

OFFICE OF THE
DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA

JOYCE E. DUDLEY
District Attorney



MAG M. NICOLA
Chief Deputy District Attorney

CYNTHIA N. GRESSER
Chief Deputy District Attorney

MEGAN RHEINSCHILD
Victim Assistance Director

KELLY D. SCOTT
Chief Deputy District Attorney

JOHN T. SAVRNOCH
Chief Deputy District Attorney

PATRICK CLOUSE
Chief Investigator

MICHAEL D. SODERMAN
Chief Financial & Administrative Officer

August 27, 2018

PUBLIC REPORT ON OFFICER INVOLVED SHOOTING OF GERONIMO VICENTE SANTOS BY A LAW ENFORCEMENT OFFICER ON NOVEMBER 19, 2017

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 Geronimo Vicente Santos, age 34, occurring on November 19, 2017, in Lompoc, California.

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

FACTUAL HISTORY

Summary

Near 6:00 a.m. on November 19, 2017, Geronimo Vicente Santos shot and killed Timothy Culley in the victim's tent in the Santa Ynez Riverbed. After killing Timothy, Santos fled the riverbed on foot. A citizen called 911 to report that Timothy was shot in the head and deceased. Lompoc Police Officers initially responded to the riverbed and secured the scene. Santa Barbara County Sheriff's Office responded shortly thereafter. Santos was described as 5'0" tall wearing black and "cammo" pants, thigh high "wader boots" with straps to his shoulders, and a black beanie. It was further reported that Santos did not have a car and was possibly in the area of Airport Avenue and T Street in the City of Lompoc.

Lompoc Police Officers began looking for Santos. A Fire Department Battalion Chief saw Santos walking southbound on North A Street and recognized him as matching the description of the murder suspect. He called dispatch to report Santos' location. Within minutes, a Sergeant from the Lompoc Police Department drove to the location and saw Santos walking southbound on North A Street. The Sergeant saw Santos' hands in his sweatshirt near his waistband and Santos appeared to be pulling his right hand away from his body. The Sergeant made a U-Turn and continued to follow Santos from his car slowly. The Sergeant turned on his emergency lights and sirens; however, Santos continued walking southbound. When a second officer arrived on scene, the Sergeant exited his car and ordered Santos to "stop and show your hands." Santos ignored the Sergeant's commands; instead, Santos pointed his left arm towards the Sergeant then immediately removed his right hand holding a black gun from the area of his waistband. At this time, a third police car arrived on scene with two officers in the car. Fearing for his life and the lives of his fellow officers, one of the officers in the third police car shot towards Santos. Santos continued

☐ **SANTA BARBARA OFFICE**
1112 Santa Barbara Street
Santa Barbara, CA 93101
Tel: (805) 568-2300
Fax: (805) 568-2453

☐ **SANTA MARIA OFFICE**
312-D East Cook Street
Santa Maria, CA 93454
Tel: (805) 346-7540
Fax: (805) 346-7588

☐ **LOMPOC OFFICE**
115 Civic Center Plaza
Lompoc, CA 93436
Tel: (805) 737-7760
Fax: (805) 737-7732

pointing his gun towards the Sergeant and almost simultaneously shot at the Sergeant. In fear of their safety and the safety of the fellow officers, the remaining officers returned fire. A fifth police officer arrived on scene as shots were being fired. Fearing for his safety and the safety of the other officers seeing Santos point his gun at the Sergeant, this officer also fired at Santos. Santos never dropped his weapon while officers fired and was still holding his gun when he eventually fell to the ground. The officers stopped shooting when Santos was on the ground.

Despite life-saving measures administered by members of the Lompoc Fire Department and American Medical Response ("AMR"), Santos was pronounced dead at Lompoc Valley Medical Center at 7:37 a.m.

Riverbed Homicide

In the early morning of November 19, 2017, Geronimo Vicente Santos was in the Santa Ynez Riverbed where his ex-girlfriend Terriann Holden was living at the time in an encampment. Several people live in tents in the encampment where Holden was living, including Timothy Culley.

That morning, Holden and Timothy went to bed together in Timothy's tent. While the two were in the tent, Holden heard three gunshots outside of the tent. The shots were getting closer to Timothy's tent and Holden heard Santos calling for Holden. Holden yelled out for Santos to go away. Santos then unzipped the tent and entered the tent with a handgun. Santos pointed the gun at Holden and Timothy's heads, moving the gun back and forth between their heads three times. Santos pulled the magazine out the gun and fired the round in the chamber at Timothy's head, killing him.

