

Officer Involved Shooting of David Pacas

South Gate Police Department

Officer Antonio Mendez #10079

Officer Isidro Munoz #10084

Officer Jazmin Vasquez #10220

J.S.I.D. File #17-0321



JACKIE LACEY

District Attorney

Justice System Integrity Division

March 2, 2020

MEMORANDUM

TO: CHIEF RANDY DAVIS
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South Gate, California 90280

CAPTAIN KENT WEGENER
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Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

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

SUBJECT: Officer Involved Shooting of David Pacas
J.S.I.D. File #17-0321
S.G.P.D. File #1707461
L.A.S.D. File #017-00068-3199-013

DATE: March 2, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 20, 2017, fatal shooting of David Pacas by South Gate Police Department (SGPD) Officers Antonio Mendez, Isidro Munoz, and Jazmin Vasquez. We have concluded that Officers Mendez, Munoz, and Vasquez acted in lawful self-defense and defense of others at the time each fired his or her weapon.

The District Attorney's Command Center was notified of this shooting on June 20, 2017, at approximately 9:40 a.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by Los Angeles County Sheriff's Department (LASD) Lieutenant Rodney Moore.

The following analysis is based on reports, recorded interviews, DVD recordings, autopsy report and photographs submitted to this office by the LASD Homicide Bureau. No compelled statements were considered in this analysis.

FACTUAL ANALYSIS

Pursuit and Traffic Collision

On June 20, 2017, at approximately 7:48 a.m., SGPD Officers Antonio Mendez, Jazmin Vasquez and Isidro Munoz were recovering a stolen vehicle on the 8600 block of Otis Street. All three officers were dressed in SGPD uniforms. Officers Mendez and Vasquez were assigned to one

black and white police vehicle, while Officer Munoz was assigned to another. Vasquez and Mendez received an alert on the LoJack Stolen Vehicle Recovery System in their patrol unit that a stolen vehicle was nearby. The LoJack alert indicated a gold Honda Pilot SUV had been stolen in a carjacking and that the suspect was armed and dangerous. Moments later, the Pilot, driven by David Pacas, drove past the officers.

Mendez and Vasquez began following the Pilot with Munoz behind them. Mendez requested additional units and an airship. Once sufficient units were behind him, Mendez activated his vehicle's lights and siren. Pacas immediately accelerated westbound on Santa Ana Street and a short pursuit ensued. During the pursuit, the Pilot traveled at an estimated 80-85 miles per hour as it passed through the intersection of Santa Ana Street and California Avenue.¹ Pacas drove through the intersection against the light and swerved into oncoming traffic. He collided with the rear-end of a Toyota Camry driven by Karina G. Both vehicles spun out of control. Karina G.'s Camry spun around twice before her driver's side door collided with the front end of a Honda Passport driven by Lorenzo G.² As Pacas' stolen Pilot spun, it rear-ended a Jeep Grand Cherokee SUV that was parked on the curb, causing severe damage to the Cherokee, and pushing it 51 feet into a parked Ford Explorer SUV which also suffered heavy damage. The Pilot slid onto the sidewalk and knocked over a light pole before finally coming to rest, facing eastbound on the north side of the street. The driver's side of the Pilot was inches from a metal fence, pinning the door closed.

¹ Different witnesses provided different estimates of the SUV's speed. The 80-85 mph estimate included here is taken from the CHP Traffic Collision Report.

² Lorenzo G. was uninjured, but Karina G. suffered a broken pelvis in the crash.

