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February 1, 2018

**PUBLIC REPORT ON OFFICER INVOLVED SHOOTING OF BRYAN CARRENO BY
LAW ENFORCEMENT OFFICERS ON FEBRUARY 12, 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 Bryan Carreno, age 26, occurring on February 12, 2017, in unincorporated Santa Barbara, 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 Matthew Banks.

The District Attorney finds the shooting was a justifiable homicide under Penal Code section 196(2).

FACTUAL HISTORY

Summary

On the evening of February 12, 2017, Nicholas Carreno called 911 to report that his adult son, Bryan Carreno¹, was acting strange and appeared to be under the influence of "something." Additional 911 callers reported that Carreno was jumping fences and entering neighbors' homes. After a lengthy search involving a K-9 unit and a helicopter with spotlight, members of the SBSO located the suspect inside the home at 695 Russell Way, which he entered without the permission or knowledge of the occupants. In response to announcements that a K-9 officer would be deployed, the suspect exited the back door to a small patio wielding a large kitchen knife and confronted multiple law enforcement officers. The suspect ignored numerous commands to stop advancing and to drop the knife before officers fatally shot him.

Initial Reports

At approximately 6:30 pm on February 12, 2017, Nicolas Carreno called 911 requesting police assistance at his home on North La Cumbre Road because his son was under the influence of some drug and he [Nicholas] was afraid Carreno was "going to do something stupid." Nicolas told

¹ The suspect, Bryan Carreno, will be referred to as "Carreno" in this report. The first reference to any individuals with the same last name will be to their full name; subsequent references will use their first name to avoid confusion.

dispatch personnel that the suspect was “hallucinating,” “tripping out really, really bad” and had jumped over the neighbor’s fence and scared her. Nicholas did not know what drug Carreno had used. He described his son as 25-26 years old, wearing a white shirt, Levis and a black baseball hat.

Due to a large number of calls for service that evening, deputies could not immediately respond. At approximately 6:40 pm, Nicholas called 911 again. A few minutes later, at 6:49 pm, a resident on Harrold Avenue called 911 to report that the suspect came through his front door and into his house saying his dad needed help on La Cumbre Road. At 6:51 pm, a female resident on Harrold Avenue called 911 to report that a man was “busting through her gate” and “freaking out.”

Law Enforcement Response

The first deputy to arrive at the Carreno home on North La Cumbre was Deputy Ken Rushing, accompanied by his canine partner, Aco. Nicholas and a neighbor, Leslie Altman, flagged down Deputy Rushing and told him that Carreno was under the influence of something, had jumped over the fence between their backyards and banged on Altman’s backdoor asking her to call 911 because something “bad” happened to Nicholas. Altman said Carreno scared her and she contacted Nicholas. While talking to Altman and Nicholas, Deputy Rushing could hear noises that sounded like someone jumping fences in the area, so he waited for back up. When Deputies Shane Moore and Robert DeBarge arrived on-scene, the three deputies checked Altman’s property.

While checking Altman’s yard, Deputy Rushing made multiple loud verbal announcements asking Carreno to show himself so the deputies could check on his welfare. He did not receive a response.

In Altman’s backyard, along the fence that adjoined the Carreno property, the deputies located a large knife on the ground. Altman said the knife was not hers and did not belong in her backyard. Nicholas told the deputies that Carreno often carried a long-handled hatchet, but was not sure if he had it that night.

Due to these heightened safety concerns, Deputy Rushing asked California Highway Patrol and other SBSO units to set up a perimeter and began to search for Carreno using Aco’s sense of smell to conduct a canine track. The SBSO helicopter also responded to assist the search with a spotlight.

First K-9 Track

Aco led the deputies on a lengthy track throughout the neighborhood. While on the track, the deputies spoke with multiple residents in the area who had contact with Carreno that night or had seen or heard him on their property. They learned that Carreno was acting strangely, entered several homes when the residents were there, and passed through the yards of other homes. Throughout the track, Deputy Rushing made loud verbal announcements asking Carreno to come forward, but received no response. The track took them to the grounds of La Colina school where Aco appeared to lose the scent. By this time, the SBSO helicopter was searching overhead using a spotlight with no success.

