

OFFICE OF THE
DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA

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District Attorney



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Chief Deputy District Attorney

PATRICK CLOUSE
Chief Investigator

December 12, 2019

**PUBLIC REPORT ON OFFICER INVOLVED SHOOTING OF FRANCISCO
ANTHONY ALCARAZ JR. BY LAW ENFORCEMENT OFFICERS ON MAY 7, 2019**

The Santa Barbara County District Attorney's Office has completed its review of the investigation, conducted by the Santa Barbara County Sheriff's Office, of the homicide of Francisco Anthony Alcaraz Jr., age 32, occurring on May 7, 2019, at 25 Camino de Vida, #147, in Goleta, California.

The following analysis is based upon investigative reports, coroner's reports, video and audio recordings of the incident, and photographs and witness interviews taken during the investigation conducted by the Santa Barbara County Sheriff's Office ("SBSO"). The investigation was submitted to this office by SBSO Detective Wayne Flick. Upon review of all aspects of the investigation and the current law, the District Attorney finds the shooting was a justifiable homicide under Penal Code section 196(2).

FACTUAL SUMMARY

Overview

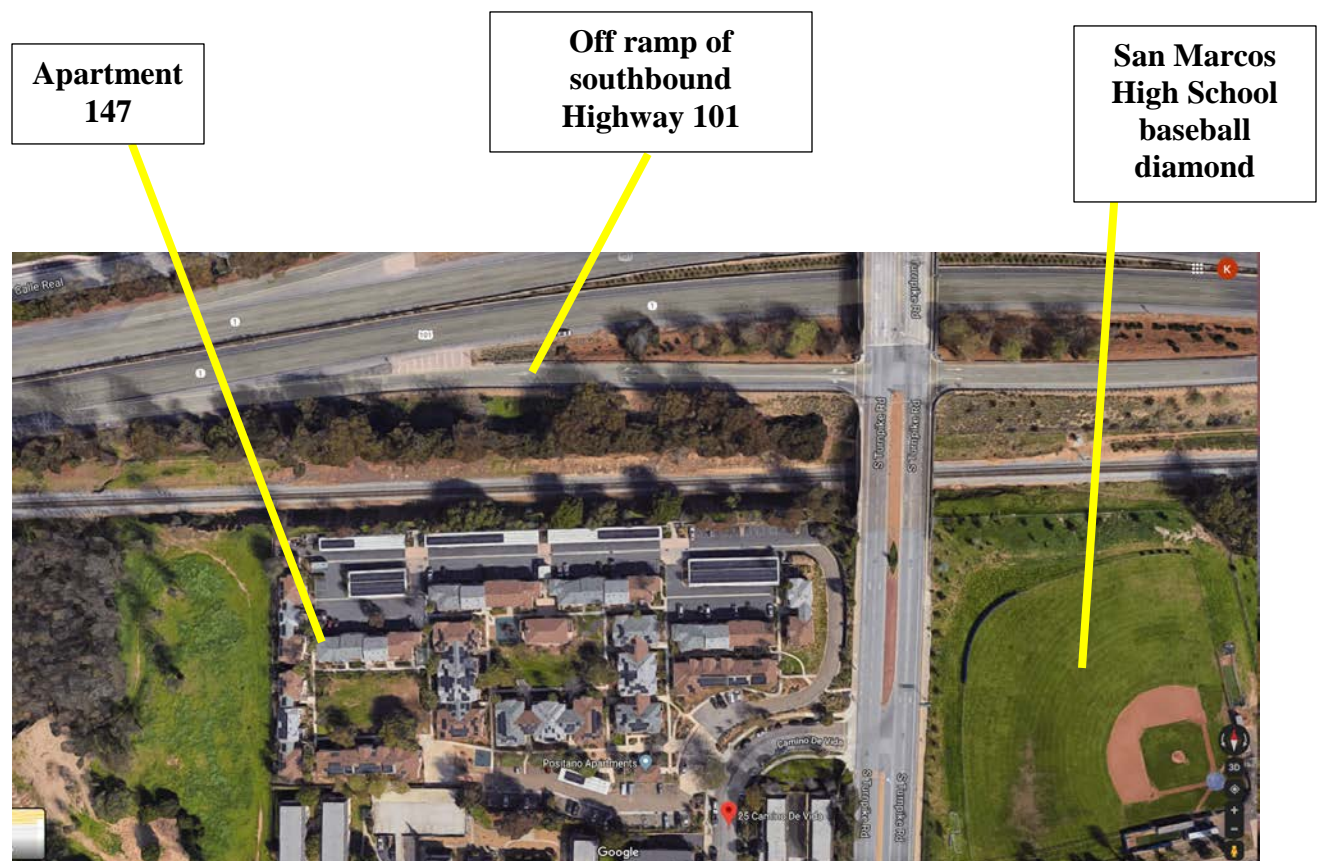
In May 2019, the Santa Barbara Police Department ("SBPD") was investigating two recent gang-related shootings within the city. In connection with that investigation, detectives obtained an arrest warrant for Francisco Anthony Alcaraz Jr. ("Alcaraz") on a charge of attempted murder involving a gun, and a search warrant for an apartment in Goleta where he lived part-time with his wife and four children. Shortly after noon on May 7th, members of the SBPD SWAT team approached the apartment to serve the warrants. Officers announced their presence and the warrants, and after receiving no response from Alcaraz, they breached the front door. Before the officers could enter the apartment, Alcaraz fired three to four rounds at the officers. At least one round ripped through the pants of one of the officers. One officer returned fire before all the officers began to retreat around the side of the apartment to the back of the complex. Alcaraz fired again at the officers, this time from a second story bedroom window in the back of his unit. Multiple officers returned fire. After the neighboring units were evacuated and a stretch of Highway 101 was closed, officers eventually located Alcaraz on the second floor of his apartment with four gunshot wounds to his body. A handgun and extended magazine were located near him. He was pronounced dead at the scene.

