

**Officer Involved Shooting of Miguel Coccho
El Monte Police Department**

Officer Wyatt Reneer, #664

J.S.I.D. File #17-0170



JACKIE LACEY

District Attorney

Justice System Integrity Division

May 17, 2019

MEMORANDUM

TO: CHIEF DAVID REYNOSO
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CAPTAIN KENT WEGENER
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Monterey Park, California 91755

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

SUBJECT: Officer Involved Shooting of Miguel Coccho
J.S.I.D. File #17-0170
E.M.P.D. File #17-015070
L.A.S.D. File #016-00035-3199-056

DATE: May 17, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 3, 2017, non-fatal shooting of Miguel Coccho by El Monte Police Department (EMPD) Officer Wyatt Reneer. It is our conclusion that Officer Reneer acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of this shooting on April 3, 2017, at approximately 2:00 a.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on investigative reports submitted to this office by Los Angeles County Sheriff's Department (LASD) Detectives Karen Shonka and Kasey Woodruff. The reports include witness statements, photographs, and videos. The voluntary statement of Officer Wyatt Reneer was considered in this analysis.

FACTUAL ANALYSIS

On April 3, 2017, at approximately 12:59 a.m., Carlos R., an employee at the "Yum Yum" Donuts shop located at 10518 Garvey Avenue called the EMPD to report that a customer, subsequently identified as Coccho, exited the donut shop without paying for his food and drink.

After hanging up the phone, Carlos R. observed Coccho holding a large knife while looking inside the donut shop's windows.¹



"Yum Yum" Donuts Shop at 10518 Garvey Avenue

EMPD Officer Andrew Avila was the first to respond to the scene, followed by Officers Steven Fonseca, and Wyatt Reneer. Upon Avila's arrival, Carlos R. directed him to Coccho, who was in front of the location standing near a tree. Avila ordered Coccho to stop, but Coccho ignored Avila's commands, threw a hot drink at him, and walked away. Coccho turned towards Avila holding a large knife in his right hand. Avila saw the knife, and in response deployed his Taser. The Taser was ineffective, and Coccho continued walking backwards with the knife still in his hand.



Cup, Spilled Drink, and Taser by Avila's Patrol Vehicle Door

¹ Because he had not seen Coccho with a knife prior to the 9-1-1 call, Carlos R. made no mention of a knife during the 9-1-1 call. Carlos R. reported, "I'm calling because a customer did not pay for his stuff and is banging on the glass." Carlos R. added that Coccho "looks like he's on drugs." Thus, the radio call was broadcast only as a "defrauding an innkeeper" call.

Coccho walked south into the donut shop's parking lot.² Avila, Reneer, and Fonseca followed Coccho and ordered him to stop. Reneer deployed his Taser to Coccho's back, but it was ineffective. Coccho continued walking, turned towards the officers, and raised the knife over his head to throw it. Reneer responded by firing one round at Coccho.³



Fonseca (L), Reneer (M), and Coccho with Knife in the “Yum Yum” Donuts Parking Lot⁴



Close-up of Coccho with Knife in the “Yum Yum” Donuts Parking Lot

² By this point, Reneer and Fonseca had arrived on scene.

³ Reneer was armed with a department issued .45 caliber H&K semiautomatic firearm.

⁴ Security cameras mounted on the exterior of the donut shop captured the shooting. The video surveillance footage is detailed in the “Physical Evidence” section in the latter part of this memorandum.



