

**Fatal Officer Involved Shooting of Shalun Smith, Jr.
San Bernardino County Sheriff's Department**

**Deputy Andres Arreola, #G6313
Deputy Christopher Dekeyrel, #D2561**

J.S.I.D. File #18-0024



GEORGE GASCÓN
District Attorney
Justice System Integrity Division
July 25, 2023

MEMORANDUM

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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Shalun Smith, Jr.
J.S.I.D. File #18-0024
S.B.C.S.D. File #1718000381
L.A.S.D. File #018-00456-2607-013

DATE: July 25, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the January 10, 2018, fatal shooting of Shalun Smith, Jr., by San Bernardino County Sheriff's Department (SBCSD) Deputies Andres Arreola and Christopher Dekeyrel. For the reasons set forth below, this office declines to initiate criminal proceedings in this matter.

The District Attorney's Command Center was notified of the shooting at approximately 10:33 p.m. on January 10, 2018. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, audio recordings, recorded interviews, surveillance video, firearm analysis reports, crime scene photographs and sketches, and a coroner's report, submitted to this office by Los Angeles County Sheriff's Department (LASD) Detectives Amber Montenegro and Mike Valento. Arreola and Dekeyrel each provided voluntary statements to investigators, which were considered as part of this analysis.

FACTUAL ANALYSIS

Summary

On January 10, 2018, at approximately 8:04 p.m., SBCSD deputies responded to a robbery call at a wireless phone store located in the City of Victorville in San Bernardino County. Store employees

had reported that at approximately 7:54 p.m., three men armed with semiautomatic handguns had entered the store and ordered the clerk to open the safe and put cell phones into duffel bags. They said the suspects had left the store with cash from the store's register and at least 40 cell phones, whose total value was reported to be between \$80,000 and \$100,000. After taking the phones, the three men—later identified as Shalun Smith, Jr., [REDACTED], and [REDACTED]—left through the back of the store and entered a waiting car driven by a fourth man, [REDACTED].

Pursuit

Among the phones taken by the robbers was a bait phone with a tracking device. SBCSD dispatch broadcast information about the robbery, including real-time location and speed information received from the bait phone. Multiple deputies drove to Highway 395 at Mojave Drive based on the dispatch tracking updates, where they located the vehicle that contained the bait phone. It was a gray Jeep Compass SUV with paper plates.

SBCSD deputies Andres Arreola, Jeffrey Dean, Nicolas Craig and Arootin Bandari began following the Jeep. Arreola and Dean were working one-man patrol units. Craig, a training officer, rode as a passenger in a marked police vehicle driven by Bandari. All patrol vehicles were marked and equipped with forward-facing red lights and sirens. Each deputy except Craig was dressed in SBCSD uniforms and equipped with an audio recorder. The patrol cars were not equipped with functioning dash cameras, nor did the deputies wear body-worn cameras.

Dean and Arreola broadcast that they were initiating a felony stop. They, along with Bandari, each activated the forward-facing red light and siren on each of their marked police vehicles and attempted to conduct a felony stop. Dean broadcast, "Keep distance. They are armed." The Jeep initially slowed and drove toward the right shoulder, then drove off at a high rate of speed.

Dean broadcast the failure to yield and began a pursuit. Multiple other deputies joined in the pursuit. Arreola, initially driving behind Dean, broadcast location updates until airship tactical flight officer Deputy Derrick Alatorre joined the pursuit and took over. The helicopter provided additional lighting during the pursuit. Multiple broadcasted updates advised pursuing deputies that there were four people in the car, three of whom were armed with black "Glock-style" handguns. Dean, who was primary during the pursuit, broadcast that he saw an unidentified object tossed from the driver-side of the Jeep.¹ Later, he broadcast that a loud item had hit the front of his vehicle, but it was unknown if it was a rock or something coming from the Jeep.

During the pursuit, the Jeep ran a stop sign at 55 miles per hour (m.p.h.), maintained speeds between 75 and 110 m.p.h. on both surface streets and highways with a maximum speed limit of 65 m.p.h., drove through a red light at a major and busy intersection, and drove into opposing lanes of traffic at least four separate times—causing three to four motorists to drive off the road onto the shoulder to avoid a collision. The Jeep left the paved highway and drove through the desert for a portion of the pursuit. These actions were broadcast over the radio. According to one deputy in pursuit, Dana Weinberg, the Jeep nearly rear-ended a semi-trailer truck at one point. The

¹ With the assistance of search dogs, deputies searched the area near where Dean had indicated that an object was thrown. The only item recovered was a cell phone.

approximately 52-mile pursuit lasted over 30 minutes, taking the suspects and the deputies from Victorville in San Bernardino County to Palmdale in Los Angeles County. The pursuit ended at approximately 8:49 p.m., when Dean utilized a pursuit intervention technique (PIT maneuver)² as [REDACTED] drove at approximately 35 m.p.h. eastbound on Avenue R-8 in Palmdale.

Incident

As both cars simultaneously came to a stop, the Jeep was at an approximately 45-degree angle to the front of Dean's vehicle, with the middle of Dean's front bumper inches from the Jeep's right rear corner bumper. [REDACTED] opened the Jeep's driver door, exited, and ran northbound toward a cinderblock wall separating the street from multiple residences. Rear driver-side passenger [REDACTED] simultaneously opened his door, exited, and ran in the same direction. Front passenger [REDACTED] opened his door and began to exit the car.

