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December 22, 2023

**PUBLIC REPORT ON OFFICER INVOLVED SHOOTING OF JOSE MANUEL REYES  
RIOS ON MARCH 25, 2023**

The Santa Barbara County District Attorney's Office has completed its review of the Santa Barbara Sheriff's Office ("SBSO") investigation into the fatal shooting of Jose Manuel Reyes Rios, age 19, on March 25, 2023, in the City of Santa Maria, California.

The following analysis is based upon investigative reports, video and audio recordings, photographs, and witness interviews, including the voluntary statement of off-duty Santa Maria Police Officer Antonio Pena, taken during the investigation and submitted to this office by SBSO Detective Ruben Esparza.

The District Attorney finds the shooting by off-duty Santa Maria Police Department Officer Antonio Pena was a justified use of force pursuant to Penal Code section 835a, and he bears no state criminal liability.

**FACTUAL HISTORY**

**Summary**

On Saturday March 25, 2023, just before 8:00 p.m., off-duty Santa Maria Police Officer Antonio Pena parked in front of the Melody Market convenience store at 130 E. Foster Road in Orcutt. Officer Pena walked inside the market while his wife and brother-in-law remained inside the truck. While Officer Pena was inside the market purchasing items, two groups of young males engaged one another in the parking lot next to Officer Pena's truck. As Officer Pena walked out to his truck he noticed the two groups of young males arguing and starting to fight physically. As he neared the driver's side of his truck, another vehicle accelerated into two of the males hitting them and causing them to fly into the air, hit the hood of the vehicle and fall to the ground. A male from one of the groups, later identified as Jose Manuel Reyes Rios, pulled out a handgun and began shooting at the two males who were hit by the car. Another male from the opposing group started shooting towards Rios. Rios ran directly towards Officer Pena. Officer Pena quickly drew his firearm, began shouting commands to "Drop the gun!" and "Santa Maria Police!" Rios ran past Officer Pena, then turned toward Officer Pena with his gun pointed at him. Officer Pena opened fire, shooting Rios. Rios was pronounced dead at the scene.

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## **Off-Duty Officer Involved Shooting**

Santa Maria Police Officer Antonio Pena was off-duty on the evening of March 25, 2023 when he was driving with his wife and brother-in-law to a birthday party at a friend's house. Just before 8:00 p.m. Officer Pena arrived at the Melody Market store and parked in front. Upon exiting his truck, Officer Pena noticed a gray car in the parking lot next to his, two males standing near the car, and other males inside the market. Officer Pena made his purchase inside the store and walked back outside towards his truck. While Officer Pena was inside the store, a white SUV pulled into the parking lot and parked on the other side of the gray car, furthest from Officer Pena's truck. The female driver of this SUV walked inside the market, leaving her two children inside the SUV.

As he was walking back outside, Officer Pena noticed the gray car that had been parked next to his was backed out of the parking space but was still in the parking lot. There were now four males standing in the parking space next to his vehicle. The four males appeared to be arguing which caught Officer Pena's attention. He kept walking towards the driver's side of his vehicle, opened the door, placed his purchase on the front seat, and continued to look through the passenger side window at the males fighting. Suddenly, Officer Pena heard the sound of tires screeching. He saw the gray car accelerate forward and strike two of the males, later identified as Alexis Alcantar and Jakob Guzman.

As soon as the gray car struck Alcantar and Guzman, Officer Pena saw the male wearing a red sweatshirt, later identified as Manuel Reyes Rios, pull out a gun. He immediately heard shots ringing out. Rios was standing near the front of Officer Pena's vehicle while he was shooting. Rios started running around the front of Officer Pena's truck, towards Officer Pena. Officer Pena was afraid for his wife and brother-in-law inside the truck and feared that Rios was running towards him to carjack him or shoot him. Rios continued shooting at the other males as he was running toward Officer Pena. While Officer Pena was not in uniform, he was wearing his firearm in an appendix holster. As Rios was passing Pena's door, Pena drew his firearm. At this point, Officer Pena heard more shots ringing out and he realized that there was a shoot-out between Rios and another subject, possibly more. Officer Pena also realized that he and his family were in the middle of the cross-fire.

