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December 14, 2015

**PUBLIC REPORT ON OFFICER-INVOLVED SHOOTING OF JESUS GOMEZ QUEZADA
BY LAW ENFORCEMENT OFFICERS ON JUNE 5, 2015**

The Santa Barbara County District Attorney's Office has completed its review of the investigation by the Santa Barbara County Sheriff's Office of the homicide of Jesus Gomez Quezada that occurred on June 5, 2015, in Santa Maria, California.

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

SUMMARY

On June 5, 2015, at 9:36 p.m., the Santa Maria Police Department (SMPD) received a 911 call from Jesus Gomez Quezada.¹ He told the dispatcher that he had used a big knife to stab his wife multiple times in the stomach. He said she was in the bedroom, while he was in the living room. He said he did not know if she was still alive. He said that he had a loaded rifle and handgun and he will use them if he has to. He said if he comes out of the house, he is coming out with guns. Quezada said he would shoot anyone who walked by, including citizens. Dispatch remained on the line with Quezada until crisis negotiator, Detective Felix Diaz, took over.

SMPD dispatch received a second call at 9:38 p.m. from Juan Meza, Quezada's brother in law. Meza reported that he had received a call from Quezada where Quezada said "good-bye."

Detective Felix Diaz spoke to Quezada, attempting to reason with him and to get him to cooperate. Quezada told Detective Diaz he had stabbed his wife three to four times. He said he had a loaded rifle and a loaded handgun. Quezada told Detective Diaz, "Do your job as a cop if I come outside with guns." Quezada hung up on Detective Diaz shortly thereafter and did not answer the phone when Detective Diaz attempted to reconnect with him.

Officer Matthews arrived with the Peacekeeper², which officers used as a shield so they could safely move closer to the suspect. Officers devised a plan to use less lethal force to subdue the suspect. The suspect came out of the house with what looked like a rifle and a handgun. Detective Totorica fired a 40mm less

¹ Quezada will be referred to as the suspect in this report and Teresa Meza will be referred to as the victim.

² A Peacekeeper is a large armored vehicle with bulletproof glass.

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lethal round³ at the suspect, but he missed. Officer Hutton had his K-9 partner, but he decided he could not release the K-9 without putting other people present in danger.

Quezada turned towards the officers near the Peacekeeper, took a step towards them and raised his rifle, pointing it at them. At that moment, Officer Easter and Detective Totorica fired their AR-15 rifles. The suspect was struck and fell to the ground. Officers entered the house in search of the victim. Officer Casey found her on the ground in the bedroom. He determined that she did not have a pulse and he noticed that she was in full rigor mortis.⁴ Medics immediately attended to Quezada, but he was bleeding profusely and did not have a pulse. Quezada was pronounced dead at Marian Medical Center.

The District Attorney's role in reviewing this homicide is to determine whether the shooting of Jesus Gomez Quezada was lawful and to provide a detailed explanation to the public about the facts and the law in that regard. As stated in *Graham v. Connor* (1989) 490 U.S. 386, this process "requires careful attention to the facts and circumstances." Hence, this analysis will give careful attention to both the facts and circumstances of the fatal shooting of Jesus Gomez Quezada.

PART I - STATEMENT OF FACTS

Relevant Officers' Statements

Detective Felix Diaz

Detective Felix Diaz is a member of SMPD's crisis negotiation team and is fluent in Spanish. He was working his regular shift that evening, when he heard the call of a suspect who stabbed his wife and who had firearms in his possession. He spoke to Quezada in Spanish, attempting to calm Quezada down. Detective Diaz asked Quezada if officers could go in the house to check on his wife. Quezada said, "[They] could come in there" but he had guns on him and "I'm going to use them if I have to." Quezada told Detective Diaz that he stabbed his wife three or four times. Detective Diaz asked Quezada to come out, to which Quezada responded, "Do your job as a cop if I come outside with guns." Detective Diaz again asked if they could enter to check on his wife and Quezada responded, "No, I'm pretty sure she's dead." Quezada told him that he had a loaded rifle and a loaded handgun. Quezada said, "Just do your jobs. That's all I'm asking." Quezada hung up on Detective Diaz a couple of times and Detective Diaz was unable to make contact with Quezada again.

Detective Nathan Totorica

Detective Nathan Totorica has been a police officer with the City of Santa Maria for approximately seven years. He was assigned to patrol, the gang suppression team, and is a member of the SWAT team. He and Detective Diaz responded to a call for service of a domestic violence incident, where one of the parties had been stabbed. Detective Totorica joined a group of officers and began walking towards the residence behind the cover of the Peacekeeper. He saw the suspect holding what looked like a rifle perpendicular to his body.