Arreola drove his police SUV to the right of Dean's vehicle. The SUV's front left bumper collided with the bottom of the Jeep's front passenger door and the forward portion of the rear passenger door. This action trapped [REDACTED]'s right shoe. [REDACTED] jumped out of his shoe and ran northbound between the Jeep and Dean's vehicle. [REDACTED], and [REDACTED] jumped the wall out of view and were taken into custody shortly thereafter. Smith, who was sitting in the rear right passenger-side seat, was initially trapped inside the Jeep by Dean's and Arreola's vehicles, which were pushed against the Jeep's right side. Arreola was likewise unable to open his driver-side door due to his car's proximity to Dean's patrol vehicle.

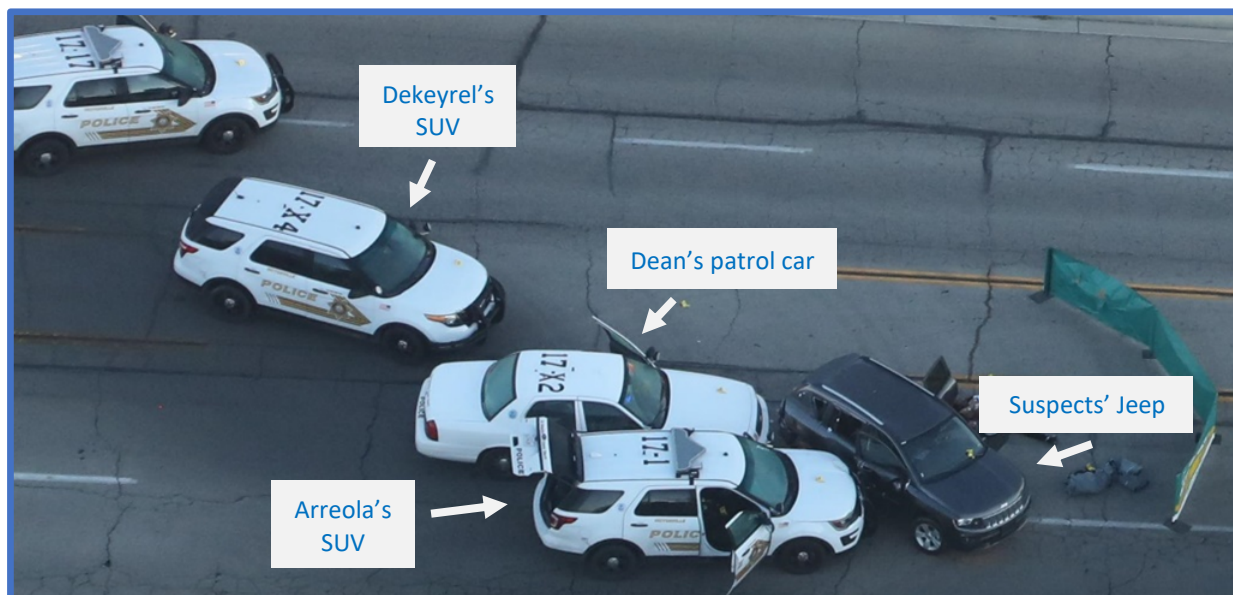


Figure 1: Aerial view of vehicle positioning.

² A PIT maneuver is a tactic by which a pursuing vehicle can force a fleeing vehicle to abruptly turn sideways, causing the driver to lose control and stop.



Left, Figure 2: Photograph indicating view from SBCSD patrol vehicles. Dean's vehicle is on the left. Arreola's SUV is on the right.

Right, Figure 3: Surveillance video still image of [REDACTED], and [REDACTED] running northbound.

Several deputies who were involved in the pursuit exited their patrol vehicles and began chasing [REDACTED], and [REDACTED] Arreola, who was still inside his car, yelled for Smith to show his hands and fired at the Jeep approximately 15 times, in successive volleys of ten and five rapid shots, before conducting a tactical reload. He exited the patrol vehicle through his shattered driver side window onto the hood of Dean's car.

Arreola ordered Smith to show his hands before firing two more times. [REDACTED], a college student who was riding with SBCSD Deputy Ociel Reyes at the time of the pursuit, said he saw a deputy using verbal commands, followed by a man moving around inside the vehicle. He then heard, but did not see, gunshots. It appeared to him that the man inside the car was being uncooperative.

Arreola moved to the ground and Deputy Christopher Dekeyrel approached to his side, armed with a rifle. Smith was positioned in the back seat of the Jeep with his back against the inside of the right rear passenger door and his feet facing outward. Smith was not armed with a weapon, but a later search of the vehicle revealed a black iPhone located on the right rear floorboard. Dekeyrel fired at Smith twice in rapid succession.³ Approximately one second later, Arreola fired a final round.⁴ Arreola fired a total of 18 rounds.⁵

³ Investigators took possession of and examined Dekeyrel's weapon, a Ruger Mini-14 rifle. The rifle was examined, test fired, and determined to be functional. It was found loaded with 20 .223 caliber cartridges in its magazine and none loaded in the chamber.

⁴ Reyes stated that he saw Dean, Dekeyrel, and Arreola approach Smith and "kind of touch[] him" before jumping back, after which he heard the final three gunshots, though he could not see who fired. No other deputy corroborated Reyes' account that Smith was touched at any point prior to his removal from the Jeep.