Coccho Throwing Knife at Reneer



Close-up of Coccho Throwing Knife at Reneer

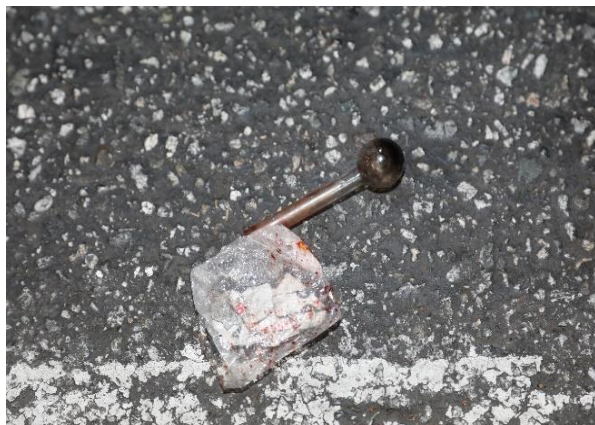


Knife in Mid-Air Headed Towards Reneer



Close-up of Knife in Mid-Air Headed Towards Reneer

Coccho was struck and fell to the ground. Reneer, Avila, and Fonseca approached and took him into custody. Fonseca handcuffed and searched Coccho, and located a glass methamphetamine pipe by Coccho's clothing.



Methamphetamine Pipe by Coccho's Clothing

Coccho sustained a single gunshot wound to the right front pelvis, and was transported to the Los Angeles County University of Southern California – Medical Center (LAC-USCMC) for treatment.

As a result of this incident, Coccho was charged with three felony counts of assault upon a peace officer, in violation of Penal Code §245(c), and three counts of obstructing or resisting an officer, in violation of Penal Code §69, the victims being Avila, Fonseca, and Reneer in court case number KA115021. On July 31, 2017, Coccho pled no contest to one count of an assault upon Reneer, in violation of Penal Code §245(c), and was sentenced to four years in state prison.

Statement of Hector N.

Hector N. was in the kitchen of the “Yum Yum” Donuts shop when Coccho tapped a store window with a large kitchen knife. When Coccho entered the shop, Hector N. remained in the kitchen, but heard Coccho being “aggressive” at the counter. A few minutes later, a fellow employee, Carlos R. told Hector N. that Coccho left the shop without paying for food. Once outside, Coccho was looking into the shop as if he was “planning to do something.” Hector N. told Carlos R. to call the police.

From inside the shop, Hector N. saw Coccho outside near a tree. Upon a police officer’s arrival, Coccho hid the knife behind his back and walked away from the officer. The officer gave orders to Coccho, and tased him. Hector N. stated, “I don’t think it affected him because he was still walking.” Coccho continued walking away from the officer, and entered the parking lot of the shop. By that point, two officers approached Coccho, one from each side. The police “tried to tase him [Coccho] again but it wasn’t working.”

As Coccho walked away from the officers, the police continued ordering Coccho to “Stop!” However, Coccho turned and threw the knife at the officers, who were approximately ten to twelve feet from Coccho. Seconds later, Hector N. heard a gunshot.

Statement of Carlos R.

Carlos R. was working the counter area of the donut shop when Coccho entered the shop acting suspiciously. Coccho appeared nervous, and “looked like he was on something” because he was “panicking, shaking, and looking around.” Carlos R. served Coccho a donut and a hot drink, and Coccho exited the shop without paying.

From inside, Carlos R. saw Coccho standing outside looking into the shop with an unknown object in his hand. Fearful of Coccho, Carlos R. called the police. After he hung up the phone, Carlos R. saw that Coccho was holding a knife.

When the police arrived, Carlos R. directed the police to Coccho’s location. Carlos R. heard a police officer order Coccho to “Stop! Stop! Drop it!” Carlos R. stated, “I think he [the officer] tased him [Coccho].” Carlos R. stated that thereafter, Coccho “threw something at the cop, and that’s when I heard the shot.”

Statement of Officer Andrew Avila

Avila was in uniform working a single man patrol unit when he received a radio call to assist Reneer with a defrauding an innkeeper call at the “Yum Yum” Donuts shop on Garvey Avenue. The suspect, later identified as Coccho, was described as Hispanic male who was possibly under the influence. Avila was the first unit to arrive on scene.