Witnesses heard the gunshots and came out of their tents to see Santos walking from the direction of Timothy's tent holding a black handgun. Santos pointed a black handgun at one the witnesses, Frederick Brasil. Brasil raised his arms in the air and told Santos that he did not want any problems. Santos walked past Brasil out of the encampment and out of sight.

Holden ran out of the tent crying and yelling for help. At approximately 6:12 a.m., one of the people living in the encampment called 911 to report that Timothy was shot in the head.

Holden described Santos as wearing a black beanie, a black top, and camo pants. She also said he was wearing wader boots up to his thighs with straps that went around his shoulders. She believed that he was headed westbound through the riverbed when he left.

Lompoc Police Officer Garza provided dispatch with a physical description of Santos and his gun after speaking with witnesses. Officer Garza told dispatch that he believed Santos to be armed.

Law Enforcement Response

On the morning of November 19, 2017, Lompoc Police Corporal Scott and Officers Reyna, Patel and Garza were finishing their patrol shift from the night before. At 6:12 a.m., Lompoc Police Dispatch received a 911 call reporting that a man was shot in the head in the riverbed near the bike path roundabout by the intersection of Central Avenue and North A Street. Officer Reyna was in the report writing room at the Lompoc Police Station with Officers Patel and Garza when the call came in. At approximately 6:16 a.m., Officer Patel responded to the call as the primary officer. Corporal Scott and Officers Garza and Reyna also responded to the riverbed in their marked patrol cars.

Once at the encampment, Officers Reyna and Garza secured the scene of the shooting. Officer Reyna was the first to enter Timothy's tent and saw that Timothy was dead. Officer Reyna informed Corporal Scott what he observed then began speaking to the witnesses that remained at the encampment. Around this time, SBSO deputies responded to the riverbed as it was unclear whether the scene fell in the city limits at the time of the call. SBSO deputies also interviewed witnesses at the encampment.

At 6:30 a.m., LPD dispatch was updated with Santos' description as a short male, five feet tall, darker skin, wearing black and "cammo" pants, and a black beanie. He was further described as wearing "wader" boots up to his thighs with straps to his shoulders. As updated information with Santos' description came in, dispatch notified officers over the radio.

Lompoc Police Sergeant Magallon, Corporal Guerra, and Officer Olivares arrived at the station around 6:30 a.m. to begin their day shift at 7:00 a.m. Sergeant Magallon spoke with dispatchers when he arrived to the station about the shooting in the riverbed. While in the locker room, Sergeant Magallon advised Corporal Guerra and Officer Olivares about the shooting, specifically that one person was dead and the suspect was outstanding and possibly in the area of Airport and T Street.

Paramedics with AMR and the Lompoc Fire Department were initially dispatched to the riverbed to provide medical assistance prior to officers confirming Timothy was deceased. Responding medics waited at the entrance to the riverbed for confirmation that it was safe for them to enter the riverbed. While at the entrance to the riverbed, one of the medics observed Santos walking out of the riverbed. At 6:58 a.m., dispatch was notified that the medic saw a Hispanic male adult, short build wearing "wader" boots walking on A Street toward North Avenue. Hearing this information, Corporal Scott and Officer Reyna ran to their patrol cars and started driving to look for the suspect.

Sergeant Magallon, Corporal Guerra and Officer Olivares also heard the report that Santos was in the area of North Avenue and A Street while at the station and headed to their patrol cars to respond. Officer Olivares's patrol car did not start and he got into Corporal Guerra's patrol car to look for Santos with Corporal Guerra. Sergeant Magallon was alone in his department issued car, a black Crown Victoria.

As he was leaving the station, Sergeant Magallon asked for a description of Santos over the radio and the description was repeated as a Hispanic male adult, five feet, wearing a beanie, "cammo"

pants, and “wader” boots to his thigh with straps to his shoulder. Officer Garza described the murder weapon as a semi-automatic black handgun. The murder weapon was not located at the scene.

At 7:04 a.m., Lompoc Battalion Chief Federman updated dispatch that he saw Santos walking southbound on A Street near Airport Avenue. Sergeant Magallon was two blocks away when he heard Federman’s broadcast and he could see Federman’s car. Sergeant Magallon drove north to Federman’s car, which was facing southbound on A St. As Sergeant Magallon drove past Federman, Federman pointed north to Santos walking southbound on A Street on the west sidewalk. Federman saw Santos “shuffling” in his jacket became concerned that Santos was doing something with his hands. Federman drove his car forward out of concern for his safety and parked south of the intersection with a view of Santos and Sergeant Magallon.