⁵ Investigators took possession of and examined Arreola's duty weapon, a Glock 21 Gen4 .45 caliber semiautomatic pistol. The gun was examined, test fired, and determined to be functional. It was found loaded with ten .45 caliber cartridges in its magazine and one cartridge loaded in the chamber. Arreola stated that he normally carries his gun loaded with one round in the chamber and either 14 or 15 rounds in the magazine. The magazine he removed while

Investigation

Autopsy

Los Angeles County Deputy Medical Examiner Matthew Miller performed an autopsy and ascribed the cause of Smith's death to multiple gunshot wounds. Smith suffered eight gunshot wounds, including fatal and potentially fatal wounds to the bottom left side of his skull, the left side of his forehead traveling front to back and left to right, the left side of the head to the right of the left ear, and the top of the head. He also suffered non-fatal wounds in the upper back with a back to front trajectory, in his left hand, a possibly related wound on the right side of his chest with a front to back trajectory, and to the right side of his abdomen, with a slightly front to back trajectory. The examiner found no evidence of close-range fire. A toxicology report found that cannabinoids and methamphetamine were present in Smith's blood.

Crime Scene Investigation

LASD investigators observed two patrol vehicles—Dean's and Arreola's—nearly pressed up against the Jeep, which was stopped facing southeast in the intersection of Avenue R-8 and 48th Street East. Arreola's SUV was searched and documented. The front bumper of the SUV was pushed up against the Jeep, its driver window was shattered, and the SUV's front windshield contained four bullet holes on the driver side. Crime scene investigators determined that bullets traveled in a rear-to-front northeast direction from inside the SUV moving outward and perforating the windshield. The SUV appeared to have sustained collision damage to its bumper and hood. Ten expended .45-caliber cartridge casings were found inside. Shattered glass was also visible on the driver seat and floorboard.



Left, Figure 4 – Shattered glass inside Arreola's patrol vehicle.



Right, Figure 5 – iPhone found on Jeep's right rear passenger floorboard.

Both of the Jeep's driver's side doors were open, the engine was running, and the gearshift was in drive. Investigators searched the Jeep, where they recovered multiple cell phones both within and outside the car. Two gray duffle bags were found in the back seat of the Jeep. They contained 41

reloading was later examined and found to be empty with a capacity of 13 rounds. According to Arreola, he also used an extender clip to add an extra one or two rounds to the magazine.

cell phone boxes, as well as pouches containing more than \$1,000 in cash. In addition, investigators found multiple black gloves inside the Jeep, including on the rear passenger seat and floorboard, and two California license plates located on the driver's seat of the Jeep. Investigators also found a black iPhone located on the right rear passenger floorboard of the Jeep.

Investigators searched the surrounding area and found three additional cartridge casings—one .45-caliber and two .223 Remington-caliber—as well as one bullet in the street north of Dean's and the suspect's cars. Two additional expended .45-caliber cartridge cases were found in the crosswalk just south of the Jeep. Three bullet impacts and one bullet hole were observed on a wall located on the north side of Avenue R-8, and one bullet, as well as four possible bullet fragments, were found nearby on the north sidewalk of Avenue R-8.

All ballistic materials were attributed to Arreola and Dekeyrel's firearms. A search of the Jeep did not reveal any firearms, nor were any located on [REDACTED], and [REDACTED], or along the paths by which they fled on foot from the scene.

Surveillance Video

A residence located immediately south of the pursuit termination point had a functioning video surveillance camera attached to the exterior rear of the second story facing toward Avenue R-8. The termination of the pursuit and subsequent activity was recorded. Dean's vehicle can be seen "pitting" the Jeep, with Arreola in close pursuit.



Figure 6 – Surveillance video still image of Dean's car "pitting" the Jeep, followed by Arreola.

Arreola's car hits the side of the Jeep just as individuals can be seen running out toward a wall. Three individuals run away from the Jeep. Dean is visible exiting his patrol vehicle. Deputies run across the street in pursuit of the robbery suspects. Because of glare created by the patrol vehicles' flashing lights, the surveillance video does not clearly capture any deputy firing a weapon.

Audio Recordings

Radio Traffic

Dispatchers and deputies communicated over radio throughout the course of the pursuit. Dispatchers relayed that three armed suspects had robbed a store and stolen approximately \$100,000 in merchandise. Deputies who spotted the Jeep at the start of the pursuit broadcast that there were four occupants in the suspect vehicle. Later, deputies communicated that suspects had thrown an item out the window during the pursuit, that they were driving off-road through the desert, and that they were traveling at speeds of up to 110 m.p.h. Deputies were warned that the suspects were armed. Deputies relayed that the Jeep at various times was traveling on the wrong side of the road, had run stop signs and red lights, was swerving back and forth between lanes, and had run other motorists off the road. Dean can be heard warning everyone to be careful around the vehicle, as the occupants were armed and “one might hide inside, so be cautious running past.”

The PIT maneuver was articulated over the radio, as was the pursuit of running suspects. After the incident, a deputy broadcasts, “Shots fired.” He states that a suspect was shot and injured and remained in the vehicle.

Audio Recorders

Multiple deputies were equipped with audio recorders that captured part or all of the radio traffic during the pursuit, as well as events that occurred after the PIT maneuver. Arreola and Dekeyrel’s recorders most clearly captured audio of the officer-involved shooting.

After the PIT maneuver, Arreola’s recorder captures him yelling, “Hands!” immediately followed by the sound of ten rapid gunshots. Arreola yells, “Hands, show me your hands!” followed by five rapid gunshots. Arreola yells loudly, “He has something in his hand” and “show me your hand” four times. Arreola shouts, “Show me your hand, stop moving,” followed by two rapid gunshots. Arreola repeats, “Show me your hand, stop moving!” Several voices yell for the suspect to display his hands and not move. As commands are shouted, two rapid gunshots are heard, followed by two more commands to show hands. A final gunshot can be heard approximately one second after the preceding volley. Approximately 41 seconds pass between the first and final gunshots.