When he drove into the donut shop’s parking lot, from the east driveway, Avila was informed by Carlos R. that Coccho was now in front of the shop, on the north side. Avila radioed Coccho’s location, and then drove onto Garvey Avenue, westbound in the eastbound lanes. When Avila parked his patrol vehicle in front of the donut shop on Garvey Avenue, he saw Coccho, who matched the description of the call, standing near a tree in front of the shop. Avila illuminated Coccho with his vehicle’s spot light, exited his vehicle, and ordered Coccho to sit down. Coccho ignored Avila’s commands, and walked towards Avila. Coccho spoke unintelligibly as he walked eastbound, passing Avila as he carried a drink in his left hand. Avila ordered Coccho to stop, but Coccho continued to ignore Avila’s commands and threw his drink at Avila, which landed near Avila’s feet.

Avila continued ordering Coccho to stop. When he was approximately fifteen feet from Avila, Coccho turned towards Avila, revealing a large knife in his right hand. Avila deployed his Taser at Coccho, but the Taser appeared to be ineffective because Coccho continued walking backwards with the knife still in his hand.⁵

Coccho turned away from Avila, and walked southbound through the shop’s parking lot. Avila radioed that Coccho was armed with a knife, as he continued following Coccho and ordering him to stop and drop the knife. When Coccho was approximately fifteen away, Reneer tased Coccho on the back. This Taser also appeared to be ineffective. Coccho turned towards the officers, and raised the knife with his right hand in the air over his head as if preparing to throw the knife at Avila and the other two officers. Avila believed Coccho was going to try and kill him or the

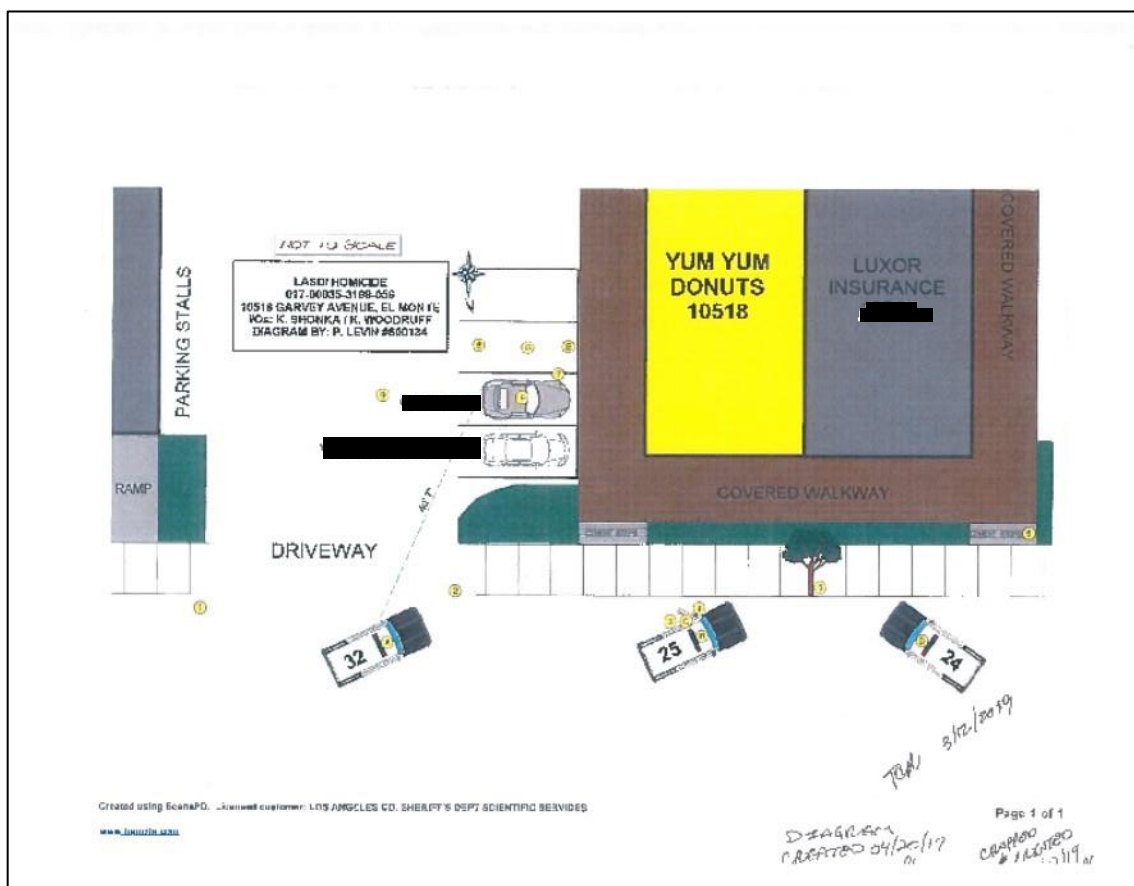
⁵ By this point, assisting units Reneer and Fonseca had arrived on scene