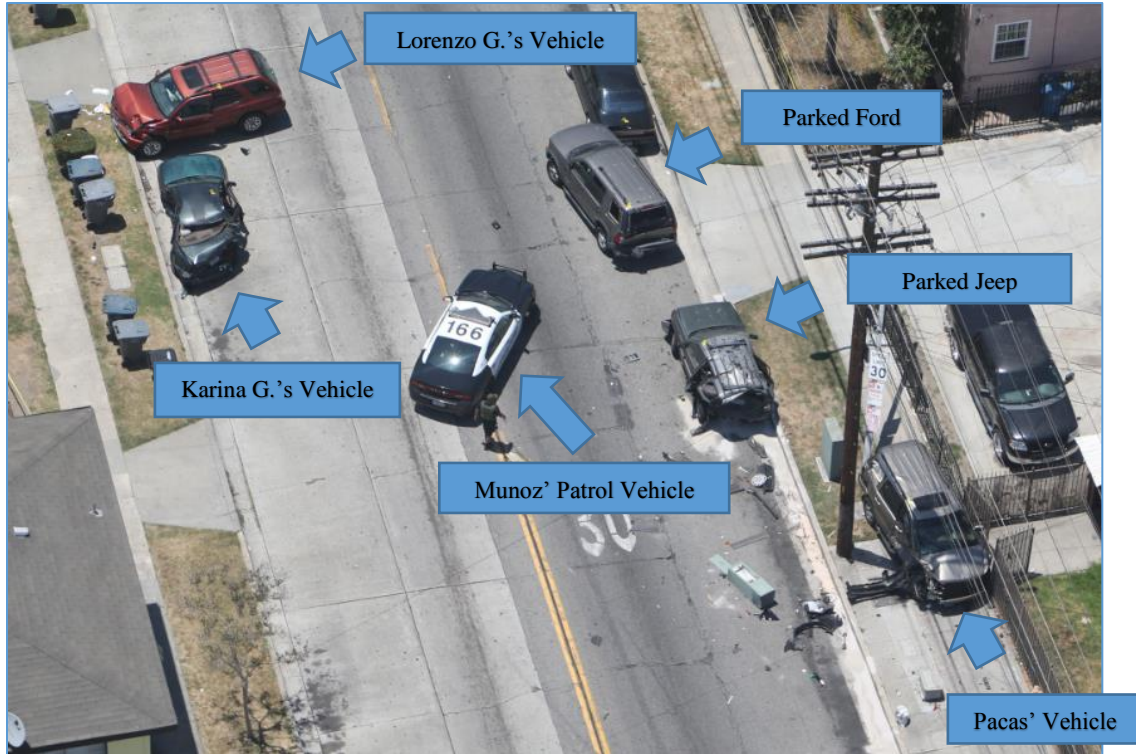


Figure 1: Pacas Traffic Collision

Mendez stopped his patrol car along the north curb of Santa Ana Street, facing the disabled Pilot. Pacas climbed out of the driver's side window, jumped a fence and landed in the parking lot of an apartment complex on the north side of the street. The apartment complex is a series of five buildings stretching from Santa Ana Street to the south to Cudahy Street to the north. The buildings are separated by walkways. A driveway extends the length of the block on the west side of the buildings while a narrow walkway runs behind the complex.



Figure 2 Officer Involved Shooting Location

The First Shooting—Officer Mendez

Mendez exited his patrol vehicle and entered the parking lot through the gate, which was open on the southwest side of the parking lot. Vasquez and Munoz followed.

Mendez saw Pacas run north across the parking lot up an alley behind the apartment buildings on the east side of the apartment buildings. Mendez ran north on the driveway for the apartments, parallel to where he saw Pacas flee. Pacas passed the first of the five buildings of the apartment complex, then turned west, towards the driveway that Mendez was running up. Pacas reached a wooden gate that closed off the walkway between the first two buildings. Mendez told investigators that Pacas climbed to the top of the fence and stood on top of it. Mendez saw a gun in Pacas' right hand and drew his service weapon. Mendez reported that Pacas raised his firearm and pointed it in Mendez' direction. Mendez believed Pacas was going to shoot him. In fear, he fired two rounds at Pacas. Pacas dropped back onto the east side of the fence, where Mendez lost sight of him.

As Mendez lost sight of Pacas, he heard more gunshots, which, unbeknownst to Mendez, were fired by Munoz. Unaware of who was shooting, and fearing that Pacas would kill his partner, Mendez went south to find Vasquez, and verify her safety. Mendez found Vasquez covering the south end of the walkway that runs behind the apartments.