A deputy, likely Arreola, states, “This guy has something. He came up in a direction. That’s why his hands slumped to the right.” Dekeyrel can be heard indicating that Smith is lying in the backseat with his hands out of view. Dekeyrel asks if Smith had a gun. Arreola replies, “I don’t know.” Dekeyrel asks Arreola if suspects were shooting at him.⁶ Arreola says, “I, this guy, one guy tried to come out.” Dekeyrel says, “Don’t say, don’t say, don’t say that, don’t say that. Stop saying that. Yeah stop talking.” Multiple voices note that the audio recorders are on. Dean can be heard saying, “Oh my god, I thought they were shooting back here.”

⁶ Dekeyrel’s inflection suggests he was asking if the suspects were shooting specifically at Arreola, rather than asking if they were shooting at all.

Witness Statements

Statements of Robbery Suspects

██████████ were interviewed by LASD.⁷ ██████████ said he had been seated in the Jeep's left rear passenger seat. He claimed he did not know who was driving or who the car belonged to. He stated that he ran from the car as soon as it stopped moving after the PIT maneuver and did not hear gunshots until he was jumping over the wall. He assumed he was being shot at and later heard three more gunshots. ██████████ said there were no guns in the vehicle when the car stopped and he did not know if any were in the car beforehand.

██████████ said he was the front passenger in the Jeep. He identified himself from a still photo at the site of the robbery, in which he could be seen holding what appeared to be a semiautomatic handgun. ██████████ claimed the gun was an Airsoft, not a real firearm, and said he placed it inside the Jeep after exiting the store. He was confident that the windows of the vehicle were always up throughout the pursuit and believed that the Airsoft remained inside the Jeep until the termination of the pursuit.⁸ ██████████ heard gunshots, as well as yelling, as he ran from the vehicle after the PIT maneuver, but did not look back as he ran and hid in a backyard until found by deputies.

██████████ admitted to being the driver and refused to identify the other men in the car. He admitted that he did not pull over despite seeing emergency lights and sirens. After the PIT maneuver, he exited the vehicle and ran northbound on Avenue R-8. He heard gunshots and felt something graze him under his left eye as he ran from the Jeep. He did not witness the shooting. ██████████ denied ever having weapons in the car.

Statement of ██████████

██████████, Smith's girlfriend, was interviewed by SBCSD deputies. She said that Smith texted her at approximately 8:16 p.m., after the pursuit had begun, stating, "I'm going to jail, love you." She called Smith, who said he was involved in a robbery and that the group was evading the police. He told her that there were approximately 12 patrol vehicles behind him, as well as a helicopter. She asked to be placed on speakerphone so she could tell the others in the Jeep that they should pull over and stop evading the police because they were putting people in danger. ██████████ said she did not believe Smith was involved in a pursuit, so she called him on FaceTime. He pointed his phone toward the back window, and ██████████ could see police lights following the Jeep. At 8:48 p.m., she spoke to Smith again. He told her they were in Palmdale and "it was over." She overheard someone in the car say, "Oh shit," and "they trying to get us," before the call disconnected.

⁷ The surviving subjects were each later charged by the San Bernardino County District Attorney's Office with kidnapping in violation of Penal Code section 207(a) and robbery in violation of Penal Code section 211. ██████████ pleaded to both charges and was sentenced to nine years in state prison. ██████████ pleaded to robbery with use of a firearm and was sentenced to 13 years in state prison. ██████████'s case remains in warrant status, but in November 2020, he pleaded to robbery with use of a firearm in Los Angeles County case no. ██████████ and was sentenced to 12 years in state prison.

⁸ No such item was recovered from the vehicle.

Deputy Statements

Each deputy involved in the pursuit of the robbery suspects was interviewed by LASD detectives. All interviews were tape recorded, reviewed and considered in this analysis. The most pertinent statements are detailed below.

Statement of Deputy Jeffrey Dean

Dean was interviewed in the early morning hours of January 11, 2018. He described hearing of a robbery at gunpoint in Victorville and joining other SBCSD deputies in pursuit of a suspect vehicle located via tracking device. The deputies attempted to initiate a felony stop. The suspect car initially began to pull to the shoulder, but then drove off and began moderately speeding.

As the deputies turned on their sirens, the Jeep sped down Mojave Drive and Dean took over as the primary patrol car in pursuit. At first, the Jeep drove above the speed limit but slowed down for stop signs. Within minutes, however, the car began to drive past stop signs without stopping and maintaining speeds between 80 and 90 m.p.h. As the pursuit continued, the Jeep drove off-road through a desert area for a period before rejoining the paved road, where it climbed to speeds of roughly 110 m.p.h. The car began brake-checking Dean by driving at 100 m.p.h. then suddenly slowing to 60 m.p.h. in what Dean perceived to be an attempt to get the deputies to rear-end each other. To avoid collision, Dean had to brake hard several times.

As the pursuit entered the city of Little Rock, the Jeep began crossing over double lines into oncoming traffic while maintaining speeds of more 100 m.p.h. The Jeep ran two to three cars off the road. Dean spotted at least three near-collisions.

The Jeep slowed down as it entered Palmdale. As it drove onto Avenue R-8, it entered the oncoming lane and slowed to between 30 and 35 m.p.h. Dean executed a PIT maneuver, which caused the Jeep to turn right at a 30-degree angle and come to a stop. Dean pushed the Jeep approximately 75 to 100 yards before stopping. He could see the passenger side of the Jeep as Arreola's patrol vehicle arrived on Dean's passenger side.