other officers. Avila stated, “I was worried for the safety of my partner and I.” Avila added, “I was worried he was going to kill one of us.” Reneer then fired a single gunshot. Avila stated he had to move to avoid being struck by Coccho’s knife. Avila stated, “I stepped to my right to avoid it if it was coming my way, then I heard the round.”

Statement of Officer Steven Fonseca

Fonseca was in uniform, working a single man patrol unit, when he received a radio call to assist Reneer with a defrauding an innkeeper call at the “Yum Yum” Donuts shop on Garvey Avenue. Fonseca was the third officer to arrive on scene.

Fonseca parked his patrol vehicle facing east, west of Avila’s vehicle, and saw Coccho standing next to a tree in front of the donut shop. Fonseca illuminated Coccho with his vehicle’s spotlight, and observed Coccho retrieve a cup from the ground, walk towards Avila, and throw the cup at him. Coccho then reached into his back pants’ pocket, and grabbed an object. Fonseca alerted Avila, “He’s reaching for something.” Fonseca then realized Coccho was holding a large knife with a serrated edge. Avila deployed his Taser at Coccho, as Fonseca radioed that Coccho was armed with a knife.⁶



Reneer (#32), Avila (#25), and Fonseca (#24) Patrol Vehicle Positions at Time of Incident

⁶ At this point, Reneer arrived at the location and parked to the east of Avila’s vehicle.



Avila's (L) and Fonseca's (R) Patrol Vehicles with Coccho's Bike by Tree

Coccho was “swiveling and moving his arm” with the knife, before turning and walking south through the donut shop’s parking lot. Reneer deployed his Taser at Coccho, as Reneer and Avila ordered Coccho to drop the knife. However, the Taser had no effect on Coccho. Coccho turned around, and faced all three officers from approximately twenty feet.⁷ Coccho then raised the knife with his right hand above his head and began to throw the knife. Reneer responded by firing a single gunshot in Coccho’s direction.⁸ The knife passed between Fonseca and Reneer. The knife came approximately between a foot and two feet from Reneer’s head, and within three feet of Fonseca’s body. Fonseca stated, “The knife left his [Coccho’s] hand as the OIS occurred, and it nearly hit Officer Reneer’s head.” Fonseca added, “It came within... maybe within two feet off his head.” Fonseca later stated, “At the most [the knife came] within a foot of his [Reneer’s] head.”

Coccho was struck and fell to the ground. Fonseca handcuffed and searched Coccho, and located a glass methamphetamine pipe by Coccho’s clothing.

Statement of Officer Wyatt Reneer

Reneer provided a voluntary statement to investigators. The morning of the incident, Reneer was in uniform working a single man patrol unit. Reneer was at the EMPD Station when he received a defrauding an innkeeper service call. The call stated that a Hispanic male, wearing dark clothing, and possibly under the influence, had left the location without paying for items. As he pulled up to the location, Reneer heard radio traffic that Coccho had a knife. Shortly thereafter, Reneer saw Avila deploy his Taser at Coccho, who was standing on the north side of the “Yum Yum” donuts shop.

