he carried and informed Deputy Medina of this via radio. Deputy Medina, believing the gun Manzano held was genuine, retrieved his patrol rifle from the cargo area of his vehicle and took cover behind the driver's door. He attempted to engage Manzano in conversation and tried to persuade him to drop his gun. Manzano was unresponsive. Approximately one minute and 20 seconds elapsed from the time Deputy Medina first spoke to Manzano to the moment Manzano began rushing toward him. Seeing that Manzano was beginning to advance toward him, Deputy Medina shouted, "Don't do it, don't do it, don't do it!" As Manzano began running toward him, Deputy Medina shouted, "Stop, stop, stop!"

Manzano continued running toward Deputy Medina while raising the replica handgun as if preparing to fire. Fearing that Manzano was about to shoot him, Deputy Medina fired two rounds from his rifle in rapid succession, both of which struck Manzano.

Senior Deputy Tougas arrived at the location approximately one minute after Deputy Medina. Seconds after Senior Deputy Tougas stopped his vehicle, Manzano began rushing toward Deputy Medina while raising the replica gun as if preparing to fire. Faced with what he reasonably believed to be an imminent deadly threat to Deputy Medina and himself, Senior Deputy Tougas had no opportunity to retrieve the beanbag shotgun from the rear cargo area of his vehicle. Immediately upon exiting his vehicle, he drew his service weapon and fired simultaneously with Deputy Medina. Senior Deputy Tougas' round did not strike Manzano.

Manzano fell to the ground near the middle of the intersection of Bradford Avenue and Calle La Sombra, dropping the replica gun and the hunting knife he carried. Seeing that



the threat posed by Manzano had ceased, the deputies immediately secured their weapons, radioed for medical assistance, and began lifesaving efforts. They continued those efforts until they were relieved by Ventura County Fire Department and American Medical Response personnel.

The deputies' use of deadly force against Manzano was both reasonable and necessary. The deputies responded to Manzano's own call to the Sheriff's Office dispatch center, during which he made threats to shoot people. Deputy Medina, arriving at the scene first, prudently backed his vehicle away from Manzano to increase the distance between them, but he was not legally obligated to retreat any further after exiting his vehicle. Indeed, any attempt to retreat further would have required leaving the cover of his vehicle and exposing himself to gunfire from the weapon he reasonably believed Manzano possessed and was prepared to fire. As revealed by the video from his body-worn camera, approximately four seconds elapsed between Deputy Medina shouting, "Don't do it," to his firing the rifle.

Senior Deputy Tougas, arriving at the scene of the already unfolding incident, was immediately faced with a man he reasonably believed to be armed with a handgun rushing toward a fellow deputy while raising the weapon as if preparing to fire. There was no opportunity for him to retrieve the beanbag shotgun from his vehicle, as the circumstances called for the immediate use of deadly force to stop Manzano's threatening behavior.

The number of rounds fired, two by Deputy Medina and one by Senior Deputy Tougas, was reasonable under the circumstances. Both deputies perceived an imminent threat of great bodily injury, fired at Manzano, and stopped firing when the threat ceased.

VI.  
CONCLUSION

It is the conclusion of the District Attorney that:

- A. At the time he fired his rifle at Austin Manzano, Deputy Medina honestly and reasonably believed he was under imminent threat of death or great bodily injury;
- B. Deputy Medina honestly and reasonably believed the immediate use of deadly force was necessary to defend himself against the danger posed by Austin Manzano;
- C. Deputy Medina used no more force than was reasonably necessary to defend against the apparent danger posed by Austin Manzano;
- D. The fatal shooting of Austin Manzano by Deputy Medina was a justifiable homicide;
- E. At the time he fired his handgun at Austin Manzano, Senior Deputy Tougas honestly and reasonably believed he and Deputy Medina were under imminent threat of death or great bodily injury;
- F. Senior Deputy Tougas honestly and reasonably believed the immediate use of deadly force was necessary to defend Deputy Medina and himself against the danger posed by Austin Manzano;
- G. Senior Deputy Tougas used no more force than was reasonably necessary to defend Deputy Medina and himself against the apparent danger posed by Austin Manzano;

H. The attempted shooting of Austin Manzano by Senior Deputy Tougas was a justifiable use of deadly force.