³ A 40 mm less lethal round is a foam tipped projectile, often blue in color, that's fired from a 40mm launcher. The round is designed to cause pain compliance.

⁴ Rigor mortis is one of the recognizable signs of death, caused by chemical changes in the muscles after death, causing the limbs of the corpse to stiffen after death.

Detective Totorica was concerned about the victim who had been stabbed and was possibly bleeding out inside the house and the fact that the suspect had threatened to kill law enforcement or anyone else who walked by. He was further concerned that the suspect was not listening to any of the commands being given to him and he was armed with a rifle.

Detective Totorica was armed with the 40mm less lethal round and was on the passenger side of the Peacekeeper. Commands were being given over the loudspeaker. The plan was to hit the suspect with the 40mm and then immediately deploy the K-9. Detective Totorica fired one round of the 40mm less lethal over the hood of the Peacekeeper, but he missed the suspect. He went to the back of the Peacekeeper to get another 40mm less lethal round, but discovered that they did not have another one.

Detective Totorica picked up Officer Hutton's rifle and moved to the driver's side of the Peacekeeper. The suspect turned his body towards them, sweeping the rifle towards them. The suspect was then pointing the rifle at officers. Detective Totorica was afraid he or one of his team members would be shot and killed. Detective Totorica was approximately twenty to thirty yards from the suspect when he fired the .223 rifle at the suspect, striking him. The suspect went down. Someone said "shots fired" and officers entered the house to look for the victim. Detective Totorica was advised that she was already dead. Medics arrived to treat the suspect.

Officer Raymon Easter

Officer Raymon Easter began his law enforcement career as a police officer at Cal Poly San Luis Obispo in 2005. He joined SMPD in 2010 as a patrol officer and in 2012 he earned a position on the SWAT team. He is also a range master and a motor officer.

Officer Easter was working a DUI checkpoint on the evening of June 5, 2015, when he heard a call over the radio of a female who had been stabbed and a suspect armed with a firearm in the 300 block of W. Williams. Officer Easter and three other SWAT members at the checkpoint drove to the station to get an armored vehicle along with other equipment. Officer Matthews drove the Peacekeeper while Officer Easter and Officer Matthew Holton took the van to the scene.

Officer Easter heard over the radio that Detective Diaz was talking to the suspect. He knew Detective Diaz was a member of the crisis negotiation team. There were four officers at the corner who they joined as the group now continued towards the suspect residence. Officer Easter heard that the suspect was possibly armed with a handgun and a long gun and was in the threshold of the front door. He heard that the suspect said he will shoot any civilian, innocent person, or cop that approaches. Just before Officer Easter arrived at the command post, he heard Sergeant Mengel tell the patrol officers on scene if the suspect is out of the house, we cannot let him back in.

Officer Matthews drove the Peacekeeper towards the house and Officer Easter met up with Officer Hutton and a couple of other officers. Officer Easter jumped in the turret⁵ and the Peacekeeper moved towards the suspect. Officer Easter shined a light on the suspect and could clearly see he had some sort of long gun. Officer Easter became more concerned at that point because the suspect had said he was going to kill officers and he was armed with a gun. He heard someone yell, "forty, forty" which was a warning that the 40mm

⁵ A turret is a protected platform on the Peacekeeper that is used to fire weapons from.

less lethal round was being fired. Officer Easter heard the 40mm less lethal round fire, and saw that it did not hit the suspect. He estimated they were approximately 30 yards away when the suspect took a step towards them and pointed the gun directly at the officers.

Officer Easter felt that the suspect was going to shoot one of the officers. He knew that the officers on both sides of the Peacekeeper had less protection than he did. He believed the suspect was trying to kill him or one of his partners. Officer Easter had his Colt AR-15 rifle which he fired two times at the suspect; he stopped firing when the suspect went to the ground. Officer Easter believed that one or two of the officers started CPR on the suspect, while other officers ran into the house.