Officer Pena pointed his firearm at Rios and yelled "Santa Maria Police! Put down the gun!" Rios turned his head, looked at Officer Pena, and pointed his firearm at Pena. Fearing for his life and for the life of his wife and brother-in-law who were trapped inside the truck, Officer Pena fired at Rios. After firing three shots, Officer Pena paused; he then saw a muzzle flash from Rios' firearm, indicating he fired again. At this point Officer Pena thought he would be shot. He began firing again until Rios fell to the ground. Officer Pena estimated that he fired his gun at least 16 times total.

Officer Pena then saw another male subject running on the east side of the parking lot near the street with a gun in his hand. Officer Pena yelled "Santa Maria PD! Put the gun down! Drop the

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gun!” But the subject continued to run. Officer Pena did not shoot at him because an open restaurant, Chef Rick’s was in the background and Officer Pena deemed it too dangerous to the people inside. At this time, the gray car had driven away, and all other subjects involved in the fight had fled.

Officer Pena felt like this was an opportunity to get his wife and brother-in-law out of the truck and into the market for safety. As they were running into the store, a woman who had been inside the market ran outside yelling that her two young daughters were inside the parked white SUV. Officer Pena and the woman quickly escorted the children inside the market to safety. With everyone barricaded inside the market, Officer Pena then called 911 to report the shooting. He waited outside until Sheriff’s deputies arrived.

### **Surveillance Video at Melody Mini Market and Cell Phone Evidence**

SBSO detectives collected cell phones belonging to the suspects, and video surveillance footage from several cameras both inside and outside of Melody Market. Various cameras captured portions of the incident. Below is a synopsis of the relevant video footage and cell phone evidence.

At 7:55 p.m. a small white Chevrolet sedan drove into the Melody Market parking lot. There were four occupants inside the car later identified as driver, Christian Zuniga, front seat passenger Rene Gutierrez, and back seat passengers Jakob Guzman and Alexis Perez-Alcantar. Zuniga and Gutierrez walked inside Melody Market while Guzman and Alcantar remained inside the vehicle. Detectives later discovered that both Guzman and Alcantar are documented Northwest gang members.

Recovered from Alcantar’s cell phone is a video with a timestamp of 7:57:52 p.m. on the night of the shooting showing Alcantar and Guzman in the backseat of a vehicle. In this video Alcantar is holding an unknown make or model black handgun.

At 7:57:24 a gray Hyundai sedan drove into the Melody Market parking lot and parked next to the white Chevrolet. There were four occupants inside the car later identified as driver Angel Lopez Rojas, front seat passenger Cesar Angel Lopez, and back seat passengers Jose Manuel Reyes Rios and Gerardo Dominguez. Lopez, Rios and Dominguez walked inside Melody Market while Rojas remained inside the vehicle.

At 7:58:16 Zuniga and Gutierrez exited the market and walked back to the white Chevrolet. Zuniga appeared to have a case of beer in hand. They both got into the white Chevrolet.

At 7:58:21 off-duty Officer Pena drove into the Melody Market parking lot and parked next to the gray Hyundai. Officer Pena walked inside the market.

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At 7:58:48 the white Chevrolet reversed out of the parking space and stopped before entering the roadway. At 7:59:13 Guzman and Alcantar exited the white Chevrolet and stood behind Officer Pena's truck.

At 7:59:56 a white Chevrolet Suburban drove into the Melody Market parking lot and parked two stalls away from the gray Hyundai, furthest from Officer Pena's truck. The female driver walked into the market, while two children remained inside the Suburban.