Dean said he feared that the people inside the Jeep would begin shooting out of the passenger side. He could not see inside the Jeep and worried he was in "a really bad spot" because the Jeep was stuck directly in front of him. Dean was exiting his patrol vehicle when he heard gunshots and saw the glass on the Jeep breaking. He saw that the Jeep's right rear passenger window was shattering and thought the suspects inside the vehicle were shooting at him through the window. Dean saw two suspects run northeast toward residential homes. One jumped a brick wall. Dean heard an initial volley of ten to 12 rapid-fire shots.

The gunfire stopped and Dean began chasing the two suspects he had seen run from the Jeep. He jumped up the brick wall and briefly stayed perched on it as other deputies ran toward the wall. While Dean was on the wall, with his back to the vehicles, he heard more gunfire. He turned back

toward the scene and saw two feet lying down in the backseat of the Jeep, with the feet pointed out and upward, as if the person's back was up against the interior part of the rear passenger door. Dean thought Smith was lying back in the car and firing at the deputies at the wall. He feared Smith would shoot deputies that were running past the Jeep. While atop the wall, Dean heard approximately four shots in a rapid volley.

Dean jumped off the wall and ran back toward his patrol car. Several deputies were at the driver's side of Dean's car, looking at the Jeep. He heard one say, "He's still in the back and he won't show us his hands." Dean approached the rear passenger corner of the Jeep and used his baton to break a small, triangular window in order to see inside the vehicle. Dean thought Smith was still armed, but believed he was at a safe angle to avoid being shot by anyone inside the car. He still could not see inside and backed away. He later approached with Dekeyrel and Craig and could see that Smith was nonresponsive. He did not see any weapons in Smith's hands. Medical personnel arrived and Dean photographed the scene.

Statement of Deputy Andres Arreola

Arreola was voluntarily interviewed twice—once, briefly, immediately after the incident, and in a longer interview conducted on January 29, 2018. In the initial interview, Arreola confirmed that he fired his duty weapon and conducted a tactical reload during the incident, but was not asked in detail about the incident. Interviewers observed a fresh cut above Arreola's left eye, which he believed was caused by an expended casing from Dekeyrel's rifle.

In the second interview, Arreola said that he had less than two years of experience as a deputy at the time of the incident. On January 11, 2018, he was on patrol when he learned via dispatch that a robbery had occurred and that a tracker was being used to find the getaway vehicle. He began trying to follow the direction of the tracker when he heard another deputy broadcast that three men armed with guns had stolen between \$80,000 and \$100,000 of merchandise in a store robbery. He saw a gray Jeep with paper plates and drove up next to it. Arreola aimed his patrol vehicle's spotlight at the Jeep and saw two or three men who appeared to be hiding in the back seat of the Jeep. He informed his partners via radio about the Jeep. At the same time, Arreola heard via dispatch that the car tracker was moving westbound on Mojave Drive from Route 395, which was consistent with the actions of the Jeep.

Arreola and Dean attempted to initiate a felony stop, but the Jeep failed to yield. The Jeep began driving between 30 and 40 m.p.h. and running all the stop signs and lights that it came to. The Jeep sped up to between 60 and 70 m.p.h. and continued to run red lights. Arreola was the secondary car in pursuit and described the Jeep's actions over dispatch until an airship took over. The Jeep's speed increased to between 90 and 100 m.p.h., and Arreola saw the Jeep drive on the wrong side of the road and run other vehicles off the road. Arreola saw the Jeep drive off-road and thought it would crash before it rejoined the pavement and increased its speed to between 110 and 120 m.p.h.

At times, Arreola said, the Jeep's driver would slam on the brakes, causing Dean and Arreola to

have to do so as well. Arreola said he feared that the driver was going to kill somebody due to his driving, including possibly the deputies, and that he would do anything to escape. Arreola thought the suspects were “desperate to get away” and had “no regard for life at this time.” He said he heard Dean broadcast that something louder than a rock had hit the hood of his car and that Dean thought they were gunshots.⁹ Arreola said he believed the suspects in the Jeep were shooting at Dean.

Arreola said that even as the Jeep entered the suburbs of Palmdale and began encountering more traffic, it continued to “blow” through intersections at high speeds. As the pursuit continued to Avenue R-8, Arreola saw Dean attempt a PIT maneuver on the Jeep. The Jeep did not completely spin out, and Arreola saw that Dean’s car was “stuck” to the Jeep. Arreola feared the suspects would shoot and kill Dean. He saw a man, later identified as [REDACTED], exiting the front passenger seat, which Arreola believed was previously empty. Arreola said he saw [REDACTED] move his hands toward his waistband, and believed he was going to shoot Arreola. Arreola tried to use his patrol vehicle to hit [REDACTED], but instead hit the Jeep’s passenger door. Arreola saw [REDACTED] take off running and another suspect, Smith, begin to come out behind him.

Arreola said he saw a black object in Smith’s right hand, which Smith was putting onto the seat as he came out of the car. Arreola tried to get out of the patrol car by opening his own door, but it hit Dean’s car. Arreola did not realize how close he had gotten to Dean’s car and realized he was trapped. Arreola had his seatbelt on, could not get out of the car, and had no cover. He did not know what the black object in Smith’s right hand was.

Arreola said he could not see Smith’s fingertips because they were wrapped around the item he was holding down on the seat, while his left hand was grabbing the car near the right air vent to try to get out of the car. Arreola believed somebody from the backseat had jumped into the front passenger seat to get out because Arreola’s car was blocking the right rear passenger door. Arreola said he had a clear sight of the front right passenger side and could see Smith in the front right passenger seat with his hand still wrapped around a black object. Arreola yelled, “Hand!” and saw Smith’s right hand start to move. Arreola feared Smith was about to start shooting at him.