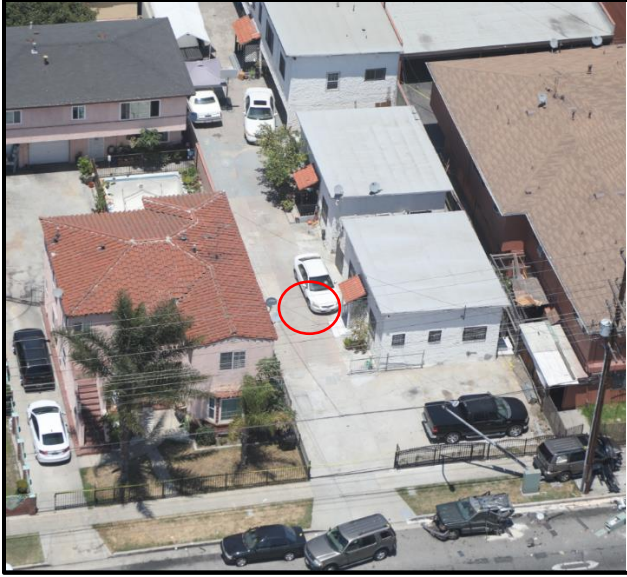


Figure 3 Location of Spent Cases Ejected from Mendez' Firearm (aerial view)

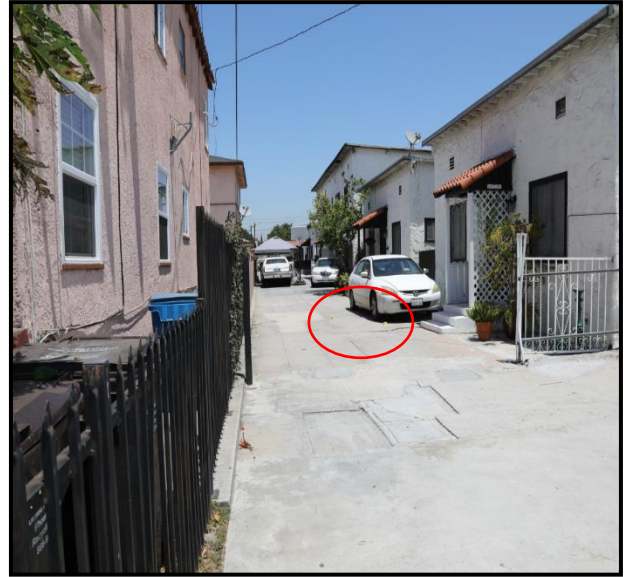


Figure 4 Location of Spent Cases from Mendez' Firearm (street view)

The Second Shooting—Officer Munoz

After the traffic collision, Munoz parked his patrol vehicle in the middle of the street, slightly west of where the Pilot came to rest. He watched Pacas climb out of the Pilot's driver's side window and over the fence into the parking lot of the apartment complex. Prior to exiting his car to chase Pacas on foot, Munoz requested approaching police units respond to the north side of the apartment complex to contain Pacas. At that time, Munoz was not aware that Pacas was armed.

Munoz exited the patrol car and followed Mendez and Vasquez into the parking lot. As he began to run northbound up the driveway, Munoz saw Pacas put his hands on the small wooden fence between the first and second apartment buildings. Munoz saw a semiautomatic handgun in Pacas' right hand. Munoz saw Pacas look in the direction of the officers, then drop back down on the east side of the fence.

Munoz anticipated that Pacas would try to escape by running eastbound, towards the alley behind the buildings. In an effort to head him off, Munoz ran through the parking lot on the south side of the apartments to the south end of the alley. Munoz repeatedly yelled that Pacas had a gun to warn his fellow officers. As Munoz approached the southern entrance of the walkway, he heard the gunshots Mendez fired. Because he could not see the other officers or Pacas at the time he heard the shots, Munoz believed Pacas was firing at the officers. When he took his position at the alley, Munoz saw Pacas running northbound, away from him, up the walkway. He ordered Pacas to stop. When Pacas turned to look in Munoz' direction, Munoz saw that Pacas was holding the firearm in his right hand near his chest, pointing the gun at him.