At 8:00:19 Rios exited the market and walked toward the Hyundai. Alcantar and Guzman approached Rios. Alcantar and Rios appeared to speak for several seconds before Lopez walked out of the market and confronted Alcantar. During this time the Hyundai began to reverse then stopped in the middle of the parking lot, facing Guzman and Alcantar.

At 8:00:50 Officer Pena exited the market and walked towards his truck. He looked in the direction of the four men as he was walking.

At 8:00:58 Alcantar bladed his feet and made a sudden movement towards Lopez as if he were going to punch him. Lopez flinched and then took a similar fighting stance.

At 8:01:01 Alcantar swung his right hand, striking Lopez. Immediately, the Hyundai accelerated forward, striking Guzman and Alcantar. Guzman and Alcantar were thrown onto the hood of the Hyundai and then fell off the car. Guzman stood up using the white Suburban for support, ran around the Suburban and northbound in the direction of the Thai Hut restaurant. Alcantar stood up. Rios pulled a gun from the satchel he was wearing and fired in Alcantar's direction. Rios then ran toward Officer Pena. At this point Officer Pena and Rios are out of view of the cameras but based on witness statements, this is when Officer Pena drew his gun and shot Rios.

Once Alcantar was on his feet, he ran away towards the Thai Hut restaurant.

At 8:01:17 Officer Pena, who was blocked from view by the driver's side of his truck, moved to the front of his truck and back into the camera's view. He reloaded his firearm and stood by covering north of his location. Officer Pena's wife and brother-in-law exited the truck and ran inside the market.

At 8:02:03 Officer Pena and a female from inside the market ran to the white Suburban. They helped the two children out of the SUV and into the market.

Officer Pena remained near the front of the market until SBSO deputies arrived at Melody Market.

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## Crime Scene



Melody Mini Market is located at 130 E. Foster Road, south of the intersection of Orcutt Road and Foster Road in Orcutt. It is a storefront market with a small parking lot in the front with approximately six parking spaces facing the store. Thai Hut Restaurant is located directly northwest of Melody Market on the same side of the street at 120 E. Foster Road. Chef Rick's is a restaurant located across the street from the Melody Mini Market and Thai Hut Restaurant.

Crime scene investigators recovered ballistics evidence, including expended cartridge cases and intact projectiles (bullets) at various locations in the parking lot of Melody Market, outside Thai Hut restaurant, and inside a wall at Thai Hut restaurant.

Investigators recovered a Glock-style 9mm pistol next to the body of Jose Manuel Reyes Rios. This pistol had no serial number and is best described as a "ghost gun." In addition to the ghost gun, investigators recovered a satchel that Rios was wearing. Inside the satchel was an additional black magazine fitting the ghost gun that contained nine live rounds. California Department of Justice ballistics examiners test-fired the recovered ghost gun, Officer Pena's firearm, and microscopically analyzed all the expended evidence from the scene.

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Investigators recovered two expended cartridge cases and a fully intact bullet near the front door of Melody Market. Ballistics analysis determined these cartridge cases and bullet were fired from the ghost gun recovered near Rios' body. This is consistent with the surveillance footage showing Rios firing his gun at Alcantar near the front door to the market.

Investigators recovered an expended bullet next to Rios' body and an intact bullet inside Rios' sock. Ballistics analysis determined these bullets were fired from Officer Pena's firearm. Investigators also recovered two cartridge cases next to Rios' body which analysis determined to be fired from Rios' ghost gun. Investigators recovered 17 cartridge cases near Officer Pena's truck. All of these cartridge cases were fired from Officer Pena's firearm. This is consistent with Officer Pena's statements that he fired at least 16 times from the driver's side of his truck towards Rios.

Investigators recovered an intact bullet inside the Thai Hut restaurant next door to Melody Market. A customer inside Thai Hut reported he was eating dinner when he heard gunshots and then felt something hitting his left shoulder and buttocks. Investigators determined the bullet entered the restaurant, struck a wall, then shrapnel from the wall hit the customer. Analysis determined this bullet was fired from Rios' ghost gun.