Officer Trevor Hutton

Officer Trevor Hutton is a K-9 handler, a range master, and a member of the SWAT team. He responded to a call at 304 W. Williams in the City of Santa Maria. Dispatch had advised that a female on scene had been stabbed and the suspect was still inside the house. A perimeter was set up around the house. Officers Casey and Veres were across the street from the front door of 304 W. Williams. Officer Casey advised over the radio that the suspect was stepping out of the door with what looked like a rifle slung across his body. Officer Hutton heard Sergeant Russell Mengel broadcast over the radio, "Basically, if he comes out and he's holding a weapon and he presents himself, there is a threat because we're concerned for the safety of the female inside. Don't let him go back inside." Information was relayed over the radio that the suspect told Detective Diaz that they were going to have to kill him or he was going to shoot them and anyone who walked by. The suspect then hung up on Detective Diaz.

Officer Hutton determined that he could not deploy his K-9 because there were too many people in the surrounding area. Another Officer arrived with SMPD's Peacekeeper which they used as cover for the officers so they could safely advance towards the suspect. Officer Hutton heard commands given in both English and Spanish over the loudspeaker. Quezada was told in English and Spanish to drop his weapon and to put his hands up, but he failed to comply.

Officer Hutton's greatest concern was the welfare of the person inside the house. He estimated they were on scene for 30-40 minutes before they moved towards the suspect, using the Peacekeeper as a shield. Officer Casey advised over the radio that the suspect was getting "amped up," rolling his shoulders and head. Officer Hutton could see the suspect standing three feet outside his front door with a long object that was black on top with a light wood colored bottom, consistent with a rifle. Detective Totorica fired one 40 mm less lethal round, but missed the suspect. Officer Hutton had his K-9 partner, so Det. Totorica took Officer Hutton's rifle. As officers approached the suspect with the Peacekeeper, the suspect turned towards them and then Officer Hutton heard several shots from above him, which was on top of the Peacekeeper. He saw the suspect fall to the ground. He radioed, "Shots fired and suspect down." As they approached the suspect, Officer Hutton saw a handgun lying partially underneath the suspect and Officer Hutton kicked it out of the suspect's reach. Medics began treating the suspect, and, shortly thereafter, Officer Hutton heard that the victim inside the house was deceased.

Officer Scott Casey

Officer Scott Casey responded to the call of a woman who had been stabbed multiple times and the suspect was still on scene armed with a rifle and handgun. Officer Casey took up a position across the street from

the front door so he could see what the suspect was doing and was joined by Officer Veres. For approximately 20 minutes the suspect stood in the doorway with the security screen closed, but did not come out of the front door. Officer Veres saw the suspect holding a rifle, which he relayed over the radio.

The Peacekeeper arrived on scene and began approaching the suspect's house. Commands were given over the loudspeaker multiple times in English and Spanish for the suspect to come out and show them his hands. The suspect came out the front door; Det. Totorica deployed the 40mm less lethal round, but it did not have any effect on the suspect. Officer Casey heard Officer Hutton say, "You missed." The suspect spun towards the officers who were standing next to the Peacekeeper, leveling his rifle at them. Shots were fired and the suspect went down. Officer Casey estimated that less than fifteen seconds elapsed between the time the commands were given until shots were fired.

Officer Casey assisted in making the entry into the house. He found the female victim in the southwest bedroom, on the floor, on the side of the bed. He checked her for a pulse, but found none; by then her body was in full rigor mortis.

Officer Jon Veres

Officer Jon Veres responded to the call and joined Officer Casey across the street. Officer Veres said he had a clear view of the front door. Officer Veres said he could see the suspect opening and closing the front door and he could see he had a rifle across his chest. As the Peacekeeper approached the suspect, Officer Veres saw the suspect rolling his shoulders and moving his arms around, as if he was loosening up. Officer Veres heard the 40 mm less lethal round hit what sounded like metal. It appeared to Officer Veres that the suspect had something in his hand that looked like a handgun. Officer Veres saw the suspect point the rifle towards the Peacekeeper. Officer Veres said he had a very long shot from approximately 70 yards with his rifle. At that moment, he heard approximately four shots and saw the suspect go down.

Sergeant Russell Mengel

Sergeant Russell Mengel is employed as a Sergeant with the Santa Maria Police Department. On the evening of June 5, 2015, he was supervising a DUI checkpoint when he heard a call over the radio of a victim who had been stabbed and a standoff with the suspect. Sergeant Mengel responded to provide assistance to the patrol supervisor, Sergeant Duane Schneider.