Preparation for Warrant Service

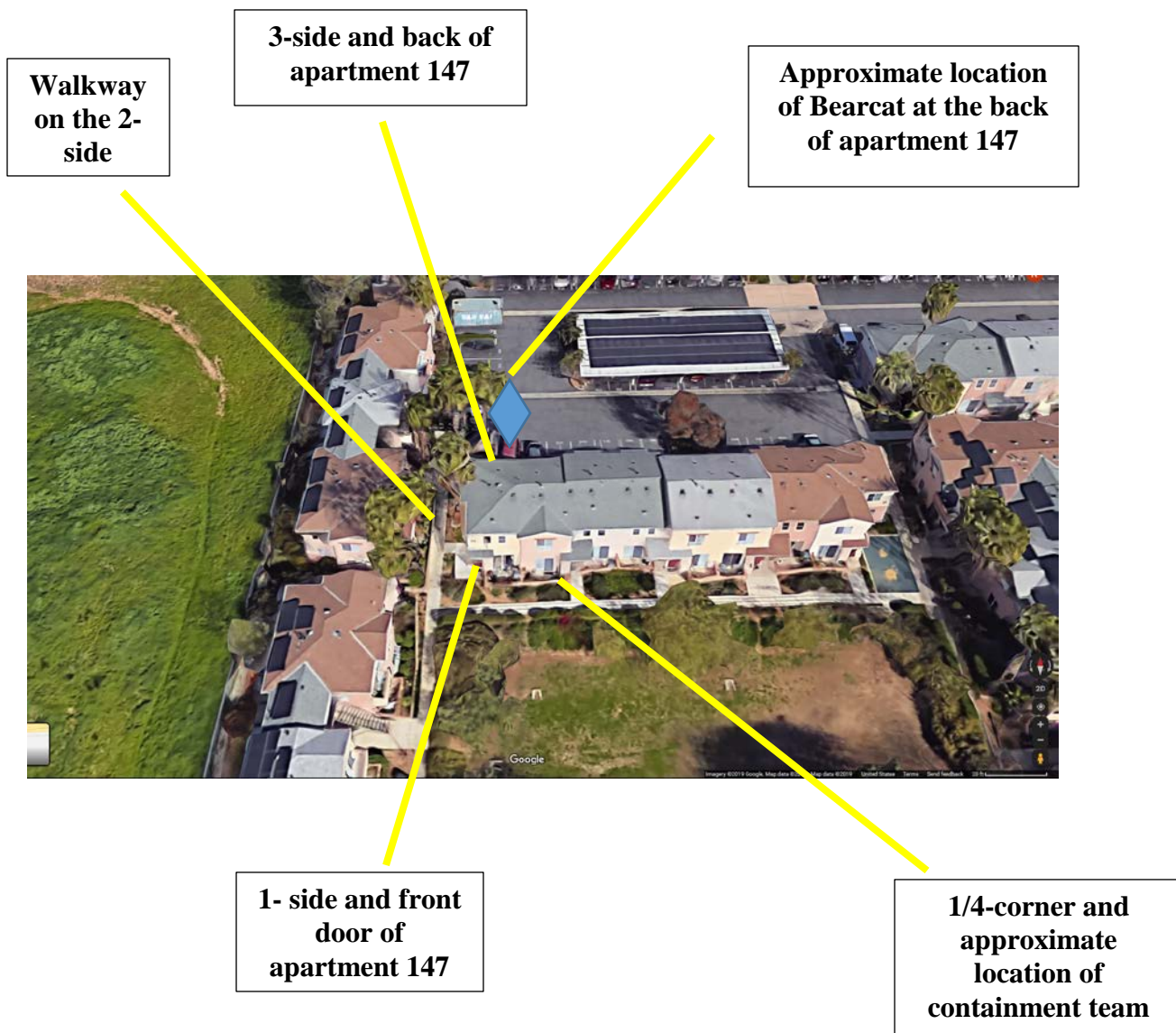
On May 6, 2019, members of the SBPD SWAT command staff began working on a plan to serve arrest and search warrants on Alcaraz at an apartment where he lived part-time with his wife and

