

Fatal Officer Involved Shooting of Ruben Escarrega
California Highway Patrol

Sergeant Kenneth Butler, #18066
Officer Christian Heilbut, #21273

J.S.I.D. File #20-0149



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

August 1, 2023

MEMORANDUM

TO: CHIEF CHRIS MARGARIS
California Highway Patrol
411 N. Central Avenue
Glendale, California 91203

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

SUBJECT: Fatal Officer Involved Shooting of Ruben Escarrega
J.S.I.D. File #20-0149
CHP File #MCU-0001-509-20

DATE: August 1, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 8, 2020, fatal shooting of Ruben Escarrega by California Highway Patrol (CHP) Sergeant Kenneth Butler and Officer Christian Heilbut. We find that the evidence supports a reasonable belief that deadly force was necessary.

The District Attorney's Command Center was notified of this shooting on May 8, 2020 at approximately 3:50 a.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by CHP Lieutenant Manny Gill.

The following analysis is based on reports, recorded interviews, radio transmissions, records, crime scene photographs, diagrams, ballistic reports, mobile video audio recording systems (MVARs) and other evidence submitted to this office by CHP Investigator Michael Yasutake.¹ Butler and Heilbut's voluntary statements were considered in this matter.

FACTUAL ANALYSIS

Initial Call and Response by Long Beach Police Department

On May 7, 2020 at approximately 11:17 p.m. the Long Beach Police Department (LBPD) received a 9-1-1 call from a male who stated, "I'm a pull a suicide right now at the Chevron, on Wardlow and Santa Fe." The caller stated, "I'm about to blow this bitch up right now. I'm about to blow the whole fucking place up." As the dispatch operator attempted to communicate

¹ CHP did not utilize body worn video.

with the caller, the caller continued to state that the gas station was going to “blow up” and was “on fire.” The reporting party’s phone number belonged to Ruben Escarrega.

LBPB Officer Donovan Joubert responded to the Chevron gas station at 1700 W. Wardlow Road at approximately 11:20 p.m. Upon arriving, Joubert contacted two male adults (one later determined to be Escarrega) and asked if either had called 9-1-1. Both males denied calling. Joubert contacted the gas station attendant who related that she was unaware of anyone calling 9-1-1 or needing assistance. Joubert related to LBPB dispatch that he was unable to locate anyone who needed police or medical attention. Joubert then observed Escarrega standing in the center median of Wardlow Road, talking on a cell phone.

LBPB Officer David Kasowski responded to the Chevron station to assist Joubert. Kasowski and Joubert drove up to Escarrega and attempted to contact him. When they approached him, Escarrega removed a knife from his pocket and placed the open blade to his neck yelling, “I’ll kill my fucking self. I’ll do it.”

Maintaining a distance of approximately 30-40 feet, Kasowski and Joubert attempted to speak with Escarrega to deescalate the situation. Escarrega walked westbound on Wardlow Road, away from the officers while screaming and refusing to follow their commands to drop the knife. Escarrega began walking up the ramp to the 405 freeway from Wardlow Road. Kasowski and Joubert instructed Escarrega not to enter the freeway and to walk back toward Wardlow Road, but Escarrega ignored them and walked onto the freeway. Additional LBPB personnel arrived on the scene. LBPB notified CHP dispatch of the incident and requested assistance with a traffic break to stop traffic due to Escarrega’s presence on the freeway.

Throughout the contact between LBPB officers and Escarrega, Escarrega held a knife up to his neck, threatening to kill himself and refusing to follow commands. LBPB units notified their Mental Evaluation Team and had the Long Beach Fire Department staged nearby.² Due to dim lighting conditions, LBPB units lost sight of Escarrega and believed he had left the area. LBPB supervisors instructed their units to clear the area. LBPB supervisors advised CHP dispatch that CHP units could reopen the freeway.

² There is no indication that anyone from the Mental Evaluation Team responded.

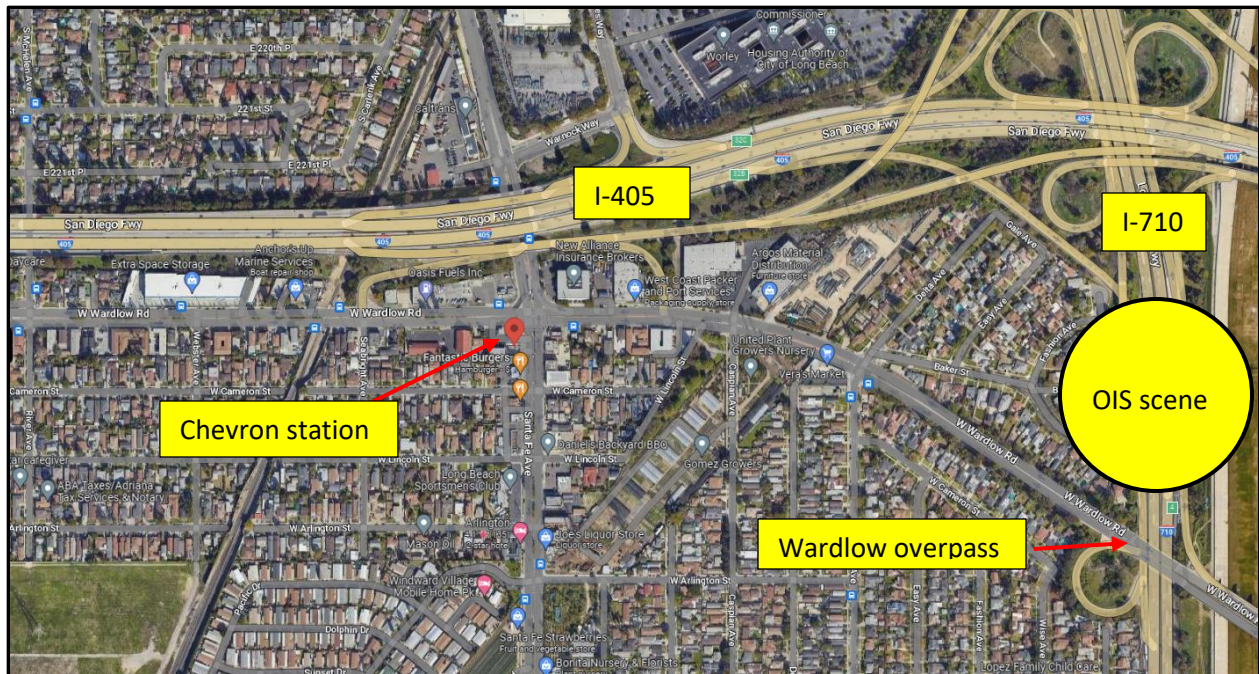


Figure 1: Google map depicting the general vicinity of the incident.