Sergeant Magallon drove towards Santos in his car and pulled up towards the sidewalk as Santos was closing the distance towards Sergeant Magallon’s car. Santos looked in Sergeant Magallon’s direction. Sergeant Magallon realized this was not a safe position to make contact with Santos as Santos continued walking on the sidewalk closing the distance towards Sergeant Magallon’s car. Sergeant Magallon saw Santos’ hands in his sweatshirt near his waist. Santos appeared to be pulling his hand away from his waist and Sergeant Magallon could not see if he held anything in his hand at that point. Sergeant Magallon made a U-Turn and repositioned himself farther away from Santos facing southbound on A Street in front of 715 North A Street.

While looking for Santos further north on A St, Corporal Scott, Corporal Guerra and Officer Olivares, and Officer Reyna heard Federman broadcast that Santos was on A Street near Airport Avenue and they proceeded to the location.

Officer Involved Shooting

As Sergeant Magallon repositioned his car further away from Santos, he called over the radio that Santos was reaching into his pockets and Sergeant Magallon wanted to conduct a Felony stop. Santos continued to look over his shoulder at Sergeant Magallon as he made the U-Turn and stopped his car. While making the U-Turn, Sergeant Magallon activated his lights and his sirens sounded briefly. Sergeant Magallon parked his car facing southbound on A Street, just north of 715 North A Street. Corporal Scott arrived to the location at this time and parked his car facing southbound, to the west of Sergeant Magallon’s car. Corporal Scott saw that Santos matched the physical description of the murder suspect.

When Sergeant Magallon saw Corporal Scott arrive, Sergeant Magallon got out of his car and stood behind his driver’s side door for cover. At the same time, Corporal Scott exited his car with his AR-15. Sergeant Magallon called to Santos to stop and show his hands. Santos turned toward Sergeant Magallon and pointed his left arm towards Sergeant Magallon while Santos drew his gun from his waist with his right hand. At this time, Corporal Guerra arrived with Officer Olivares, driving past Sergeant Magallon to the left of Sergeant Magallon’s car. Officer Olivares was in the passenger seat with the window down.

Officer Olivares saw Santos, matching the physical description of the murder suspect, pull the gun from his waist in his hand and point it in the direction of Sergeant Magallon. Fearing for his life and the life of his fellow officers, Officer Olivares fired at Santos. Almost simultaneously, Santos fired toward Sergeant Magallon. Santos' shot hit the driver door that Sergeant Magallon was using for cover. Fearing for his life, Sergeant Magallon shot several times towards Santos. Sergeant Magallon retreated behind the rear passenger door for additional cover. Once Corporal Scott realized that Santos shot at Sergeant Magallon, Corporal Scott began shooting at Santos. Observing the weapon still in Santos' hand, Officer Olivares continued to fire at Santos until Santos fell to the ground and stopped moving.

While shots were being fired and Santos was still standing, Sergeant Magallon returned to his original position behind the driver's door. Santos was still standing, bent forward with the firearm in his hand.¹ About this time, Corporal Guerra stopped the car facing northbound on A Street facing Santos' position and saw the gun in Santos' hand. With Santos continuing to pose a threat to the officers and the residents in their homes, Corporal Guerra began to shoot at Santos. When Santos raised his body up and was still holding the gun, Sergeant Magallon fired several more shots until Santos fell to the ground. Santos did not drop the gun when he fell to the ground.

While enroute to A Street and Airport Avenue, Officer Reyna heard Sergeant Magallon say the suspect was reaching into his pockets. As he approached the location, Officer Reyna heard gunshots. Officer Reyna pulled to the left of Sergeant Magallon. Sergeant Magallon was ducking behind his car. Officer Reyna heard a sound on his patrol car similar to metal being struck by bullets and believed that bullets were hitting his car. Officer Reyna ducked down below the steering wheel and reached for his AR-15 that was on the passenger seat of his patrol car. Officer Reyna exited his patrol car and saw Santos with the gun in his hand. Officer Reyna fired one shot at Santos as he began to fall to the ground. Once Santos was on the ground, Officer Reyna went to Sergeant Magallon and confirmed Sergeant Magallon was not hurt.