Fearing Pacas would shoot him, Munoz fired a volley of rounds from his service weapon at Pacas.³

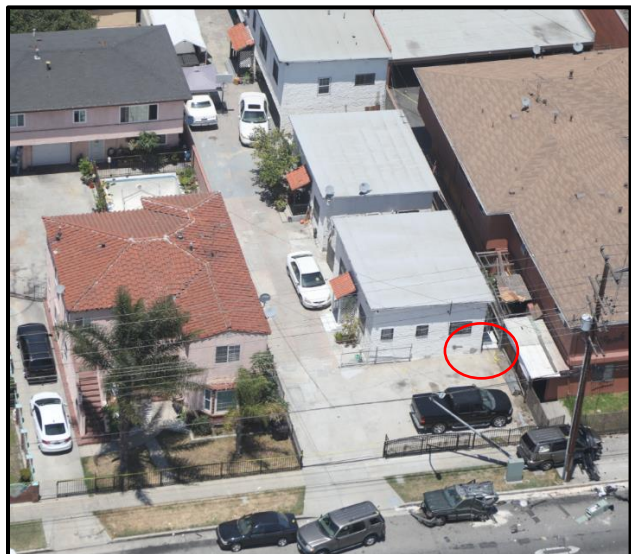


Figure 5 Location of Cluster of Spent Casings from Munoz' Firearm (aerial view)



Figure 6 Location of Cluster of Spent Casings from Munoz' Firearm (street view)

After firing at Pacas, Munoz lost sight of Pacas as he ran northbound up the walkway and ducked behind a wall. As Pacas ran northbound, Munoz feared the assisting officers would be in danger. Munoz ran to the front (west) side of the buildings and continued north.

The Third Shooting—Officer Vasquez

When Vasquez heard gunfire, she took cover behind the tires of a black pickup truck parked in the lot. Because the shots fired by Mendez and Munoz were so close in time, Vasquez believed they were part of one exchange. Vasquez did not see who fired the shots and did not see any other officers. After the gunfire ceased, Vasquez heard Munoz yelling that Pacas was armed and feared Pacas had shot her partner. Vasquez emerged from behind the pickup truck and took a position similar to the one Munoz abandoned moments earlier, looking northbound in the walkway behind the complex. She saw Pacas running up a set of stairs holding both of his hands in front of him near his waistband in a manner consistent with holding a firearm. Pacas turned to look at her and, fearing he was about to shoot her, Vasquez fired one round from her service weapon at Pacas. Pacas resumed running up the steps. Vasquez kept her firearm trained on Pacas but held her fire and Pacas disappeared from her view.⁴

³ Munoz was armed with a .45 caliber semiautomatic handgun. Following the incident, LASD Homicide Division investigators recovered eight .45 caliber cartridge cases at the location where Munoz reported he fired at Pacas, consistent with Munoz having fired eight rounds.

⁴ Vasquez was armed with a .40 caliber semiautomatic handgun. Crime scene investigators later located a single .40 caliber spent casing behind a storage box on the east side of the parking lot on the south side of the complex, consistent with Vasquez having fired at Pacas once.



Figure 7 Location of Vasquez's Gunshot



Figure 8 Location of Spent Casing from Vasquez Firearm

The stairs Pacas were climbing are located behind the third building in the apartment complex. The stairs lead to a door on the second floor of the structure, then immediately back down to street level. When Pacas descended to the bottom of the stairs, he turned immediately to his left, running between the third and fourth buildings in the complex, directly at Munoz.

The Fourth Shooting—Officer Munoz

Munoz ran north along the driveway on the west side of the apartments to head off Pacas. As he ran past the third building, he heard a single gunshot. Munoz took a position on the west side of the complex facing eastbound down the walkway between the third and fourth buildings. Pacas immediately rounded the corner of the building and ran towards Munoz. Munoz looked at Pacas' hands. Munoz could not see Pacas' right hand because it was hidden under his sweatshirt in a manner Munoz believed was consistent with concealing a firearm. Munoz yelled for Pacas to stop, but Pacas continued walking quickly in his direction while turning the right side of his body towards Munoz. Fearing Pacas would shoot him, Munoz fired three rounds at Pacas from his service weapon.⁵ Pacas fell in the walkway between the third and fourth buildings.