Figure 2: Image from Joubert's BWV depicting Escarrega as he entered the 405 south onramp.

CHP Response

At approximately 11:32 p.m., CHP dispatch advised CHP South LA Area units that LBPD contacted Escarrega, who entered the 405 southbound freeway from Wardlow Road and was armed with a knife. LBPD requested CHP assistance in conducting a traffic break. At approximately 11:45 p.m., CHP Sergeant Jesus Sanchez responded to the area and contacted LBPD units on the 405 freeway. LBPD officers advised Sanchez that they had lost sight of

Escarrega. CHP officers responded to the area and observed Escarrega walking east on the 405 southbound transition road to the 710 north. Escarrega then walked up the embankment to the 710 south transition road to the 405 south. CHP units followed Escarrega to the 405 south. Additional CHP units conducted various traffic breaks on the 710 and 405 to confine Escarrega and prevent any accidents.

As Escarrega walked on the transition road from the 710 north to the 405 south, several CHP officers, including Sanchez, exited their patrol cars and attempted to contact Escarrega. Escarrega refused to listen to instructions and held the knife to his neck as he continued to walk on the freeway.

When Escarrega refused to heed Sanchez's commands to stop and relinquish the knife, Sanchez deployed less-lethal bean bag rounds which hit Escarrega but had no impact, as Escarrega ran down the embankment and across all lanes of the 405 south, crossing over the center divider and crossing all traffic lanes of the 405 north. He then attempted to hide in the bushes by the embankment. CHP officers saw him and ordered him to put down the knife. Escarrega ignored the commands, walked onto the 405 north, crossed all lanes, climbed over the center divider, and then crossed all lanes of the 405 south, all the while holding the knife to his neck. Escarrega walked north in the southbound lanes of the 405, heading toward the 710 freeway. He climbed down an embankment onto the 710 south and then walked south on the 710, nearly being struck by multiple vehicles. He then climbed the center divider and walked south in the middle of the 710 north. CHP officers continued to follow Escarrega on foot and in vehicles.

Sanchez, Butler, Officer Abraham Kim and Officer John Valenzuela stopped their patrol cars in the northbound lanes of the 710 and contacted Escarrega on foot. For approximately 40 minutes, Sanchez and Valenzuela alternated talking to Escarrega to deescalate the situation. The entire time, Escarrega held the knife to his neck. Sanchez called CHP dispatch to request a crisis negotiator from an allied agency, but none arrived. Meanwhile, other CHP officers including Heilbut, Daniel Howells, and Adam Phillipson positioned themselves on the southbound side of the 710, behind the center divider, in positions to use less-lethal and lethal force if necessary.

After approximately 40 minutes of Sanchez and Valenzuela attempting to deescalate the situation, Escarrega started yelling and stabbing himself with the knife in his neck and throat while advancing toward the officers on the southbound side, by the center divider. Suddenly, Escarrega changed directions and ran toward Sanchez, Butler, Valenzuela, and Kim, while holding the knife. Sanchez (positioned directly to Escarrega's south), and Howells and Phillipson (by the center divider) deployed less-lethal bean bag rounds at Escarrega but they had no effect. Kim and Valenzuela deployed their tasers and about a second later, Butler and Heilbut discharged their duty firearms, hitting Escarrega in the torso. Escarrega continued to run several seconds after the gunfire, but then fell to the ground, several feet away from the officers, with the knife still in his hand. CHP officers approached him, removed the knife, and began rendering medical aid. Fire department personnel treated Escarrega at the scene and then transported him to the hospital where he succumbed to his injuries. The autopsy report indicates that the cause of death was both stab wounds and gunshot wounds.

MVARS

Several CHP patrol cars were parked at the scene, facing north on the 710 north toward where Escarrega and the officers stood during the standoff. Two of those patrol cars had MVARS that captured much of the 40 minute audio where Sanchez and Valenzuela alternated talking to Escarrega as he stood holding a knife to his neck. The MVARS also recorded video footage; however, the dark lighting conditions and poor clarity make it difficult to see the individuals and their actions. Because Escarrega was wearing light colored shorts, his figure can be tracked throughout the video footage. Due to the officers' dark uniforms, it is difficult to see where they stood in relation to Escarrega right before and during the shooting. The raised pavement markers on the lanes of the freeway, known to CHP as "bott dots" provide a reference point indicating that Escarrega was standing approximately one and a half "bott dots" away, or approximately 36 feet, from the CHP officers before he advanced on them.