Reports From 695 Russell Way and Second K-9 Track

Deputy Rushing put Aco back in his patrol car to rest while the deputies returned to a residence on Russell Way where Carreno had broken the lattice fencing. On their way there, a resident on Harrold Avenue told the deputies that a tenant living in a back unit just reported that someone jumped on her roof and over the back fence. Another neighbor asked the deputies to check his yard for the suspect. While doing so, the deputies found a black hat on the ground that matched the description of what Carreno had been wearing, so Deputy Rushing and Aco began a second canine track.

At 8:42 pm, as Deputy Rushing began the second canine track, deputies were notified of a 911 call from a resident at 695 Russell Way. The resident, Jennifer Yoshimi, told dispatch personnel she believed someone had broken into her house because she learned from her roommate (Antonio Sprovieri) the doors to the house were open and the kitchen drawers were pulled out. Sprovieri and his daughter were at the house, relating information to Ms. Yoshimi. About an hour earlier Sprovieri said he heard a lot of noise in the kitchen, but thought that it was Yoshimi and her family making the noise. The Yoshimis, however, were not home at that time. Ms. Yoshimi requested deputies meet her at the house to do a walk-through. At 8:46 pm, Ms. Yoshimi's husband, Daniel, called 911 to notify dispatch that they learned Sprovieri's daughter had seen a man wearing white clothing in the home at 695 Russell.

As these 911 calls came in, Aco's second track was leading Deputies Rushing, Moore and DeBarge toward 695 Russell Way. Senior Deputy Joshua Cockrell and his trainee Deputy Dustin Winebrenner also responded to the area of 695 Russell Way after looking for Carreno at his ex-girlfriend's house nearby. The Yoshimis flagged down Senior Deputy Cockrell and Deputy Winebrenner and told them that when they returned home the door to their house was open and all the lights were on, but they had not left the house that way. Senior Deputy Cockrell and Deputy Winebrenner scouted around for the main entrance to the house.

As they walked through the front gate that led to the back of the residence, they discovered a swimming pool in the side yard. Senior Deputy Cockrell and Deputy Winebrenner followed a narrow walkway that took them past the swimming pool to a small rear patio. The house made an L on two sides of the rear patio and the other two sides of the patio were bordered by a partial fence and a steep hillside. As they rounded the corner of the house to the rear patio, the first wall they encountered had a large picture window with glass double doors that opened into a living room. The other wall, across the patio from where the deputies stood, had a small window and a glass sliding door that was ajar. Lights inside the house were on, giving the deputies a clear view into the living room but the patio and yard were dark. Some interior light also shone from the glass sliding door. Senior Deputy Cockrell and Deputy Winebrenner waited near the entrance to the rear patio for the other deputies to arrive.

Deputies Rushing, Moore and DeBarge arrived at 695 Russell Way with Aco a few moments later. Deputy Rushing learned from the Yoshimis and Sprovieri that no people or pets should be inside the house. Aco was pulling toward the back of the house following a scent, indicating Carreno was there.

Deputies Rushing, Moore and DeBarge joined Senior Deputy Cockrell and Deputy Winebrenner past the pool near the entrance to the rear patio. Senior Deputy Cockrell and Deputy Winebrenner took a position near the entrance to the rear patio. They could see into the house through the large picture window and double glass doors. Deputy Rushing and Aco entered the house through the sliding glass door on the other wall across the patio. Just before he and Aco entered the house, Deputy Rushing made loud verbal announcements saying “Bryan, Santa Barbara Sheriff’s K-9 unit, come to the sound of my voice. Make your presence known or I will send in the dog” and instructing Carreno what to do if contacted by Aco. Deputy Moore followed Deputy Rushing into the house while Deputy DeBarge stood back as cover.