Arreola yelled “Hands, show me your hands!” He could not remember unholstering his gun, but recalled that he began firing rounds, which was followed by glass flying everywhere. Arreola thought Smith was shooting back at him because glass was flying inward and hitting him in the face. He then saw Smith flank and turn his body left so that his back was facing Arreola. Arreola saw Smith try to jump into the backseat of the Jeep.

Arreola tried but could not get out of his patrol vehicle. He could not remember how he did so. He remembered sitting on the hood of Dean’s car with his feet facing forward. Arreola could not move backwards without turning his back on Smith. He knew Smith was alive because he saw him moving in the back seat. Arreola could only see Smith from his chest upwards and could not see his

⁹ The radio traffic recording does not reflect that Dean said he thought he was being fired upon. Dean stated, “Something just hit the front of my vehicle. It was pretty loud. Unknown if it was a rock or something from the vehicle.”

hands. Arreola said he feared that Smith would kill one of his partner deputies who were chasing the other men who had fled on foot, or that Smith would kill Arreola. Arreola saw Smith move and fired two more rounds. Arreola feared that Smith was trying to grab another gun as he could be running low on ammunition, or possibly trying to take cover to shoot again.

From the hood of Dean's patrol car, Arreola could see Smith at first through the far rear right window and then the right rear passenger window. The patrol vehicle's overheard rotating lights illuminated the inside of the Jeep, allowing Arreola to see inside, though less clearly than in daylight. Arreola jumped to the left side of Dean's car. He then saw that Dekeyrel was to his left. Arreola said he told Dekeyrel to "go out wide" because he did not want him to be shot.¹⁰ Dekeyrel and Arreola began to flank out, and Arreola said he told Dekeyrel that Smith had something in his hand. Smith was still moving as the two deputies changed their positions.

Arreola said he tried to "pie"¹¹ around the car to get a better vantage point. He could only see Smith from the stomach area up. He saw him lying with his back facing the passenger door and his feet directly in front of him. Arreola saw that Smith's left hand was close to his waistband but could not see the hand itself. Likewise, Arreola said he could see part of Smith's right arm, but could not see Smith's right hand because it was hanging low and obstructed by a duffel bag in the back seat. Arreola said he was concerned because he remembered seeing a black object in Smith's hand.

Arreola gave Smith commands to show his hands. Arreola feared he had not hit Smith and that Smith might be waiting to shoot deputies. Arreola said Smith swiveled his head left to right. Smith's right hand appeared to be still and his eyes moved back and forth between Arreola and Dekeyrel. Arreola heard Dekeyrel order Smith to show his hands.

Arreola glanced to his right, then heard two rounds fired and felt something hit his forehead. He looked back at Smith and saw that Smith was still looking at him. Arreola thought Smith may have fired another round and was not sure what had hit his head. Arreola felt he did not have time to glance away at Dekeyrel and did not know if Dekeyrel had been hit. Arreola said, "Show me your hands." He saw Smith's right arm begin to make a sudden movement upward. Arreola then fired one final round. He stated that he believed Smith was pulling up a gun. After Arreola fired, Smith slumped over and the deputies requested medical assistance.

The deputies retreated to create a stick formation. As they approached the Jeep, Arreola could see that the "threat had been eliminated" and could see nothing in Smith's hands. After deputies pulled out duffel bags in the back seat, Arreola saw a black phone by Smith's hand. The phone was in the area where Smith's hand had been hanging out of sight. Smith's fingertips were approximately one inch from the bottom of the back seat, and the phone was right by his fingertips.

¹⁰ This statement is not audible on Arreola's or Dekeyrel's audio devices.

¹¹ "Pie"ing refers to moving along an axis in a manner that minimizes an officer's exposure and maximizes his tactical advantage over possibly hostile suspects.

Statement of Deputy Christopher Dekeyrel

Dekeyrel was interviewed twice—briefly in the early morning hours after the incident, and at length on January 29, 2018. In the second interview, Dekeyrel stated that he had 12.5 years of experience as a deputy. On January 10, 2018, he learned of the armed robbery while still at the station and got in his patrol car. He knew there were three suspects involved and later, during the pursuit, heard that they were all armed with guns. Dekeyrel said he believed there was a “greater than normal” likelihood of a violent encounter because the deputies were chasing fleeing armed robbers.

Dekeyrel was the third or fourth car in pursuit of the Jeep as it drove west toward Los Angeles County. He was concerned that they were in a dangerous situation and that the suspects were placing the public and the deputies in danger out of desperation to escape. Dekeyrel was aware of the Jeep’s speeding and dangerous driving and heard the broadcasts that the car was entering oncoming traffic lanes, running multiple cars off the road, and brake-checking the deputies. Dekeyrel said he feared the Jeep might try to draw the deputies in to shoot at them, as he knew they were armed and heard that they had stolen between \$80,000 and \$100,000 in merchandise. Dekeyrel said he thought there was a good chance the suspects would try to kill a deputy.

Dekeyrel heard Dean’s broadcast that something loud had hit the front of his patrol car. Dekeyrel said he worked daily with Dean and knew him to be calm and level-headed, but he sounded worried on the radio. He worried the suspects had taken a shot at Dean in order to scare, hurt, or kill him.