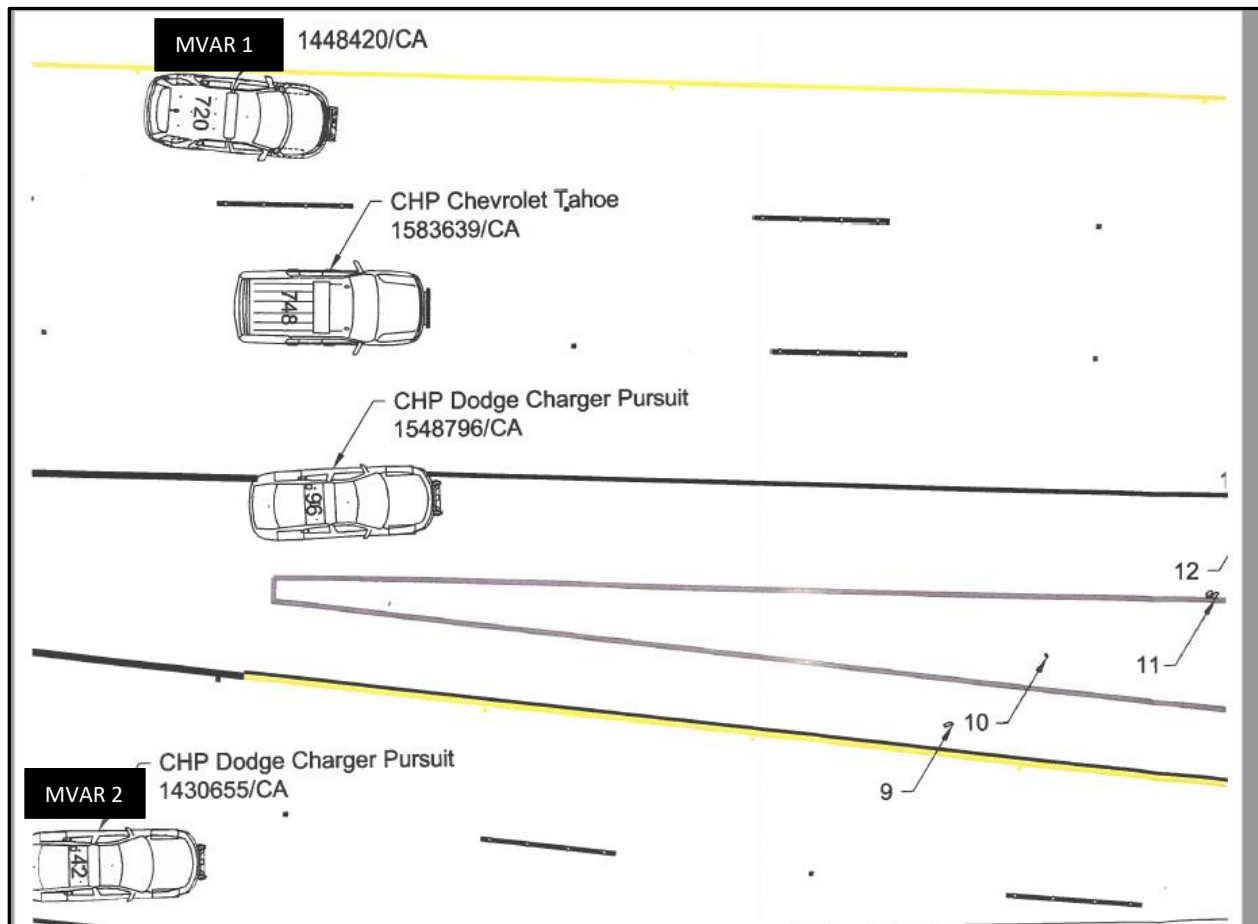


Figure 3: Portion of MAIT map indicating where the patrol cars with the MVARS were parked facing north on the 710 north, toward where Escarrega and CHP officers stood during the standoff.



Figure 4: Image from MVAR 1 showing where Escarrega and CHP officers stood during the standoff.

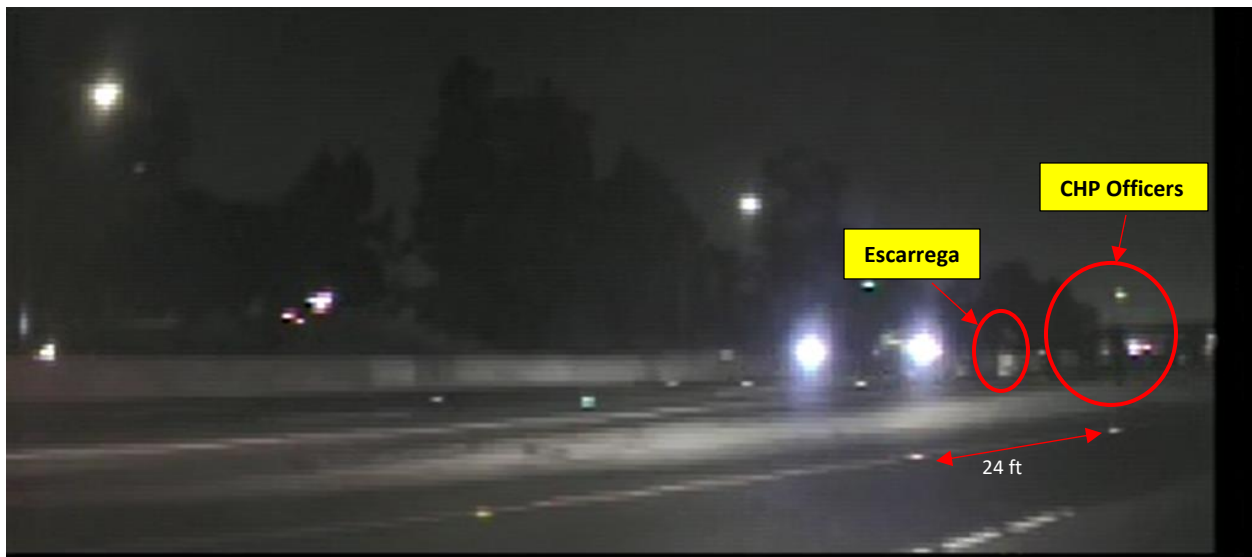


Figure 5: Image from MVAR 2 showing where Escarrega and CHP officers stood during the standoff.

During the standoff, Sanchez and Valenzuela alternated talking to Escarrega. They attempted to calm him down and deescalate the situation. They told him that they were there to help him, not to hurt him. Escarrega said that he did not want their help. They offered him water and an energy drink but Escarrega would not agree to put down the knife to retrieve the beverages. At one point, Escarrega asked to “get my son out here.” Valenzuela said he would not bring Escarrega’s son to a situation where his father held a knife to his neck. Valenzuela told Escarrega that he would take Escarrega to the hospital and he could see his son there. About 35

minutes into the standoff, Escarrega ceased responding to Valenzuela and Sanchez. Escarrega began grunting and the MVARs capture his blurry figure running toward the center divider, then changing directions and running toward where Sanchez, Valenzuela, Butler and Kim stood. The sound of the less-lethal shotgun rang out, followed by the sound of multiple rounds of gunfire in rapid succession. Escarrega continued to run toward the officers after lethal shots were fired, and then fell to the ground several feet away from the officers. Due to the blurry and dark footage, it is difficult to see what Escarrega was doing with the knife while he was running. After he fell to the ground, officers commanded him to drop the knife. He did not react. Seconds later, officers encircled him, and the fire department arrived soon after that.