Sergeant Mengel said he had a hard time getting in contact with Sergeant Schneider. Sergeant Mengel was concerned about rescuing the woman inside the house. He confirmed with dispatch that they had been told a woman had been stabbed and was still inside the house. Sergeant Mengel wanted to establish separation between the suspect and the stabbing victim in order to provide first aid to the victim. Sergeant Mengel said he knew that there was a K-9 on scene as well as a less lethal 40mm round available to officers, in addition to lethal force. Sergeant Mengel gave instructions over the radio, "If you have a visual confirmation on the suspect and he is armed do not let him return back into the residence. We need to get to the victim."

Officer Reid Goeckner

Officer Reid Goeckner is a police officer with SMPD. He was on the passenger side of the Peacekeeper when Detective Totorica deployed the 40mm less lethal round. Officer Goeckner was behind Officer Hutton

and had a difficult time seeing the suspect over the hood of the Peacekeeper. Officer Goeckner heard multiple shots and the suspect went down.

Officer Goeckner handcuffed the suspect and noticed a rifle and handgun on the ground next to the suspect. He saw Officer Hutton kick the handgun out of the suspect's reach. Officer Goeckner then searched for additional weapons, started checking for a pulse, and noticed the suspect was still breathing. Fire personnel arrived and took over administering medical aid while Officer Goeckner assisted them in removing the suspect's clothing.

Officer Christopher Matthews

Officer Christopher Matthews is a police officer with SMPD and is a member of the SWAT team. He was working the DUI checkpoint when he heard the call and responded to the station to pick up the Peacekeeper. He met with Sergeant Mengel at the command post when he arrived with the Peacekeeper. Officer Easter got into the turret as they made their approach towards the suspect's house, with Officer Matthews driving the Peacekeeper. Officer Matthews gave commands for the suspect to come out with his hands up in English and Officer Coria also gave commands in Spanish over the loudspeaker.

The suspect came out of the front door and Detective Totorica fired the 40mm less lethal round at the suspect, but Officer Matthews could not tell if he hit the suspect due to the obscured visibility from the thick bullet-proof glass. The suspect then raised his rifle in their direction, which caused Officer Matthews to crouch down in an attempt to get behind the engine block. The next thing he heard were five shots and the suspect went down.

SMPD 911 Calls and Radio Traffic

911 Calls

The Santa Maria Police Department Dispatch center received a 911 call from Jesus Gomez Quezada on June 5, 2015, beginning at 9:36 p.m. Quezada told dispatch that he had been in an argument with his wife and he had cut her multiple times in the stomach with a big knife. He said that he did not know if she was dead. He told dispatch he has a loaded handgun and a loaded shotgun that he was prepared to use on officers or anyone who gets close. SMPD Dispatch kept Quezada on the line until crisis team negotiator Detective Felix Diaz took over.

The Santa Maria Police Department Dispatch center received a second 911 call at 9:38 p.m. from Juan Meza, who is Quezada's brother-in-law. Meza told dispatch that he had received a call from Quezada where Quezada called to say goodbye.

Radio Traffic

Information was relayed to officers throughout the incident over the radio from a variety of sources, including officers on scene and dispatch. Officers were told that a female at the residence had been stabbed multiple times with a large knife and the suspect armed with guns was still inside. They were further told that Quezada reported his wife was in the bedroom and he did not know if she was still alive. Officers additionally informed that Quezada said he was going to shoot anyone who walks by. Officers across the

street from the house reported that they could see something long in his right hand as he stood in the doorway.

Officers were told that Quezada hung up on Officer Diaz and was no longer answering the phone. Sergeant Mengel said, "If you have visual and he is armed do not let him return to the residence. We need to get to the victim." Officers across the street from the front door then reported that Officer Veres could see a rifle slung across Quezada's stomach as he stood outside the doorway. As the Peacekeeper moved towards Quezada, Officer Casey reported that he was "amping up." Shortly thereafter, Officer Hutton stated, "shots fired, suspect down." A request was made to "advise on the rescue." Shortly after that it was reported over the radio that there was no pulse on the victim.

Statements of Medics

Eduardo Camacho

Eduardo Camacho works for American Medical Response (AMR) and was assigned to Medic 19 (ambulance) on the evening of June 5, 2015. He and his partner, Sean Swale, initially were staged in the 100 block of W. Williams, which is east of the residence. They were instructed to move up to the 200 block of W. Williams, where they waited with Santa Maria Fire personnel and officers from SMPD.

Camacho heard officers using a loudspeaker when they told the suspect to put his hands up and drop the weapon. Camacho speaks English and Spanish and heard the commands given in both languages. Camacho then heard a single shot which he did not believe was loud enough to be a gun shot. He believed it sounded like they shot a bean bag round. He again heard commands over the loudspeaker, followed by several gunshots in rapid succession. Medics were requested, so he and Swale walked to the house along with fire personnel.