In Palmdale, Dekeyrel heard the airship state that a PIT maneuver had been conducted, and as he rounded the corner onto Avenue R-8, he saw several patrol cars. Dekeyrel slowed down and got ready to exit his car. He saw people running northbound away from the Jeep and planned to run after them. As he was stopping, however, he heard between 15 and 20 rapid-fire gunshots from the direction of the Jeep and saw glass exploding out from the Jeep. Dekeyrel saw two patrol cars directly in front of the Jeep and said it appeared that somebody in the Jeep was shooting at the deputies. Dekeyrel said he came to the conclusion that the gunshots were coming from the Jeep rather than a deputy because he knew the suspects were armed, believed he saw glass flying outward from the Jeep, and the suspects’ actions to that point, particularly the dangerous pursuit, suggested they were willing to kill or be killed in order to get away.

At first, Dekeyrel could not see inside the Jeep because of the dark lighting conditions and the tint on the windows. Dekeyrel parked his car off-set so he would have some cover if anyone came out of the car shooting. He briefly stood behind his open driver door and saw a chaotic scene with deputies running in multiple directions. Dekeyrel initially saw Dean standing outside his patrol vehicle without cover, but he did not see Arreola and was not sure where he was. Dekeyrel heard yelling but was not sure what was being said. Dekeyrel approached Dean armed with his Mini-14 rifle, which he aimed toward the Jeep. He heard somebody yell, “He’s got a gun in his hand.”¹²

¹² This statement is not captured on Dekeyrel’s audio recorder. Audio recorders captured Arreola saying, “He has something in his hand.”

Dekeyrel began pulling out his handheld flashlight to place alongside his rifle. As he did so, he heard two more gunshots. At that point, he was standing approximately four to five feet from the rear left side of the Jeep. Dekeyrel said he believed an armed suspect was in the Jeep trying to kill deputies. He believed the gunshots were coming from the rear passenger window on the right side of the Jeep. Dekeyrel saw that the driver's side rear passenger door was open and saw two feet lying over the edge of the rear seat. He thought someone was lying low on the bench seat and realized that deputies had been running past the car with their backs exposed to possible gunfire.

At that time, Dekeyrel noticed Arreola joining him from the passenger side of the suspect vehicle. Dekeyrel could somewhat see the top of the Jeep's rear bench seat but could not see Smith, so he believed Smith was still lying low. Dekeyrel and Arreola began to make a pieing motion to get a better angle. He approached the Jeep with his rifle at high ready position.

As he completed the pieing motion, Dekeyrel saw Smith lying in the back seat of the Jeep with the back of his head and upper back against the rear passenger door. Dekeyrel said he saw Smith's left hand on his abdomen near his waistband and his right arm lowering toward the floorboard, where Dekeyrel saw two large black duffel bags. Dekeyrel could see Smith's elbow and arm but not his hands. He feared that Smith still had a gun in his right hand or waistband.

Dekeyrel ordered Smith to show his hands several times. Smith appeared to be looking at the deputies and made eye contact with Dekeyrel. Dekeyrel said Smith was not responding but looked "angry" and was looking back and forth between the deputies. Dekeyrel gave more commands before he saw Smith's right arm tense up. Dekeyrel thought Smith was holding something and believed that it was a gun. Dekeyrel said he fired his rifle twice because he believed Smith would shoot if Dekeyrel did not discharge his rifle. After Dekeyrel's second shot, Smith slumped to the right and stopped moving. Dekeyrel stopped firing because Smith was no longer making threatening gestures or moving.

As Dekeyrel began to retreat, he heard but did not see Arreola fire a final round. He did not know why Arreola fired the final round. He did not tell Arreola that he was moving and believed that Arreola was not aware of it. Arreola then joined Dekeyrel as they both moved to the rear left side of the Jeep. Dekeyrel could not see any more movement in the vehicle, and five deputies formed a stick. As they approached the Jeep's back seat, someone said that the suspect was down. Firefighters later pulled Smith out from the back seat.

LEGAL ANALYSIS

Law

According to California law in 2018, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. CALCRIM No. 505.

In matters involving police officers, “[t]he ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight The 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.” *Graham v. Connor* (1989) 490 U.S. 386, 396–97. An officer is not constitutionally required to wait until he sets eyes upon a weapon before employing deadly force to protect himself against a fleeing suspect who turns and moves as though to draw a gun. *Thompson v. Hubbard* (2001) 257 F.3d 896, 899.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. *People v. Toledo* (1948) 85 Cal.App.2d 577. A person is not guilty of a crime if he commits an act under an honest and reasonable belief in the existence of certain facts and circumstances which, if true, would make such an act lawful. CALCRIM No. 3406; *People v. Raszler* (1965) 169 Cal. App. 3d 1160. When a person commits an act based on a reasonable mistake of fact, his guilt or innocence is determined as if the facts were as he perceived them. *People v. Lucero* (1988) 203 Cal. App. 3d 1011.

California law at the time of the incident permitted any person to use deadly force in self-defense or in the defense of others if he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. CALCRIM No. 3470; *see also People v. Randle* (2005) 35 Cal.4th 987, 994 (*overruled on another ground in People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082. In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470.

Analysis as to Arreola

The evidence examined shows that the suspects led SBCSD deputies on a 52-mile pursuit before Dean was able to stop the Jeep with a PIT maneuver. The Jeep ran multiple stop signs and red lights, reaching speeds of 110 m.p.h. during the pursuit. The Jeep engaged in brake-checking and ran multiple cars off the road. All of the deputies following the Jeep appear to have been aware that it contained multiple armed robbers who had just stolen merchandise reportedly worth up to \$100,000. It was reasonable for the deputies to have a heightened concern about the danger posed by the occupants of the Jeep due to the perilous nature of the pursuit, coupled with the violent crime they had just committed.