Figure 6: Image from MVAR 1 depicting Escarrega running toward the officers.³

³ It is easier to see Escarrega's running movements in MVAR 1 versus MVAR 2, although both MVARs are dark and blurry.



Figure 7: Image from MVAR 1 showing Escarrega after he was shot but before he fell to the ground.

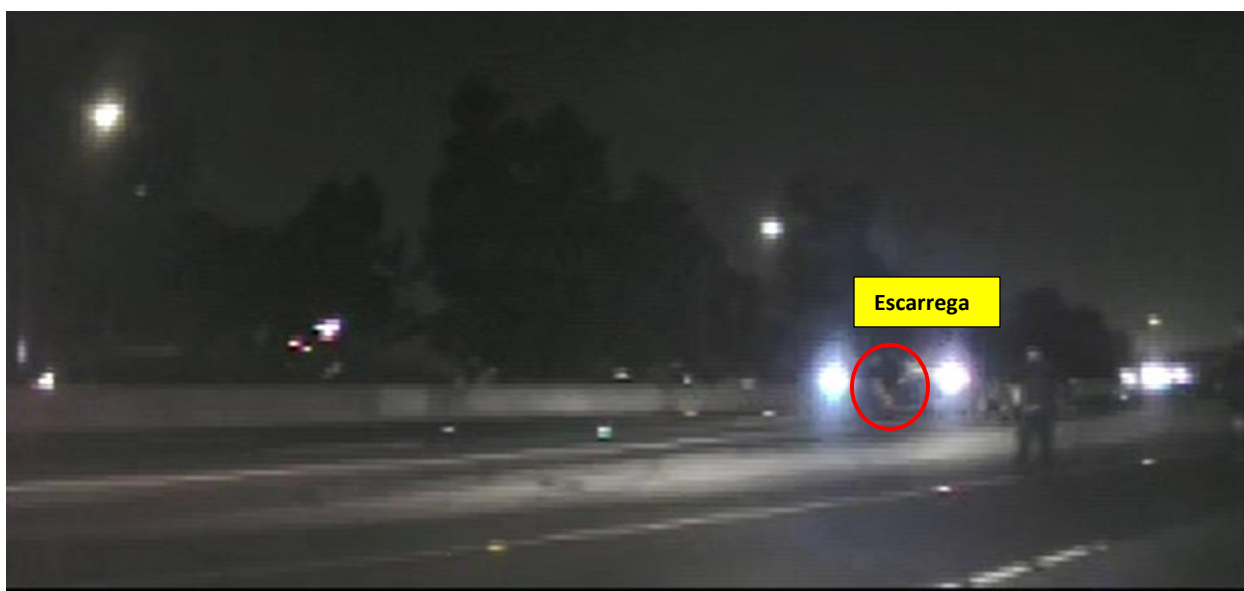


Figure 8: Image from MVAR 2 showing Escarrega after he was shot but before he fell to the ground.



Figure 9: Photograph of Escarrega's knife at the scene.

MAIT DIAGRAM

CHP MAIT investigators conducted a search of the scene for evidence. They located, marked and diagrammed various items of evidence, including casings from Butler and Heilbut's firearms and blood spatter pools. While the MAIT diagram does not indicate where the CHP officers stood when lethal force was used, their casings give some indication of their whereabouts. The blood spatters indicate the path Escarrega traversed. The path of the blood spatter is consistent with Escarrega advancing toward the officers to his south.⁴

⁴ It is difficult to determine precisely where Escarrega was when he was shot by lethal force, given that based on the MVARs, he continued running after he was hit. However, the blood spatter pattern on the MAIT diagram indicates that he was shot somewhere between item #67, which indicates the blood spatter farthest away from the officers standing on the 710 north, and item #32, which indicates the largest pool of blood, where he fell to the ground. That he was moving toward the officers is consistent with the MVARs footage and officer statements.