children. The apartment, #147, was located in a large complex at 25 Camino de Vida, Goleta. As part of their protocol, SWAT staff conducted a threat assessment based on information known about Alcaraz's prior criminal history, the crimes for which he was being investigated, and the area in which the warrant was going to be served. They also considered that Alcaraz had previously been in possession of a police scanner. Due in part to the violent nature of the crime and involvement of firearms, the threat assessment mandated that the SWAT team be utilized to serve the warrants. The SWAT team formulated a plan to serve the warrants in the middle of the day because surveillance revealed that Alcaraz's family was typically out of the apartment at that time.

Due to the physical location and layout of the apartment, SBPD carefully analyzed the safest methods to apprehend Alcaraz. Apartment 147 is a two-story unit at the end of a long building deep within the complex. It shares one wall with a neighboring unit to the right of the front door. To the left of the front door, the unit is bordered by a walkway and another apartment building across from the walkway. In front of apartment 147 is a large green space bordered by another apartment building. In the back of unit 147 is a large shared parking lot. Beyond the parking lot are the railroad tracks and southbound Highway 101. San Marcos High School is nearby.



The SWAT team formulated a plan that called for a containment team to take a position a few units to the right of the front door of apartment 147 (the “1 / 4-corner”) and an entry team to arrive in a Bearcat – an armored personnel transport vehicle – in the parking lot to the rear of apartment 147 (the “3- side.”) The plan called for the entry team to walk on the walkway to the side of apartment 147 (the “2-side”) and approach the front door from the left side. The plan also called for several members of the team, including a medic and driver, to stay in the Bearcat as a second containment team. The plan called for most of the team members to be armed with M4 rifles, while at least two of them would carry less-than-lethal weapons, two would carry shields and one would carry a breaching ram. A K-9 officer was also included as another non-lethal force option.



Warrant Service and First Officer- Involved Shooting

At approximately 11:00 a.m. on May 7th, the SBPD SWAT team met. The command staff briefed the entire team on the nature of the warrants, the threat matrix result and the plan to serve the

warrants. Some of the team members were familiar with Alcaraz from prior contacts. All members of the team were assigned specific roles in carrying out the warrant service. All members were dressed in tactical gear, including bullet proof vests and helmets, with multiple patches that said "Police" and "Santa Barbara Police Department." Neighbors interviewed after the incident said it was "obvious" the SWAT team members were police officers.