Camacho saw a male, Jesus Quezada, lying on the grass, face up, and bleeding profusely from the chest. Fire personnel began to administer CPR to the male. Camacho went into the house to check the female. He found her lying on her side on the floor, so he rolled her onto her back. He noticed rigor mortis was present and based on his training and experience he believed she had been deceased for some time, even prior to law enforcement being called to the scene.

Camacho returned to assist in rendering aid to Quezada and transported him to Marian Medical Center where Camacho stated that Dr. Weber used an ultrasound machine to check for movement of the heart. After seeing no heart activity, Dr. Weber pronounced Quezada dead.

Sean Swale

Sean Swale is an Emergency Medical Technician employed by AMR and was partnered with Eduardo Camacho on the evening of June 5, 2015. He noticed that Quezada was lying on the grass, he was not breathing, and he had no pulse. Fire personnel administered CPR, then AMR took over life-saving measures and transported him to the hospital.

Matthew Chircop

Matthew Chircop is employed as a firefighter with the Santa Maria Fire Department. He was staged with AMR and SMPD personnel. When medics were requested, he walked to the scene. There he saw a rifle on the ground next to Quezada and noted that it was pointed directly at Chircop. As he approached, Quezada was bleeding, his color was pale, and he took one or two agonal breaths.⁶ There was an odor of alcohol emanating from Quezada.

Matthew Lewis

Matthew Lewis is employed by the Santa Maria Fire Department as an Engineer. He saw Quezada lying on his back with his feet pointed towards Broadway. Quezada had an inadequate pulse, agonal breathing, and was rapidly deteriorating. Lewis began CPR immediately. He noticed a rifle on Quezada's left side and a handgun a couple of feet from Quezada's head.

Statements of Civilian Witnesses

Dominique Carter

Dominique Carter is a neighbor to 304 W. Williams. On the night of June 5, 2015, Ms. Carter was asleep when she was awakened around 10:30 p.m. She heard someone saying, "Jesus drop the rifle" and "Jesus drop the pistola." The announcements were made in both English and Spanish. Shortly afterwards she heard four or five gunshots.

Esmeralda Betancourt

Esmeralda Betancourt lived near 304 W. Williams. She heard noise outside and saw police officers. She went into her brother's room which was close to 304 W. Williams, and she turned on her cell phone recorder. The window was open so she could hear commands given in Spanish to put his rifle down and to put his hands up. After that she heard five gunshots.⁷

Pedro Bernal

Pedro Bernal lived near 304 W. Williams. He heard commands given in Spanish to put your hands up and to get on the ground. Shortly afterwards, he heard four gunshots.

⁶ Agonal breathing is an abnormal pattern of breathing and brainstem reflex characterized by gasping, labored breathing, accompanied by strange vocalizations and myoclonus. Agonal respirations are also commonly seen in cases of cardiogenic shock or cardiac arrest where agonal respirations may persist for several minutes after cessation of heartbeat.

⁷ On the audio recording, commands can be heard over a loudspeaker; and, shortly thereafter, five shots in rapid succession are audible.

Forensic Documentation of Shooting Scene

Detective Matthew Fenske

Detective Matthew Fenske of the Santa Barbara County Sheriff's Department responded in the early morning hours of June 6, 2015, to investigate an officer-involved shooting at 304 W. Williams in the City of Santa Maria. He was assigned as the scene investigator for the officer-involved shooting, which occurred outside the residence.⁸

Five expended Winchester .223 shell casings were located in front of 224 W. Morrison, #B, which is the residence directly to the east of 304 W. Williams. The casings are the same caliber and brand of ammunition as those found in the rifle used by Detective Nathan Totorica and are also consistent with the number of rounds likely used by Detective Totorica. Directly across the sidewalk from these casings were two expended FC .223 shell casings. These casings are the same caliber and brand of ammunition as those found in the rifle used by Officer Raymon Easter and are consistent with the number of rounds likely used by Officer Easter. A total of seven rounds were fired and forensic personnel located seven points of impact that will be explained in detail below.