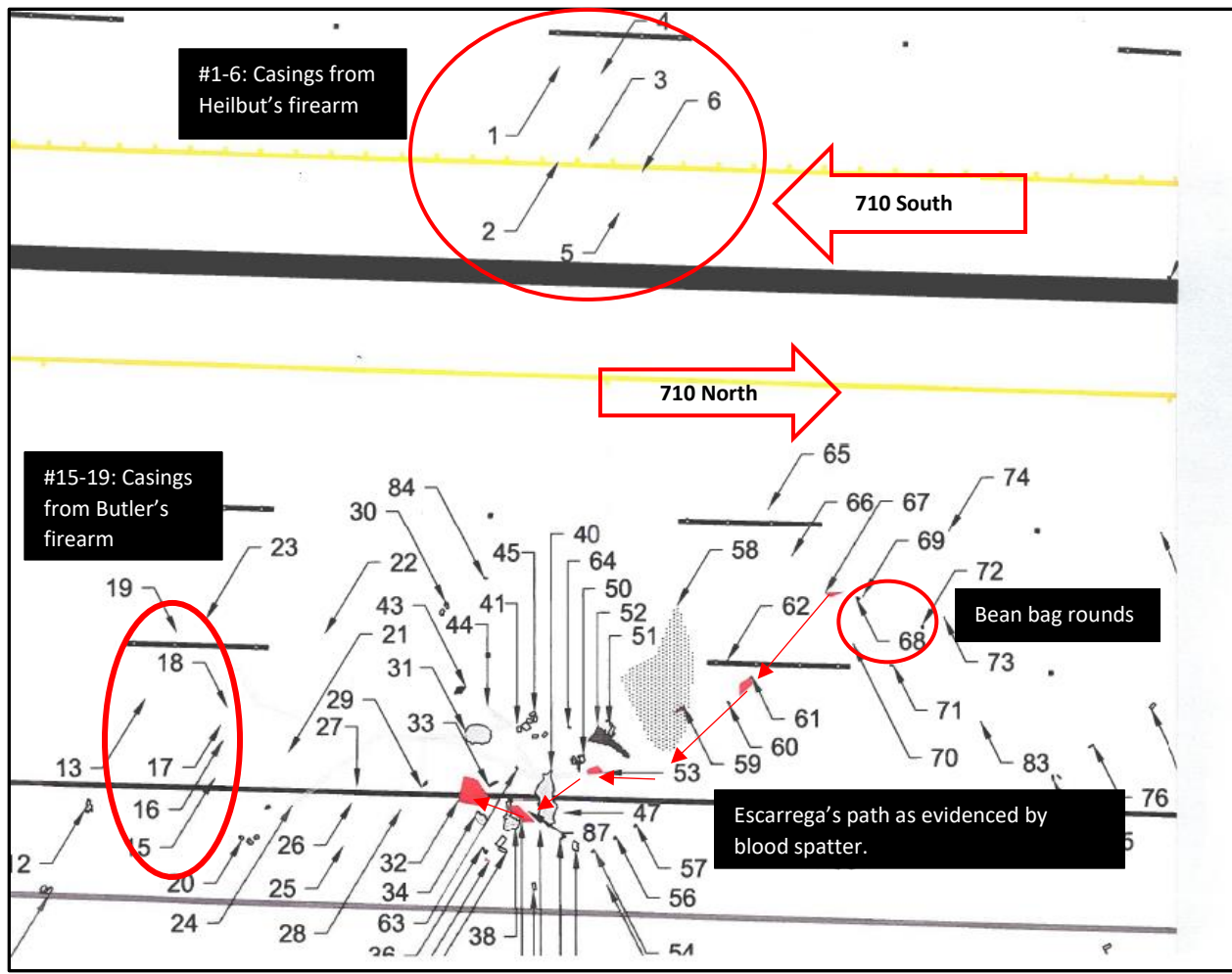


Figure 10: Portion of MAIT diagram depicting items of evidence at the scene.

Item	Distance to (rounded to nearest 10 th of a decimal foot)							
	Item 29	Item 32	Item 53	Item 59	Item 61	Item 67	Item 68	Item 72
15	17.9	22.0	32.4	40.0	45.9	54.9	56.8	61.5
16	17.5	21.7	31.8	39.0	44.7	53.4	55.3	60.2
17	18.1	22.2	32.1	39.2	44.9	53.3	55.3	60.3
18	18.0	22.1	31.7	38.5	44.2	52.4	54.4	59.5
19	24.6	28.5	37.5	43.4	48.7	56.0	58.0	63.4
21	11.9	16.1	26.2	33.6	39.4	48.3	50.2	55.0

Figure 11: MAIT calculations of distances in feet between Butler's casings (vertical column) and the blood spatters (horizontal row). The table also indicates locations of items #68 and #72, the bean bags that were fired from the less-lethal shotguns. The location where the bean bags fell is consistent with the application of less-lethal force before lethal force.

Butler's Voluntary Statement

On May 8, 2020, Butler provided a voluntary statement to Investigators Yasutake and Chris Gingras. Butler had been a peace officer for approximately 15 years and was assigned as a CHP

South LA Field Sergeant. On the date of the incident, he recalled sitting at his desk when a radio call came in indicating that LBPd requested a traffic break for a possibly suicidal pedestrian on the freeway. Sanchez, who was sitting next to him, left to respond. Butler stayed at his desk until he heard an update indicating that the incident was escalating, and the subject, Escarrega, was armed. Butler responded in his patrol car to the general vicinity. While en route, he heard the radio broadcast that Escarrega was running across traffic lanes, armed with a knife. As Butler drove, the radio dispatch continued to provide updates of Escarrega's location. The radio broadcasted that Escarrega was running across the lanes on the 405 southbound. Butler drove north on the 405, turned around at the first exit, and then immediately started running a traffic break. Butler held traffic for a couple minutes before hearing that Escarrega was now on the 710. Butler released the traffic break and drove to the 710 north, north of Wardlow Road, where Sanchez had arrived and contacted Escarrega. Butler saw that Sanchez was armed with the less-lethal shotgun, and another officer, whose name Butler could not recall, carried a taser.

Butler was concerned about officer safety because Escarrega had been running across lanes of traffic with a knife. When Butler joined Sanchez, Sanchez was talking to Escarrega, attempting to persuade him to drop the knife. Valenzuela joined them and began talking to Escarrega. The officers offered Escarrega water and an energy drink in exchange for dropping the knife. Escarrega held the knife to his neck and did not comply with the officers' directions to drop the knife. For awhile, Butler thought the negotiations were productive. Valenzuela had brought up Escarrega's family and Escarrega started talking about his son and it seemed as though they were making progress. But after some time, Escarrega grew silent and it became clear that things were "going south." Escarrega pushed the blade of the knife against his neck. The officers moved closer to get in a better position to deploy the less-lethal shotgun and tasers. Butler was thinking about how quickly Escarrega could advance on them before Sanchez could draw his firearm, so Butler drew his duty firearm. At this point, Escarrega was about 40 feet from officers. Escarrega then started jamming the blade of the knife into his neck, chest, and stomach, while yelling and advancing toward the officers. Escarrega initially moved toward Butler's left, in the direction of the center divider, but then he turned toward Butler and Sanchez, coming directly toward them.

Sanchez fired less-lethal bean bag rounds and two unknown officers on Butler's left deployed tasers.⁵ Escarrega continued stabbing himself while aggressively advancing toward the officers. Butler fired his duty firearm. He fired because he was concerned for his and the other officers' lives given the less-lethal force did not stop Escarrega from advancing on them with the knife. Butler thought that if Escarrega was willing to stab himself then he would be willing to stab the officers. According to Butler's training, Escarrega had advanced close enough to where he could have stabbed the officers before they could draw their lethal weapons.⁶ Butler was the only officer with lethal force out in that position, so he fired. Butler thought he fired eight rounds but

⁵ Officers Valenzuela and Kim.

⁶ According to CHP Investigator Yasutake, CHP training instructs its officers that when a subject is within 21 feet, advancing toward an officer, the subject can attack with a knife before the officer can draw his firearm.

was not certain. Escarrega fell to the ground with the knife still in his hand. Officers secured the knife and called for fire department personnel to render aid.