⁷ Avila was to the west, Reneer was to the southeast, and Fonseca was between Reneer and Avila.

⁸ At that moment, Fonseca was unsure who had fired the weapon.

Reneer parked his patrol vehicle a few feet behind Avila's patrol vehicle, which was parked facing westbound in front of the shop. Upon exiting his vehicle, Reneer saw Coccho facing him and Avila with a knife in his right hand. Reneer drew his service weapon, as he and Avila ordered Coccho to drop the knife. Coccho ignored their commands, and made a "Samurai warrior" like motion by moving the knife side-to-side in front of him slowly in an S-like pattern.

While holding the knife in his right hand, Coccho turned and slowly walked into the parking lot of the donut shop. Coccho continued to ignore commands to drop the knife, as Reneer and Avila followed him from approximately fifteen feet away. While Coccho was facing away from them, but still armed with the knife, Reneer deployed his Taser to Coccho's back. Coccho appeared to "cringe," but continued walking.⁹ Coccho then turned towards Reneer, Avila, and Fonseca, and raised the knife in a throwing motion with his right hand. Reneer feared for his and Avila's safety, as both he and Avila were in striking distance of the large knife. Reneer stated, "I'm flinching because his [Coccho's] intention is to throw this knife at me. We are in his [sic] direct line of this knife." Reneer stated, "I'm thinking this knife is going to land right in my forehead, or it's going to hit my partner." Reneer added, "It's now crossed the line. It's crossed the line where deadly force is authorized to keep myself alive and safe, and not have this knife hit me or my partner." Reneer fired a round at Coccho, which struck Coccho and caused him to fall down to the ground. Reneer, Avila, and Fonseca then approached Coccho and took him into custody.¹⁰

Statement of Miguel Coccho

Coccho was interviewed while at the LAC-USCMC. After being advised of his *Miranda* rights and waiving them, Coccho agreed to speak with investigators.¹¹ Coccho stated he was homeless, and his family was in Guatemala.

The day of the incident, Coccho went to the donut shop to get bread and coffee, and left without paying because he did not have any money. Coccho stated he had a large knife on his person, which he used for work because he did construction jobs for employment on the side. Coccho remembered being shot in the leg, but stated he did not know why the police had shot him. However, Coccho admitted he threw the knife at the police because he thought they [the police] were going to take his bike and belongings.¹² Coccho stated that the police "looks for him and pursues him." Coccho also stated that he is afraid of cars and that the cars chase him.¹³

⁹ Coccho was wearing a jacket, which had apparently prevented the Taser from impacting him. Reneer stated the Taser had "zero to little effect" on Coccho.

¹⁰ Reneer stated he activated his audio recorder immediately after the incident, after re-holstering his service weapon. It is not known why Reneer did not activate his audio recorder sooner, as this question was not posed to him during his interview with investigators.

¹¹ *Miranda v. Arizona* (1966) 384 U.S. 436. Coccho was interviewed with the assistance of a Spanish speaking interpreter, as he does not speak English.

¹² However, Coccho denied "wanting" to throw the knife at the police.

¹³ When asked to explain what "cars" were chasing him, Coccho stated "*carros de la gente* [peoples' cars in general]."

Coccho denied using narcotics, but stated the glass methamphetamine pipe found on his person was his.¹⁴

Physical Evidence

The incident occurred in the front parking lot of the “Yum Yum” Donuts shop. The shop is located on the southwest corner of Santa Anita Avenue and Garvey Avenue, and its parking lot is accessed via a driveway on the south side of Garvey Avenue.

A black knife, with a serrated blade approximately six inches in length, was recovered from the number two lane of eastbound Garvey Avenue, near the gutter.¹⁵



Knife On Ground by Street Gutter

A single .45 caliber expended cartridge case was recovered from the driveway apron along the south sidewalk of the shop.¹⁶ A “Yum Yum” Donuts paper coffee cup and lid were located in the number two lane of eastbound Garvey Avenue.