At approximately 12:20 p.m., the SWAT team arrived at 25 Camino de Vida. As planned, the containment team set up first on the 1 /4 corner to the right of the front door. Their view of the front door was somewhat blocked by a storage unit on the patio of 147. The entry team exited the Bearcat and approached unit 147 by walking up a walkway (the 2-side) to the left of the front door. Once there, the entry team stood outside the front door in a "stack" or line. Officer Aaron Denbrook knocked on the door and loudly yelled "Police Department, search warrant! Open the door. Police Department, Number 147. Open the door we have a warrant!" After approximately 30 seconds of knocking and announcing themselves with no response, Sergeant Andrew Feller gave the command to breach the door.

Officer Bryce Ford moved to the front of the line with a battering ram and struck the door to the apartment once. He could see the door bow but it did not open, so he struck it a second time. As he was striking the door a second time, he heard a "very unique sound" and felt something "like a shot of air through [his] legs" near his groin but was unable to identify it. Once the door flung open, he again felt something "whiz" past both his ankle and groin. He saw a round go through the door and quickly realized that he and the other officers were being shot at from inside the apartment. Officer Ford dropped the ram and yelled out "shots fired." Just inside the apartment he could see a stairway leading to a second floor. He believed the shots were being fired from the stairs but did not see a suspect.

Officer Justin Cruz was next to Officer Ford. After three to four rounds were fired at the officers, Officer Cruz dropped to a kneeling position and fired into the apartment up toward the stairs. As the rest of the officers in the stack realized someone in the apartment was shooting at them, several of them yelled, "shots fired!" At least one of them yelled, "back up, back up." Sergeant Feller yelled, "Bearcat! Bearcat!" to get the team to fall back to a safer position behind the armored vehicle parked in the back of the unit.



Front door of apartment 147

Second Round of Fire and Second Officer-Involved Shooting

As the team ran back along the 2-side, they were exposed to windows from the second floor of unit 147. Apartment 147 also had windows on the top and bottom floors looking out to the parking lot where the Bearcat was parked.

As the officers retreated, one or more of them yelled, “Anybody hit? Anybody hit? Cruz, you alright?” Before any officers replied, Alcaraz fired multiple rounds at the officers, this time from the 3-side second floor window. Witnesses reported seeing muzzle flashes, the blinds inside the house moving and glass flying out of the upstairs window. At least two rounds hit the Bearcat, leaving scrape marks.

Most of the officers were able to reach the 3-side of the building and take cover behind the Bearcat. Two members of the team, Sergeant Feller and Officer Guillermo Cipres, however, took cover under a stairwell in the doorway of a neighboring unit on the 2-side.

Officers Denbrook, Cruz, Matthew LaBarge, and Thomas Van Eyck returned fire from behind the Bearcat. Officer Cipres returned fire from his position on the 2-side. A number of officers’ rounds hit the upstairs window and area surrounding it. Due to the glare on the apartment window and the closed blinds, the officers could not see the suspect or tell whether their shots hit him.

Once the shooting ceased, all of the entry team members returned to the Bearcat. They conducted a rollcall and checked for injuries. The team determined that no officers were injured, but Officer Ford had a hole in his pants from where a bullet passed near his ankle.