Heilbut's Voluntary Statement

On May 8, 2020, Heilbut provided a voluntary statement to Investigators Yasutake and Gingras. Heilbut had been a CHP officer since 2016. He was on patrol in Compton when a call came through dispatch indicating that LBPd was with a suicidal subject, Escarrega, on the freeway and requested a traffic break at the Wardlow off-ramp. Dispatch advised that Escarrega held a knife to his throat or neck. Heilbut heard Sanchez broadcast over the radio that he was with some LBPd units on the southbound 405 at Santa Fe Avenue. Heilbut ran a traffic break on the north side of the 405. Sanchez then advised that LBPd was leaving the scene. One of the CHP training units advised that they had located Escarrega on the 405 south/710 north transition road, so Heilbut turned around and headed that way. While driving on the transition road, Heilbut heard Sanchez on the PA system trying to talk to Escarrega, telling him to drop the knife and the officers would help him. Heilbut exited his patrol car and saw Escarrega moving toward the main portion of the traffic lanes of the 405 south. Sanchez deployed a less-lethal shotgun, striking Escarrega in the chest, but it had no effect, as Escarrega ran across all southbound traffic lanes and climbed over the center divider and then ran across the northbound lanes.

Heilbut returned to his patrol car and drove to the 405 north, arriving to the area where Escarrega ran across the lanes of traffic. Another CHP unit ran a traffic break and held the transition road. Heilbut then saw Escarrega emerge from the embankment onto the 405 north, holding a knife up to his neck. Escarrega climbed the center divider and ran across the southbound lanes, walking against traffic. Heilbut got on the PA system and yelled, "Hey, drop the knife. Set the knife down. Walk away from it and lay on the ground so we can get you help." Escarrega said something along the lines of, "Just shoot me." Another officer said that no one wanted to shoot him; they just wanted to get him help.

Escarrega then descended another embankment toward the 710 freeway, so Heilbut drove to the 710 south. Heilbut exited his patrol car and attempted to contact Escarrega on the 710 south, but Escarrega started running across all the lanes toward the center divider. Heilbut yelled at him to stop running and drop the knife. Escarrega continued southbound, jumped the center divider and walked southbound in the northbound lanes. Heilbut followed him, telling him to drop the knife. A unit ran a traffic break on the 710 north and another unit held the lanes on the 710 south and transition roads. Heilbut and other units gathered on the southside of the 710, discussing a tactical plan, including who would be assigned less-lethal, lethal, and who would be the contact team. Heilbut explained the tactical plan to Sanchez who approved. Heilbut waited on the southbound side, behind the center divider, along with several other units, while officers on the 710 north attempted to communicate with Escarrega.

Sanchez spoke to Escarrega, trying to persuade him to drop the knife. Valenzuela started talking to Escarrega as well. Escarrega requested water and Valenzuela retrieved water. Escarrega then requested a coke. Valenzuela offered Escarrega an energy drink but Escarrega did not respond. Escarrega asked for his son and then changed his mind. Heilbut was not focused on what

Escarrega was saying because Heilbut was trying to ensure the units positioned with him on the south side were all on the same page regarding the tactical plan. Heilbut and the officers on the south side attempted to get closer to Escarrega so that if less-lethal weapons were required, they would be effective. Escarrega kept telling Sanchez and Valenzuela to have the officers “back off.” It seemed to Heilbut that when Escarrega changed his mind about his son, he suddenly stopped communicating and became “tenser” and more “furtive.”

The officers to Heilbut’s left and right each had less-lethal weapons. Heilbut had lethal coverage. Heilbut called dispatch requesting a K9. They also requested an airship, crisis negotiator, and LBPD’s assistance, but none had arrived.

At some point, Escarrega started jabbing his neck with the knife and running toward the officers in the northbound lanes: Sanchez, Butler, Kim, and Valenzuela. Escarrega advanced at a “full sprint.” Heilbut estimated that before Escarrega began running, he was approximately 20 yards (or 60 feet) from officers in the northbound lanes.⁷ Heilbut told the less-lethal units next to him to tase him because Escarrega was stabbing himself. However, Escarrega continued to advance at a “dead sprint with a knife.” Heilbut was worried that Escarrega would stab the officers so Heilbut discharged his duty weapon.

Escarrega fell with the knife still in hand. The officers removed the knife from Escarrega and handcuffed him. The fire department arrived and rendered medical aid.

Sanchez’s Statement

On May 8, 2020, Sanchez provided a voluntary statement to Investigators Yasutake and Gringas. Sanchez had been a CHP officer for 18 years. On the date of the incident, Sanchez responded to a radio call of LBPD requesting assistance with a pedestrian on the freeway armed with a knife. Sanchez arrived at the scene and was informed by LBPD that they had lost sight of the subject, later identified as Escarrega. After releasing the CHP traffic break, Sanchez monitored the radio traffic from a CHP unit that had contacted Escarrega on the 710 north/405 south transition road. Sanchez responded to the area and located Escarrega walking on the 405 south, holding a knife. Sanchez coordinated with responding units in an attempt to force Escarrega off the freeway. Escarrega walked toward Sanchez. Fearing for his safety, Sanchez deployed two to three less-lethal beanbag rounds at Escarrega, striking him. The rounds were ineffective as Escarrega continued walking across the southbound lanes of the 405, climbed the center divider wall, and ran across the northbound lanes of traffic.

Sanchez lost sight of Escarrega, exited the freeway at Pacific Avenue, and reentered the 405 north to conduct a traffic break. Sanchez heard over the radio that Escarrega ran back across the traffic lanes of the 405 and onto a transition road. Sanchez then observed Escarrega in the northbound lanes of the 710 so he re-entered the 710 north and started conducting a traffic break until a CHP unit took over his position. Sanchez drove north and contacted Escarrega in the number three lane of the 710 north. Escarrega held a knife to his throat.

⁷ The MVARs and other officer statements support that when Escarrega began running, he was much closer than 60 feet to the officers on the 710 north, although it is impossible to gauge the exact distance.