Walkway from front
of 695 Russell to
patio area

Sliding glass door



View of patio and drop off from house



Officer Involved Shooting

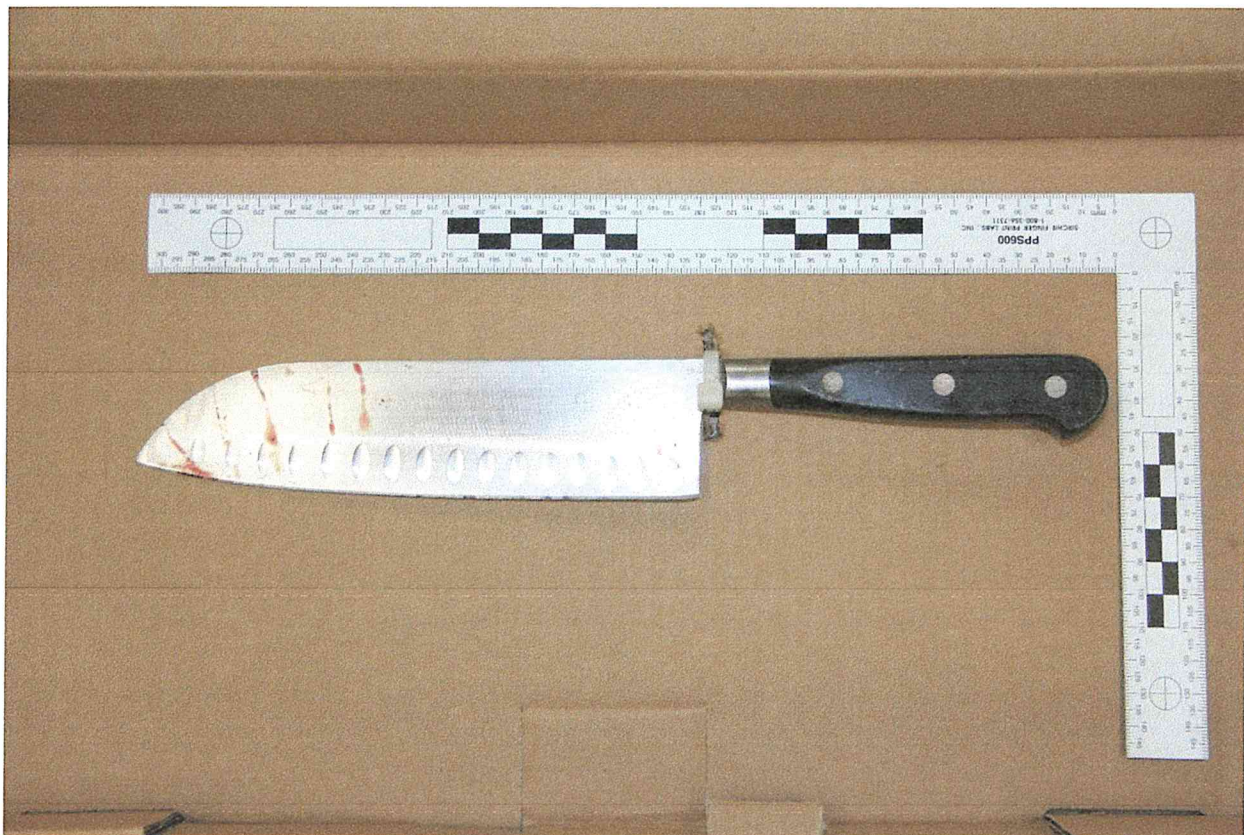
As Deputies Rushing, Moore and Aco entered the house, Deputy Winebrenner observed through the window an interior door open. He shouted, "I've got movement" to alert the other deputies. A man fitting Carreno's physical and clothing description, exited an interior room and started walking into the living room. He was waving a 12-inch long kitchen knife in his right hand. Immediately, the deputies began yelling, "he's got a knife" and "drop the knife."

Deputy Moore backed out of the house quickly and yelled for Deputy Rushing to get out of the house. Deputies Moore, DeBarge, and Winebrenner could see Carreno yelling, waving the knife around with the blade up and walking quickly within the house. Carreno appeared agitated but the deputies could not hear what he was yelling as the glass double doors were closed.