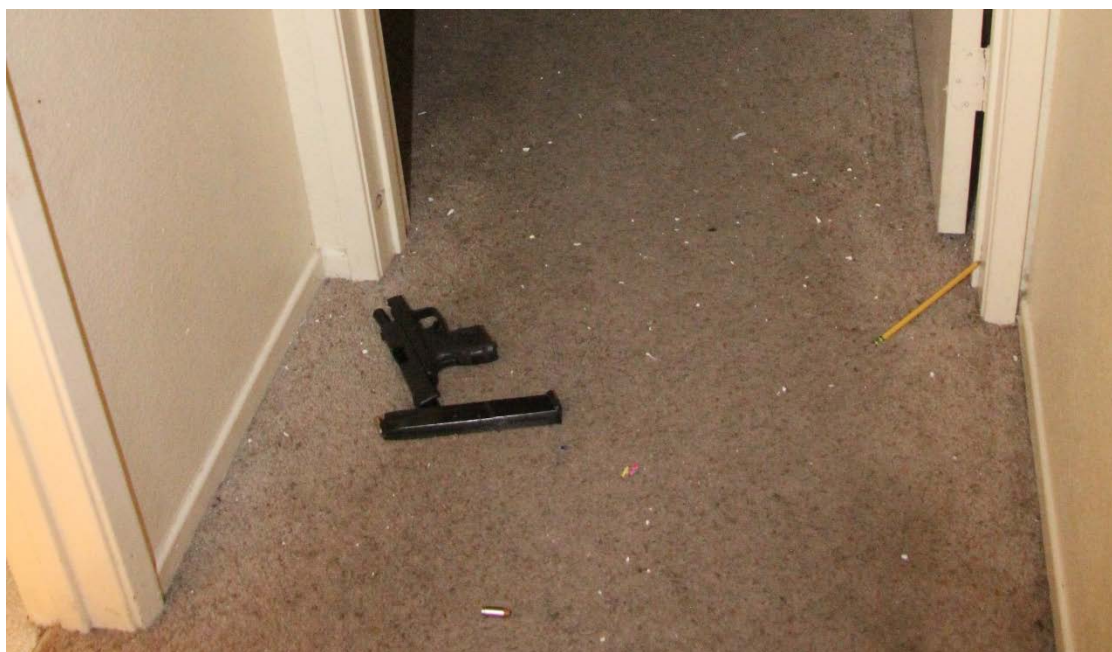


**Back window of apartment 147,
3-side**

Bearcat

Actions Following the Second Officer-Involved Shooting

Concerned that the shooter still posed a threat to the safety of the public and the officers, Sergeant Feller and other members of the SBPD SWAT team worked to establish a perimeter and evacuate residents from the neighboring apartments. They called in the SBSO SWAT team and air support. The California Highway Patrol shut down the southbound lanes of Highway 101 due to its proximity. The team formulated a plan to negotiate surrender from Alcaraz. After receiving no response from inside the unit, the SBSO was able to maneuver a camera-equipped bomb squad robot into apartment 147. Through the camera, law enforcement officers were able to see Alcaraz on the floor of the upstairs landing area; he appeared to be immobile. A .40 caliber handgun with a high-capacity magazine was located approximately six to eight feet from him on the floor. When officers saw that Alcaraz did not react to being touched by the robot's arm, they decided to send a K-9 into the unit. When he did not react to the K-9, Sergeant Feller led a team of SBPD officers into apartment 147 and contacted Alcaraz. Once the scene was secure, medics responded and pronounced Alcaraz dead.



Crime Scene Examination

After the shooting incidents, personnel from the SBSO forensic bureau and the California State Department of Justice examined the scene. In the cement outside the front door of apartment 147 they located three divots from bullets striking the pavement where the entry team had been standing. Two bullet fragments were located in the greenway in front of the apartment, indicating a path of travel from inside the apartment out the front door. Four .40 caliber casings were located on the interior stairway connecting the first and second floors of apartment 147, consistent with a .40 caliber gun being fired by Alcaraz from inside the apartment. Additional .40 caliber casings were found inside the bedroom on the second floor near a window that looked out to the parking

lot, indicating a .40 caliber gun was fired from inside the bedroom. Forensic technicians located damage to the Bearcat consistent with it being struck by bullets as well as bullet fragments in the parking lot, indicating the bullets travelled from the direction of apartment 147 toward the parking lot. Forensic personnel located four .223 caliber casings outside the front door of apartment 147 where Officer Cruz was positioned when he returned fire. They also located nine .223 casings from the 2-side. This is where Officer Cipres fired his rifle after taking cover while retreating from the front door. Around the Bearcat the forensic team located 45 casings from SBPD weapons. Finally, the forensic team documented numerous bullet strikes in and around the upstairs back window of apartment 147.

The results of the forensic examination indicated that Alcaraz fired his gun three to four times from the stairway inside the apartment and additional times from inside the back bedroom. It also indicated that SBPD fired four rounds into the front door of the apartment and approximately 54 rounds toward the upstairs back window.

Autopsy

On May 9, 2019, Dr. Manuel Montez, a forensic pathologist employed by SBSO, performed a post-mortem examination of Alcaraz. Dr. Montez observed a total of four gunshot wounds to Alcaraz. Two wounds were to his chest and two to his head. Dr. Montez opined that the cause of death was multiple gunshot wounds. None of the wounds had any indication of being shot from a close-range; therefore, did not appear to be self-inflicted. The SBSO Coroner's Office certified the manner of Alcaraz's death as homicide.