For approximately 40 minutes, Sanchez attempted to speak with Escarrega. Valenzuela joined Sanchez in trying to communicate with Escarrega. After awhile, it appeared to Sanchez as though Escarrega was “hyping” himself up and no longer listening to the officers. Escarrega began yelling, stabbing himself, and advancing toward Sanchez. When he advanced toward Sanchez, the knife was in his left hand and he was no longer stabbing himself. Sanchez did not have a lethal weapon, but he held the less-lethal bean bag shotgun and fired two to three rounds. The rounds were ineffective and Escarrega continued moving toward Sanchez, with the knife in hand. Sanchez heard a taser deploy and almost instantaneously, heard gunshots. Escarrega fell to the ground with the knife still in his hand.

Sanchez felt that his life was in danger when Escarrega moved toward him with the knife. Given Escarrega had already stabbed himself, Sanchez thought he would not hesitate to use the knife on the officers. Sanchez estimated that he stood approximately 30 feet from Escarrega right before Escarrega began advancing. When Sanchez fired the less-lethal shotgun, he estimated Escarrega’s distance to be approximately 25 feet. Sanchez fell to the ground approximately 15 feet away from the officers. Sanchez stated that Escarrega “closed the distance pretty quickly.”

Valenzuela’s Statement

On May 8, 2020, Valenzuela provided a voluntary statement to Investigators Yasutake and Gringas. Valenzuela had been a CHP officer for approximately three years. He is certified as an Officer Safety Instructor and Active Shooter Instructor.

On the date of the incident, Valenzuela was working an overtime detail with Officer Kim, driving northbound on the 710 when a call came through the radio regarding a suicidal pedestrian on the 405 freeway near the 710 interchange. Valenzuela and Kim responded to the area. There was some confusion regarding where to set up the traffic breaks given the subject was on the move. Valenzuela and Kim conducted a traffic break at the 710 north/405 transition road. Valenzuela first observed Escarrega as Escarrega was walking on the southbound 405 toward the Pacific Avenue off-ramp. Escarrega was holding something to his neck but at the time, Valenzuela could not determine what it was. Over the radio, a unit advised that the object was a knife. The radio broadcasted updates regarding Escarrega’s location, indicating that he was now on the 405 north.

Valenzuela and Kim exited the freeway at Pacific Avenue, turned around and entered the 405 north. They pulled their patrol car over to the shoulder as soon as they entered the freeway because Kim saw Escarrega in the bushes on the right shoulder area. Other responding units shut down the 405 north but Escarrega somehow got onto the 710 freeway.

Along with Sanchez, Phillipson, and Howells, Valenzuela and Kim ran a traffic break to shut down the 710 north. Valenzuela saw patrol cars stopped ahead of them and turned around to stop the motorists from advancing. Valenzuela positioned his car in the number one lane of the 710 north. Butler, Sanchez, Phillipson, and Howells were parked alongside Valenzuela and Kim. Valenzuela exited the patrol car and along with several other officers, contacted Escarrega, who was standing in the number three lane holding a knife to his neck. Sanchez was talking to Escarrega, trying to convince him to drop the knife. The officers stood approximately 30 feet

away from Escarrega but backed away at various times to make Escarrega feel less threatened. Valenzuela and Kim withdrew their tasers. Butler held his duty pistol. Additional CHP units were engaged in shutting down the surrounding transition roads.

Sanchez and Valenzuela attempted to negotiate with Escarrega for over 30 minutes. The whole time Escarrega held the knife to his neck and throat. Valenzuela assumed the communication when Sanchez got on the phone to try to coordinate crises negotiators with different agencies. Valenzuela explained to Escarrega that no one wanted to hurt him. Valenzuela told him they would stay out on the freeway all day and into the morning to help him. Valenzuela felt as though they would make progress but then Escarrega would regress and become agitated. At one point Escarrega asked for water. Valenzuela asked him if he would put the knife down if Valenzuela brought him water. Escarrega said he would think about it. Escarrega then said that he wanted to see his son. Valenzuela attempted to use his son as a bargaining tool, but it ultimately failed. Escarrega kept stating that the officers were coming too close to him when in fact, they were not.

After approximately 30 minutes of communicating, Escarrega seemed to “check out.” He started stabbing himself with the knife in the neck while making growling noises. Suddenly, he charged at the officers, with the knife pointed in the officers’ direction.

Valenzuela deployed his taser twice as Escarrega advanced toward him. Valenzuela could not recall if Escarrega was running but he characterized his movements as advancing “rapidly.”⁸ Valenzuela estimated that he deployed his taser from a distance of approximately 20 feet from Escarrega. Valenzuela fired his taser because Escarrega charged directly toward Butler, who was to Valenzuela’s left. Sanchez was to Valenzuela’s right, holding the less-lethal shotgun. Kim was to Sanchez’s right. Valenzuela fired the taser rather than his lethal firearm because Butler was assigned lethal coverage. Butler fired his duty firearm about a second after Valenzuela deployed the taser. Valenzuela estimated that Escarrega was about 20 feet or less from the officers when Butler fired. Escarrega fell to the ground about ten feet away from the officers, still holding the knife.⁹ While on the ground, Escarrega stabbed himself in the neck. Officers staged on the southside of the 710 approached Escarrega and handcuffed him. Paramedics standing by came to the scene to treat him and transport him to the hospital.

Kim’s Statement

On May 8, 2020, Kim provided a voluntary statement to Investigators Yasutake and Gringas. Kim had been a CHP officer for seven years. On the incident date, he was partnered with Valenzuela, who drove the patrol car. They were driving north on the 710 freeway when a call came through the radio requesting a traffic break because LBPD was dealing with a possibly suicidal subject walking on the freeway. Moments later, LBPD communicated via the radio that they lost contact with the subject. An assisting unit relayed to dispatch that they saw Escarrega

⁸ The MVARs show that Escarrega was running.

⁹ That Escarrega continued to close the distance after being shot by lethal force is consistent with the MVARs.

on the freeway. CHP units began responding. Dispatch requested more units to assist with traffic breaks around the 710 and 405 freeways. Kim and Valenzuela responded.