A wooden stock long gun was found on the grass along with various medical supplies. On closer inspection, Detective Fenske identified the gun as a 5.0mm pellet gun with a metal sight. A bullet hole was identified in the side of the barrel of the pellet gun and a bullet fragment was later recovered from it. Also located was what appeared to be a semi-automatic handgun on the grass in the same area. Upon closer inspection, it was identified as an imitation firearm or BB gun. Detective Fenske noted that both the pellet gun and imitation firearm appeared initially indistinguishable from a real firearm, and the handgun did not have a red tip or orange blaze markings readily visible. A 40mm blue impact munition⁹ consistent with the less lethal round fired by Detective Totorica, was found on the ground in the planter area just east of the front porch.

On the building of 304 W. Williams, Detective Fenske saw the front window directly west of the front porch had been shattered. The window frame had damage from a bullet and he recovered a metal jacketing¹⁰ from the window frame. Detective Fenske also noted three additional areas of damage on the exterior wall of the building. The additional two rounds struck the suspect, Jesus Gomez Quezada, and he had a grazing wound on his thigh.

Autopsy

Doctor Jon Smith¹¹

On June 9, 2015, Dr. Jon Smith performed the autopsy on Jesus Gomez Quezada at the Santa Barbara County Coroner's Office. Dr. Smith found a gunshot entry wound to the right chest with no associated exit wound. He was able to locate and remove the bullet from that wound. He also found a second entry wound on the right lower abdomen with an associated exit wound on the right thigh. Some projectile fragments

⁸ The Santa Maria Police Department conducted the homicide investigation of Teresa Meza inside 304 W. Williams.

⁹ A term used to describe projectiles that are not fundamentally designed to cause serious bodily injury or death.

¹⁰ Metal jacketing is part of the ammunition.

¹¹ Dr. Smith conducted the autopsies of both Jesus Quezada and Teresa Meza. He found 14 stab wounds inflicted on Teresa Meza. He determined her cause of death to be multiple penetrating stab wounds and the manner to be homicide.

were additionally recovered. He also found a grazing gunshot wound to the right thigh. Dr. Smith determined the cause of death to be multiple gunshot wounds and the manner to be homicide.

Suspect History

Jesus Gomez Quezada was born on August 13, 1964. The Santa Maria Police Department had no prior calls for service to that residence involving Jesus Gomez Quezada or Teresa Meza.

Part II - 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 states, "[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 a split-second judgment—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

Officers had information directly from the suspect that he had stabbed his wife multiple times and that she was in the bedroom. He further stated that he did not know if she was alive. Quezada said that he had a rifle and a handgun that were both loaded. He said he was going to kill officers or anyone else who walked by. He told the crisis negotiator, Detective Felix Diaz, that he expected him to "Do your job as a cop if I come outside with guns." In addition, Quezada's brother-in-law reported that Quezada had called him to say goodbye. Quezada hung up on Detective Diaz and came outside with a rifle and handgun.

Officers devised a plan to use less lethal force to subdue Quezada. They brought in the Peacekeeper so they could safely approach the armed suspect. Officers repeatedly gave commands for the suspect to put his hands up and weapons down in both English and Spanish. The suspect refused to comply with any of the commands. Detective Totorica shot the 40mm less lethal round at Quezada, but missed. Officer Hutton determined that he could not deploy his K-9 without putting other people in the area at risk. Quezada "amped up," turned towards officers, took a step towards officers and raised his rifle, pointing it at officers.

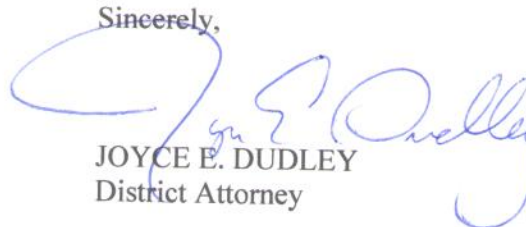
Detective Totorica and Officer Easter both believed that Quezada was going to kill them or one of their partners. At that moment Detective Totorica and Officer Easter fired their AR-15 rifles at Quezada, striking him and causing him to fall to the ground. As soon as Quezada fell to the ground, both officers stopped firing.

All of the officers' actions were reasonable under the standard set forth in *Graham* based on the totality of circumstances in this case.

CONCLUSION

The circumstances created a reasonable fear of death or great bodily injury in the minds of both Detective Totorica and Officer Easter. Based on the investigation by the Santa Barbara County Sheriff's Office, applying the law as set forth in Penal Code section 196(2), and the cases cited *supra* in this report, I have concluded that the officers acted reasonably in their use of deadly force; therefore, the shooting of Jesus Gomez Quezada is a justifiable homicide.

Sincerely,



JOYCE E. DUDLEY
District Attorney