Santos never retreated nor dropped his weapon until well after he fell to the ground. Battalion Chief Federman was "surprised" how long it took Santos to go down despite being hit with bullets.

Sergeant Magallon and Corporal Scott devised a plan to approach Santos, who was still armed on the ground, with Officer Reyna using two ballistic shields for cover. As the three officers approached Santos, Santos released the gun from his hand. Corporal Scott kicked the gun away from Santos towards the street. Officers handcuffed Santos and Sergeant Magallon called the medics standing by to begin life saving measures.

A neighbor was outside changing the battery on his car on the street and witnessed the exchange. He described the officers defending themselves like any person would defend themselves when Santos turned and pointed the gun at the officers.

¹ Unknown to the officers, the magazine in Santos' gun fell out of the gun onto the sidewalk after Santos fired his first shot. From reviewing the video footage in the investigation, when Santos bent over he reached for the magazine that had fallen out of his gun. The examination of Santos' gun revealed a round jammed in the chamber of Santos' gun.

Medical Response

When paramedics from AMR and the Fire Department arrived to the area of Airport Avenue and North A Street, they were directed to Santos lying on the sidewalk. The medic that reported seeing the murder suspect leaving the riverbed earlier in the morning recognized Santos as the same person. Santos did not have a pulse, but medics immediately began life saving measures. The medics transported him to the Lompoc Valley Medical Center Emergency Room for immediate treatment. A 7:37 a.m., a doctor at the Lompoc Valley Medical Center pronounced Santos dead.

Autopsy

On November 20, 2017, Dr. Manny Montez, a forensic pathologist employed by Santa Barbara County Sheriff-Coroner, performed an autopsy of Santos. Dr. Montez opined that the cause of death was multiple gunshot wounds. Dr. Montez observed a total of eight gunshot wounds. Dr. Montez also noted two graze wounds - one to Santos' finger and one to his right upper arm.

Deputy Coroner Baisa certified the manner of Santos' death was a homicide.

LEGAL ANALYSIS AND CONCLUSION

Applicable Law

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.)

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. Conner* (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). Further 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 November 19, 2017, near 6:00 a.m., Santos entered Timothy Culley’s tent armed with a handgun. Unprovoked, he shot and killed Timothy. Santos left the riverbed, still armed with the gun. As the murder investigation developed, dispatch was updated with Santos’ physical description as the murder suspect, a description of the murder weapon, and Santos’ location.

Lompoc Police Sergeant Magallon, Corporals Scott and Guerra, and Officers Reyna and Olivares responded to the area to search for Santos. Sergeant Magallon was the first to arrive in the area and was directed to Santos’ location walking on the sidewalk by the person that called in Santos’ location. Sergeant Magallon observed Santos with his hands in his sweatshirt near his waistband. Santos looked at Sergeant Magallon while he was shifting his hands in his sweatshirt near his waist. Corporal Scott arrived in his patrol car. Santos continued to look over his shoulder at Sergeant Magallon as he walked further south on the sidewalk. As Sergeant Magallon and Corporal Scott got out of their patrol cars, Sergeant Magallon yelled to Santos to stop and show his hands. Santos turned back toward Sergeant Magallon pointing at the Sergeant with his left hand and pulling out a gun from his waist with his right hand. Almost simultaneously, Corporal Guerra and Officer Olivares arrived in their patrol car. Officer Olivares saw Santos pull his gun out of his sweatshirt causing Officer Olivares to shoot at Santos. Santos fired at Sergeant Magallon and the remaining officers returned fire until Santos fell to the ground.

Based on Santos’ actions, Lompoc Police Sergeant Magallon, Corporals Scott and Guerra, and Officers Reyna and Olivares reasonably feared that Santos would cause each of them and their fellow officers great bodily injury or death with the gun. Each of the five law enforcement officers reasonably discharged their service firearms to stop the suspect from inflicting death or great bodily injury on themselves, their fellow officers or the residents in their homes in the immediate vicinity.

CONCLUSION

When Geronimo Santos turned toward Sergeant Magallon pulling a firearm out of his sweatshirt, he created a reasonable fear of death or great bodily injury in the minds of Sergeant Magallon, Corporals Scott and Guerra, and Officers Reyna and Olivares. 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, Sergeant Magallon, Corporals Scott and Guerra, and Officers Reyna and Olivares acted reasonably in their use of deadly force; therefore, the shooting of Geronimo Santos is a justifiable homicide.