When Kim and Valenzuela arrived at the scene, they conducted a traffic break on the transition road between the 710 and 405. While holding that road, Kim spotted Escarrega on the right shoulder heading toward the Pacific Avenue exit. Kim advised units of his observation. Additional CHP units arrived and Escarrega started running south on the 405 where Sanchez attempted to subdue him with a less-lethal shotgun to no avail. Escarrega cut through traffic lanes and ended up on the right shoulder of the 405 north. Kim and Valenzuela went to the 405 north to try to locate Escarrega. Kim told Valenzuela to pull over to the shoulder by the embankment because Kim observed Escarrega cut through the embankment to the 405 north and then cross the center divider to the 405 south. Kim and Valenzuela followed him. Kim heard units on the radio communicate that Escarrega was now on the 710 north.

Kim and Valenzuela parked their patrol vehicle in the number one lane of the 710 north. Butler and Sanchez were parked in the number two and number three lanes. Sanchez and Valenzuela stood on the 710 north, attempting to talk to Escarrega. Kim approached Sanchez and Butler to assist. Kim saw that Escarrega held a knife to his throat with his left hand. Kim estimated that the officers maintained an initial distance of approximately 50 feet from Escarrega. Sanchez and Valenzuela talked to Escarrega for quite a long time, attempting to calm him down. At some point, Escarrega asked for water and a coke. Valenzuela grabbed a water and Kim's energy drink from the patrol car and brought them out, trying to persuade Escarrega to drop the knife and take the beverages. Escarrega would not put the knife down. Escarrega kept telling the officers standing on the 710 south to "back up." Valenzuela and Sanchez tried to refocus Escarrega's attention. Escarrega asked for his son but the officers explained why that was a bad idea. Units positioned on the south of the 710 crouched down behind the center divider in less-lethal and lethal force positions, in case the situation further escalated.

Escarrega started yelling and stabbing himself in the neck. He then ran toward the officers standing to his south (Kim, Valenzuela, Sanchez, and Butler). As he ran toward the officers, he stabbed his own neck, then extended the knife out, then stabbed his own neck again, then extended the knife out, so Kim did not know if he aimed to just stab himself or intended to stab the officers as well. That he was advancing toward the officers indicated to Kim that he might try to stab the officers. Sanchez fired less-lethal beanbag rounds toward Escarrega. The rounds appeared to hit him but had no effect. Escarrega continued yelling and rushing toward the officers, closing the distance as he continued to stab himself. Kim and Valenzuela simultaneously deployed their tasers but Escarrega continued to close the distance. When Escarrega advanced to within approximately ten feet of the officers, Butler fired his duty weapon. Kim only heard the shots fired by Butler to his right, and not Heilbut's shots by the center divider. Escarrega went down to the ground with the knife still in his hand. Officers from the south approached and handcuffed him.

Ballistics Evidence

Butler and Heilbut fired a total of 19 rounds of lethal ammunition at Escarrega, six of which struck him.¹⁰ Additionally, Sanchez, Howells, and Phillipson deployed multiple bean bags from the less-lethal shotguns. Valenzuela and Kim deployed their tasers.

Autopsy

An autopsy was conducted by Deputy Medical Examiner Dr. Joseph Vallone on November 11, 2020. The autopsy revealed 23 stab wounds (13 on the chest and 10 on the neck), three of which perforated the heart. The autopsy also documented six gunshot wounds, perforating the stomach, left lung, diaphragm, colon and right kidney. Dr. Vallone noted that the cause of death was both stab and gunshot wounds. Two of the rounds striking the subject could be considered life threatening; however, three of the four stab wounds to the heart had caused severe blood loss into the left chest cavity and would be fatal. In consideration of the rapidly lethal nature of the three self-inflicted stab wounds through the heart, and given the totality of the circumstances known to Dr. Vallone, he concluded that the manner of death was suicide.

The toxicology results indicate the presence of amphetamine and methamphetamine in Escarrega's system.

Additionally, four abrasions were located on Escarrega's left torso, pelvis abdomen area and right chest, likely caused by the less-lethal rounds. One taser probe was removed from his right chest skin.

LEGAL ANALYSIS

A peace officer is justified in using deadly force upon another person when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or to another person; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Penal Code section 835a(c)(1)(A) and (B).

A threat of death or serious bodily injury is imminent when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. Penal Code section 835a(e)(2).

¹⁰ The ammunition count indicates that Butler fired 13 rounds and Heilbut fired six.

When considering the totality of the circumstances, all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force is taken into consideration. Penal Code section 835a(a)(4) and (e)(3). The peace officer's decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Penal Code section 835a(a)(4).

The jury instructions for self-defense state that 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.

The evidence examined in this case shows that CHP officers responded to a radio call by LCPD of a pedestrian armed with a knife, walking across the 405 freeway, thereby posing a danger to both himself and passersby. When officers contacted Escarrega, he was holding the blade of the knife to his own neck and appeared agitated. The initial less-lethal rounds deployed by Sanchez did not stop Escarrega from traversing across the freeway with the knife. Officers spent approximately 40 minutes negotiating with Escarrega to put the knife down, offering him aid, water, beverages, and attempting to deescalate the situation. Escarrega would not comply and failed to put down the knife. After approximately 40 minutes of conversation, Escarrega stopped responding to the officers and began stabbing himself in the neck and throat while grunting. He ran toward the officers. Sanchez deployed the less-lethal shotgun in an attempt to stop Escarrega both from harming himself and from closing the distance between himself and the officers. Despite being hit by the less lethal bean bags, Escarrega continued to stab himself and run toward the officers, rapidly closing the distance between them. When he was approximately 15 to 20 feet away from the officers, Butler and Heilbut simultaneously fired their duty weapons. Escarrega continued to advance toward the officers, even after being shot, but then fell approximately ten feet from the officers, with the knife still in hand.

At the time Escarrega advanced to within 15 to 20 feet from the officers, less-lethal force had failed and there was nowhere for the officers to retreat to or seek cover, as they were in the middle of the freeway. That Escarrega ran toward the officers, with a knife either stabbing himself or extended toward the officers, and had no qualms about stabbing himself in the neck, supports the officers' stated beliefs that they feared he intended to stab them as well. He continued to close the distance even after being shot. Escarrega showed no signs of stopping his advancement toward the officers until he fell to the ground, with the knife still in hand. This evidence supports a reasonable belief that deadly force was necessary to defend against the threat of imminent serious bodily injury or death.

CONCLUSION

Based on the available evidence, we conclude that Butler and Heilbut's decision to use lethal force was lawful.