Investigators also recovered four cartridge cases on the sidewalk near the Thai Hut restaurant. Ballistics analysis concluded that these cases were not fired from Rios' ghost gun, nor from Officer Pena's firearm, but they were all fired from the same firearm - a third, unrecovered firearm. This is consistent with Officer Pena's statement that Rios and another suspect with a gun were engaged in a shootout and the other suspect ran away from the market in the direction of Thai Hut.

### **Autopsy**

On April 4, 2023 Dr. Manuel Montez, a forensic pathologist employed by the Santa Barbara Sheriff's Office, performed a post-mortem examination of Jose Manuel Reyes Rios and obtained toxicological samples. Dr. Montez opined that the cause of death was multiple gunshot wounds. Rios suffered 12 gunshot wounds to his torso, buttocks, right arm and left leg. Deputy Coroner Bibby certified the manner of death as a homicide.

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## LEGAL ANALYSIS

### Applicable Law

A peace officer is justified in using deadly force upon another when the officer reasonably believes, based on the totality of the circumstances that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or another; or (2) to 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 section 835a(c)(1)(A) and (B)*.

A threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. *Penal Code section 835a(e)(2)*.

The decision by a peace officer to use force shall be evaluated from the perspective of a reasonable peace officer under 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. The totality of the circumstances shall account for occasions when an officer may be forced to make quick decisions about using force. *Penal Code section 835a(4)*.

In determining whether the use of deadly force is necessary, officers shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer. *Penal Code section 835a(2)*.

“Totality of the circumstances” means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of force. *Penal Code section 835a(e)(3)*. The Santa Barbara District Attorney’s Office evaluates the investigation of any peace officer, on or off duty, who shoots and injures or kills any person to determine if they bear any criminal liability.

### Application of Law

Just after 8:00 p.m. on March 25, 2023, off-duty Officer Pena parked in front of Melody Market convenience store. Officer Pena left his wife and brother-in-law inside his truck as he went inside the market to make a purchase. While Officer Pena was inside the market, two groups of males engaged in a verbal confrontation. As Officer Pena walked outside the market and toward his truck, he became aware that the two groups of males were fighting. Suddenly a vehicle accelerated into two of the males, causing them to fly into the air and land on the hood of the

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vehicle before falling to the ground. Rios, pulled out a handgun and began shooting at the two males who had just been hit by the vehicle. Rios then ran towards the driver's side of Officer Pena's truck where he was standing. Rios continued shooting in the direction of the two other males so that he was shooting towards Officer Pena's truck. Officer Pena then heard more shots ringing out and believed that a third suspect was now shooting in the direction of Rios. At this point Officer Pena realized he and his family were caught in the middle of a gun fight with no way to escape.

Officer Pena reacted by drawing his firearm, shouting to Rios to drop the gun and announcing himself as a police officer. Officer Pena was fearful that Rios was either running towards him to carjack his truck or to shoot him. Rios turned toward Officer Pena and pointed his gun at him. Officer Pena, fearing for his life and the lives of his wife and brother-in-law, fired at Rios. Officer Pena fired three shots and paused. He saw a muzzle flash from Rios' gun and again thought he would be shot. Knowing he had to stop the threat, Officer Pena fired at Rios until Rios fell to the ground.

### CONCLUSION

In reviewing the evidence and considering all of the circumstances, the actions taken by Officer Pena were reasonable based on the facts known and perceived by him at the time of the shooting. Officer Pena reasonably believed that Rios posed an imminent threat of serious bodily injury or death to himself, his wife and brother-in-law inside the truck, and any other people in the vicinity of this location. Officer Pena found himself in a literal shootout in the parking lot of Melody Market between multiple subjects. He was forced to intervene to protect himself and the lives of others in the cross-fire. Any reasonable law enforcement officer would perceive Rios' actions as an immediate lethal threat to anyone in the immediate vicinity. Therefore, Officer Pena's use of lethal force was justified and he bears no state criminal liability for his actions.

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