The suspects’ behavior during the pursuit showed that they were desperate to avoid arrest. It was

reasonable to conclude under the circumstances that the suspects were willing to do anything to escape, including shoot at the deputies, rather than surrender peacefully. This belief was further supported by radio communications stating that the suspects were armed, communications concerning brake-checking, and a warning broadcast by Dean telling the deputies to be careful running past the Jeep because a suspect might hide inside it.

As Arreola approached the scene after the PIT maneuver, he appears to have inadvertently placed himself in a dangerous position when he drove into the Jeep, which he stated he did because [REDACTED] was reaching for his waistband. By doing so, Arreola trapped himself in his car, unable to open his door due to his proximity to Dean's car. Arreola stated that he saw a man moving in the Jeep with a black object in his hand that he could not identify. It was reasonable for Arreola to believe that the object was a gun, considering what he had heard about the suspects being armed, what he had seen during the pursuit, and Dean's warning about a suspect hiding in the Jeep. That Smith was indeed holding a black object—albeit a phone—is corroborated by the fact that his girlfriend, [REDACTED], was on the phone with him moments before the PIT maneuver, and a black phone was later found near his right hand.

Arreola's initial volley of gunfire appears to be reasonable based on his objectively reasonable fear that Smith was armed with a gun and preparing to shoot at him. Though Smith was not actually armed with a gun, a person is not guilty of a crime if he commits an act under an honest and reasonable belief in the existence of certain facts and circumstances which, if true, would make such an act lawful. CALCRIM No. 3406; *Raszler, supra*, 169 Cal. App. 3d at p. 1160. As Arreola fired his weapon outward through the glass of his windshield and window toward the Jeep, he became mistaken in the chaos about whether Smith was firing back. Shattered glass was found inside Arreola's vehicle around his seat, suggesting that glass indeed flew inward toward him as he fired his weapon, corroborating his mistaken belief that he was being fired upon. Arreola's compounded error remained reasonable given the totality of the circumstances.

Arreola exited his patrol vehicle through the driver's side window and was temporarily seated on the hood of Dean's car, facing the Jeep. He stated that he continued to see Smith moving inside the Jeep. Arreola shouted commands for Smith to raise his hands before firing two more times. [REDACTED], who was located some distance away, corroborated Arreola's account that Smith continued to move and was non-responsive to verbal commands after the initial volley of gunfire.

Finally, after joining Dekeyrel and repositioning himself at a different angle, Arreola fired one final time, after Dekeyrel fired two rounds from his rifle. Arreola stated that he fired a final time because Smith made a sudden movement with his right hand. Although Dekeyrel stated that Smith had stopped moving before Arreola's final round, Dekeyrel had looked away before Arreola fired. No evidence or testimony, therefore, could undermine Arreola's claim that Smith made a sudden movement, prompting Arreola's last gunshot. Accordingly, there is insufficient evidence to prove beyond a reasonable doubt that Arreola's final shot was unlawful.

Notably, at least one of Arreola's statements appeared to be called into question by other evidence.

For instance, Arreola claimed that he heard Dean state over the radio that he was possibly being fired upon, but the recording of the radio transmissions reveals that Dean stated that objects were being thrown from the Jeep and that items, possibly rocks, were hitting his car. Though such an inconsistency raises issues either about Arreola's ability to accurately perceive or remember events, or possibly his credibility, none rise to a sufficient level to prove beyond a reasonable doubt that Arreola's actions were unreasonable in light of the totality of the circumstances.

Analysis as to Dekeyrel

According to his statements and audio recordings, Dekeyrel had similar knowledge to Arreola regarding the violent crime the suspects had committed, the danger posed by their driving, and the fact that the suspects had been armed before the pursuit began.

Dekeyrel fired his rifle twice after Arreola had already fired 17 rounds. He stated that he did so because he believed Smith had been firing at deputies from inside the Jeep, a mistaken belief corroborated by Arreola and Dean. Dekeyrel said he saw Smith lying low on the back seat of the Jeep, and when he approached to get a better angle, he saw Smith's left hand on his abdomen near his waistband and his right arm lowering toward the floorboard. Dekeyrel said that Smith's right hand was out of sight, a statement corroborated by Arreola. Moreover, duffel bags that could have obscured the deputies' view were indeed found in the back of the Jeep. Dekeyrel stated that Smith failed to comply with several commands to show his hands, and said that he fired after he saw Smith's right arm tense up. Dekeyrel said he believed Smith was holding a gun. Like Arreola, Dekeyrel was ultimately mistaken, but the People cannot prove beyond a reasonable doubt that his mistake was unreasonable given the totality of the circumstances.

Like Arreola, Dekeyrel made at least one statement contradicted by the evidence, namely that he heard someone yell that Smith had a gun in his hand before Dekeyrel fired his rifle, which was not captured by his audio recorder. Arreola did state, however, that Smith had "something" in his hand. It is unclear whether Dekeyrel lied, made an error, or heard something that was not captured on his audio device. Though the inconsistency raises some doubts about Dekeyrel's ability to accurately perceive or remember events, or even his credibility, it does not rise to a sufficient level to prove beyond a reasonable doubt that Dekeyrel's actions were unreasonable in light of the totality of the circumstances.

CONCLUSION

For the foregoing reasons, we find that there is insufficient evidence to prove beyond a reasonable doubt that Arreola and Dekeyrel did not act in lawful self-defense when they used deadly force.