LEGAL ANALYSIS AND CONCLUSION

Applicable Law¹

Homicide is the killing of one human being by another, either lawfully or unlawfully. Homicide includes murder and manslaughter, which are unlawful, and the acts of excusable and justifiable homicide which are lawful. The shooting of another person in self-defense or in the defense of others is justifiable and not unlawful. Penal Code section 196(2) defines justifiable homicide by public officers. "Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance when necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty." Under California law anyone, including a police officer, who is threatened with an attack that justifies the use of self-defense need not retreat. The person attacked may stand his ground and defend himself, if necessary, by deadly force, even if he might have more easily gained safety by flight. (See *People v. Newcomer* (1897) 118 Cal. 263, 273; *People v. Dawson* (1948) 88 Cal.App.2d 85, 95.)

¹ Effective January 1, 2020, Penal Code Section 196 will be amended to further define a peace officer's use of force as set forth in Penal Code Section 835a. Penal Code Section 835a was not in effect at the time of this incident on May 7, 2019, and does not control this analysis. Given the facts of this incident, however, the officers' use of deadly force would be reasonable and justified under the law as amended.

A police officer may use deadly force where the circumstances create a reasonable fear of death or serious bodily injury in the mind of the officer. *Graham v. Connor* (1989) 490 U.S. 386; *Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334. In *Graham v. Connor* (1989) 490 U.S. 386, the United States Supreme Court held that the reasonableness of the force used “requires careful attention to the facts and circumstances” of the particular incident “including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” (*Id.*, at 396). The Court stated, “[t]he ‘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.” (*Id.*, at 397). Moreover, “[t]he 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 397-398).

Under *Graham*, we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of an officer at the scene. “We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.” *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347. *Graham*’s definition of reasonableness has been described as “comparatively generous to police in cases where potential danger, emergency conditions or other exigent circumstances are present” (*Roy v. Inhabitants of the City of Lewiston* (1st Cir. 1994) 42 F.3d 691) and also as giving police “...a fairly wide zone of protection in close cases.” *Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334.).

Legal Analysis

On May 7, 2019, SBPD attempted to serve arrest and search warrants on Alcaraz in connection with an investigation for attempted murder in the city of Santa Barbara. Due to the nature of this investigation and Alcaraz’s criminal history, the warrant service was deemed “high risk” and necessitated the use of the SWAT team. When members of the SWAT team began knocking on Alcaraz’s door, announcing their presence, and demanding entry to serve the warrants, Alcaraz armed himself with a firearm. As the officers breached the apartment door, Alcaraz fired three to four rounds out the front door from an internal stairway, narrowly missing Officer Ford who was at the front door. Officer Cruz’s return fire toward the stairway inside the apartment was a reasonable use of deadly force to neutralize the deadly threat posed by Alcaraz to Officers Ford, Cruz and other members of the breaching team. Because of the speed with which the situation evolved, no other less-lethal force option was available or reasonable.

As officers retreated to the back of the apartment to take cover behind the Bearcat, Alcaraz again fired multiple rounds at them. Given the nature of the crime for which Alcaraz was to be arrested, the layout of the apartment complex and his repeated shooting at officers from multiple locations in his apartment, Officers Denbrook, Cruz, Cipres, LaBarge and Van Eyck could reasonably believe that deadly force was necessary to respond to the threat of death or serious bodily injury

Alcaraz posed to the officers and the public at large. Thus, the officers' use of force in firing at Alcaraz through the back upstairs window of apartment 147 was a reasonable use of deadly force.

CONCLUSION

When Francisco Alcaraz fired multiple rounds at SBPD officers through the front door of his apartment, his actions would create a fear of death or great bodily injury in the mind of a reasonable officer in Officer Cruz's position. When Alcaraz fired out the back window of his apartment at the officers retreating to the Bearcat, his actions would create a fear of death or great bodily injury in the mind of a reasonable officer in the position of Officers Denbrook, Van Eyck, Cruz, Cipres and LaBarge.

Based on the investigation by the Santa Barbara County Sheriff's Office, applying the law as set forth in PC 196(2), and the cases cited *supra* in this report, each of the officers acted reasonably in his use of deadly force; therefore, the shooting of Francisco Anthony Alcaraz Jr. is a justifiable homicide.