Avila’s Taser, model X26P, with one wire attached, was recovered from the number two lane of eastbound Garvey Avenue. Reneer’s Taser, also a model X26P, with exposed wires not attached to probes, was recovered from the “Yum Yum” Donuts parking lot. The tasers assigned to Avila and Reneer record information into an Event Log which is a recording of the date, time, and details of each event that occurs with the Taser, including every time the trigger is pulled and the duration of the events, in seconds. The Taser information for Avila and Reneer’s Tasers was downloaded by investigators, which showed Avila and Reneer’s Tasers were each trigger activated once for five seconds during the incident.¹⁷

¹⁴ Coccho’s LAC-USCMC medical treatment records were obtained by investigators [REDACTED]

¹⁵ The knife was processed for latent prints, but no latent prints were developed.

¹⁶ This was consistent with Reneer firing his service weapon one time during the incident.

¹⁷ There is a slight discrepancy in the recorded log times for the Taser activations. Reneer’s Taser log indicates it was trigger activated at 1:04:40, while Avila’s Taser log indicates it was trigger activated at 1:08:24. However, by all accounts, Avila trigger activated his Taser first, and this is also consistent with the location where Avila’s Taser was recovered.



Reneer's Taser



Reneer's Taser and Coccho's Clothing on Ground

A glass marijuana smoking pipe was recovered from a concrete step leading to the east sidewalk at the rear of the business, and a glass methamphetamine pipe was recovered from the south curb line of Garvey Avenue. Both pipes had burnt residue in the bowl.



Glass Pipe on Stairs

Coccho's clothing, which had been removed from Coccho by medical personnel, was recovered from two empty parking stalls in front of the location. The clothing included a jacket which had two embedded Taser probes and wires attached, and one pair of denim jeans which had an embedded Taser probe with an attached wire.



Jacket with Two Taser Probes



Pants with Taser Probe

There were security cameras on the exterior and interior of the donut shop. The security cameras on the exterior of the business captured the incident. Surveillance video footage shows Coccho arriving at the location at approximately 12:53 a.m. on a bicycle. Coccho parks the bicycle near east facing door of the shop, and enters the shop through that east door. Coccho is seen briefly inside the store, before pacing back and forth in front of the donut counter for approximately two minutes. Carlos R. hands Coccho a paper bag and a drink, and Coccho quickly exits the store making no attempt to pay for the items. At 12:56 a.m., Coccho is seen on the north side of the shop, between the donut shop and Garvey Avenue.

At approximately 1:04 a.m., Avila's marked EMPD patrol vehicle arrives at the location from the south end of the donut shop. At 1:05 a.m., Coccho re-enters the camera view as he walks southbound through the parking lot just east of the donut shop. A few seconds later, Reneer and Fonseca are seen following Coccho as he walks southbound in the parking lot. A second later, Coccho is seen with a large knife in his right hand, and it appears he has been tased by Reneer. Coccho then forcefully throws the knife at Reneer. Reneer appears to fire his duty weapon at Coccho as Coccho is throwing the knife. Coccho then falls to the ground, and is detained by Reneer, Fonseca, and Avila.

LEGAL ANALYSIS

A peace officer may legally arrest someone if he has probable cause to make the arrest. Penal Code section 836a; CALCRIM No. 2670.

A peace officer may use reasonable force to arrest or detain someone, to prevent escape, to overcome resistance, or in self-defense. Penal Code section 835a; CALCRIM No. 2670.

A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect an arrest or to prevent escape or to overcome resistance. Penal Code section 835a.