Carreno made eye contact with Deputy Winebrenner and started to approach the large picture window while still yelling. Carreno then moved toward the double doors, waving the knife. All

of the deputies were yelling at him to drop the knife, but he continued to wave it. All five deputies were very fearful of their safety and the safety of their fellow deputies as the patio area was extremely small, had only one narrow exit and was surrounded partially by a fence and entirely by a steep drop off.

Carreno opened the glass double doors and exited the house. He ignored numerous commands to drop the knife and to get on the ground. He continued to hold the knife up as he walked down the steps from the house and advanced on the deputies, yelling, "shoot me" and "kill me." Multiple deputies described Carreno having a "thousand yard stare" where he was looking right through them. Despite the commands to drop the knife, Carreno walked out of the house and down the steps until he was within "lunging distance" of multiple deputies. All five deputies discharged their service weapons because each feared the suspect would seriously injure or kill him or one of his fellow deputies.



Once Carreno fell to the ground, deputies tried to locate and secure the knife so that they could render him aid safely. Upon hearing the shots fired, Deputy Mohsen Amjadi ran from the front of the house where he had been positioned. He located the knife slightly behind Carreno. Deputy Amjadi moved the knife to the top of the steps near the glass double doors while Deputy DeBarge placed pressure on a wound to Carreno's femoral artery and Deputies Moore and Winebrenner began CPR. Deputy Rushing secured Aco in his patrol car and retrieved a trauma kit. Senior Deputy Cockrell assisted with the defibrillator. Paramedics arrived within a few minutes. Carreno was pronounced dead at the scene.

Autopsy

On February 15, 2017, Dr. Manuel Montez, a forensic pathologist employed by SBSO, performed a post-mortem examination of Carreno and obtained toxicological samples. Dr. Montez opined that the cause of death was multiple gunshot wounds and noted a significant condition of methamphetamine intoxication. Dr. Montez observed a total of 20 gunshot wounds to Carreno's head, torso and extremities with perforations of the brain, heart, lungs, diaphragm, liver, intestines, stomach and skeletal bones.

Testing of the toxicological samples indicated Carreno had alcohol, caffeine, amphetamine, methamphetamine, cannabinoids, and fentanyl in his system at the time of his death. Detective Carlson from SBSO Coroner's Office certified the manner of Carreno's 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. 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). 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 substitution of 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 the night of the shooting, Deputies Rushing, Moore, DeBarge, Winebrenner and Senior Deputy Cockrell responded to Carreno's neighborhood after receiving reports that he was under the influence of drugs and acting strangely. During their search for Carreno, they received reports from multiple neighbors that he entered their properties and even their homes while falsely claiming his father needed help. The deputies also located a large kitchen knife in Ms. Altman's backyard and learned that Carreno often carried a long-handled throwing hatchet. All of these circumstances would lead a reasonable person to be concerned about their safety and the safety of others in approaching the suspect.

After learning from the residents of 695 Russell Way that a man fitting Carreno's description had entered the home without permission and rummaged through the kitchen, Deputy Rushing made loud verbal announcements asking Carreno to show himself, but received no response. As soon as Deputy Rushing and his canine partner, Aco, entered the home, Carreno exited an interior room holding a large kitchen knife. The deputies could see through the window and glass double doors that he appeared agitated, was yelling and waving the knife around. When he saw Deputy Winebrenner, Carreno opened the doors and exited the house. Carreno ignored numerous commands to drop the knife and get on the ground, and continued to advance on the deputies holding the knife up in his right hand. The five deputies, penned in the small patio by a steep hillside reasonably feared that the suspect would lunge at one or more of them stabbing or slashing them and causing great bodily injury or death with the large knife. Each of the five deputies reasonably discharged their service firearm multiple times in order to stop Carreno from inflicting death or great bodily injury on themselves or their fellow deputies.

CONCLUSION

When Bryan Carreno advanced on deputies armed with a large knife, he created a reasonable fear of death or great bodily injury in the minds of Deputies Rushing, Moore, DeBarge, Winebrenner and Senior Deputy Cockrell. 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, the deputies each acted reasonably in his use of deadly force; therefore, the shooting of Bryan Carreno is a justifiable homicide.