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death.¹⁸ *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.¹⁹

When acting pursuant to Penal Code §197, the officer may use only so much force as a reasonable person would find necessary under the circumstances. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147. Further, the officer may only resort to deadly force when the resistance of the person being taken into custody “appears to the officer likely to inflict great bodily injury upon himself or those acting with him.” *Id.* at 1146; quoting *People v. Bond* (1910) 13 Cal.App.175, 189-190.

In California, the evaluation of the reasonableness of a police officer’s use of deadly force employs a reasonable person acting as a police officer standard. *Mehserle* at 1146 (holding that California law “follows the objective ‘reasonable person’ standard-the trier of fact is required to evaluate the conduct of a reasonable person in the defendant’s position [citations omitted] ... the jury should consider all relevant circumstances surrounding the defendant’s conduct. This enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation-but this is not the same as following a special ‘reasonable police officer’ standard.”)

In determining the reasonableness of an officer’s actions, allowances must be made 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, 396-397.

¹⁸ Penal Code section 197 and CALCRIM No. 505.

¹⁹ CALCRIM No. 3470.

The use of a Taser constitutes an intermediate, significant level of force that must be justified by the governmental interest involved. *Bryan v. McPherson* (2010) 630 F.3d 805, 826.²⁰ Use of a Taser is subject to the same reasonableness test as the use of force generally. See, *Hinton v. City of Elwood* (1993) 997 F.2d 774, 777 (not excessive for officers to use an “electrical stun gun” on a man after grabbing him and wrestling him to the ground, because of his active resistance to arrest). The use of a Taser falls within the category of non-lethal force. *Bryan*, supra, 630 F.3d at 825; See also, *Lewis v. Downey* (2004) 581 F.3d 467, 475. When feasible, officers must normally provide a warning and the failure to give such a warning is a factor to consider. *Bryan*, supra, at 831.

The evidence examined in this investigation shows that on April 3, 2017, Coccho walked into the “Yum Yum” Donuts shop, and left without paying for his food and drink. Once outside, Coccho was seen looking suspiciously inside the shop, prompting Carlos R. to call the police. Soon thereafter, Carlos R. observed Coccho with a knife.

Avila responded to the call, and attempted to initiate an investigation. However, Coccho refused to obey Avila’s lawful orders to stop and sit, and escalated the situation by perpetrating an assault upon Avila with his hot drink, and advancing towards Avila with a knife in his hand. Immediately upon realizing that Coccho was armed with a knife, Avila ordered Coccho, several times, to stop and drop the knife. Avila then lawfully attempted to detain and disarm Avila by deploying his Taser, which proved ineffective.

Officers Fonseca and Reneer also responded to the scene, and also gave numerous orders to Coccho to stop and drop the knife. Despite the orders from all three officers, Coccho continued refusing to obey orders to relinquish the knife. Reneer also lawfully deployed his Taser in an attempt to disarm Coccho. However, Reneer’s Taser deployment proved ineffective. Despite numerous commands, and two separate Taser applications, Coccho failed to surrender, and physically resisted the officers’ attempt to take him into custody. Coccho escalated the situation by assaulting the officers with the knife. Video footage captured Coccho hurling the knife directly at Reneer and Fonseca, barely missing Reneer’s head and Fonseca’s body. The video footage captured Reneer simultaneously discharging his service weapon, one time, in defense of himself and his fellow officers. As Fonseca stated, “The knife left his [Coccho’s] hand as the OIS occurred, and it nearly hit Officer Reneer’s head.”

CONCLUSION

For the foregoing reasons, we conclude that Officers Andrew Avila and Wyatt Reneer acted lawfully in self-defense and defense of others when they deployed their Tasers on Miguel Coccho. Likewise, Officer Reneer was justified in his use of deadly force in self-defense and defense of others. We are therefore closing our file and will take no further action in this matter.

²⁰ In *Bryan*, supra, the officer used a Taser in dart-mode which, when deployed correctly, has a greater impact on the subject than when used in drive-stun, or contact, mode. The cases cited by *Bryan* do not distinguish between dart and drive-stun modes.