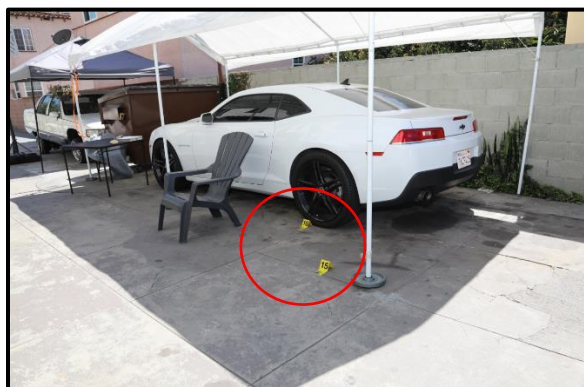


Figure 9 Evidence Markers 15 & 16, Casings Ejected from Munoz's Service Weapon



Figure 10 Evidence Marker 14, Casing Ejected from Munoz's Service Weapon

⁵ Following the incident, investigators recovered three .45 caliber spent casings near a white Chevrolet Camaro in the location where Munoz fired.



Figure 11 Location of Pacas' Body and Three .45 caliber Expended Casings

After he collapsed, Pacas did not respond to the officers' verbal commands. The officers could not see Pacas' gun, and a bar-b-que grill concealed his left hand from their view. Officer Rafael Vega and his dog, Mailo, responded to the location. Because the officers were unsure whether Pacas remained a threat, Vega deployed Mailo, who bit Pacas on the leg. Pacas did not respond. Approximately a minute later, paramedics arrived at the location and attempted lifesaving measures. Their attempts failed and Pacas was pronounced dead at 8:09 a.m.

Crime Scene Investigation

Investigators recovered a black pellet gun that was altered to look like a semiautomatic handgun behind the second building from the south of the complex. Markings which identified it as a pellet gun on the sides of the pistol were obliterated. The CO2 cannister which would have contained propellant for the replica pistol had been removed and a screw was drilled through the handle to hold the grips in place.

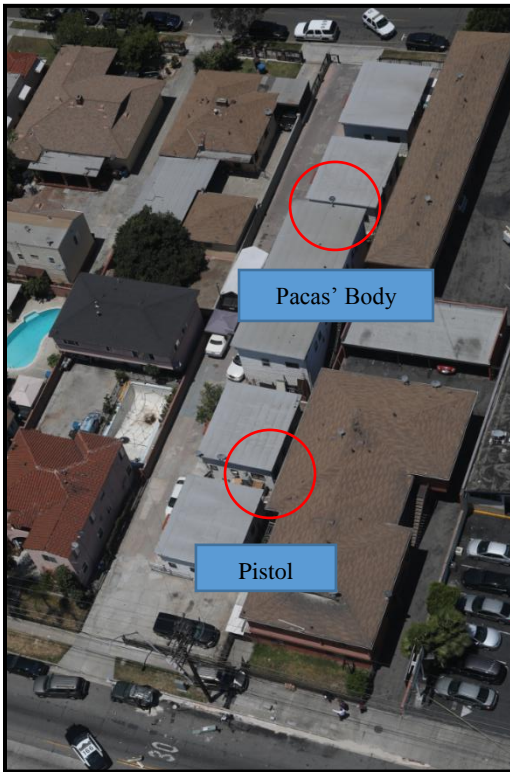


Figure 12 Location Where Pacas' Replica Pistol was Recovered in Relation to Pacas' Body



Figure 13 Pacas' Replica Pistol

Autopsy

Dr. Raffi Djabourian performed an autopsy on Pacas' body and found that the cause of death was multiple gunshot wounds. Pacas suffered four gunshot wounds. Of the four, a gunshot wound to Pacas' right chest, which perforated multiple internal organs, was rapidly fatal. The path of that projectile was front to back, right to left and downwards. Another gunshot to Pacas' right posterior hip was potentially fatal, as was a third gunshot to the back of Pacas' left hip. A through and through gunshot wound to Pacas' left thigh was nonfatal.

Analysis of Pacas' blood showed the presence of marijuana and methamphetamine.

LEGAL ANALYSIS

In evaluating whether a police officer's use of force was reasonable, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The '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, 396-397.

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. 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. If the person's beliefs were reasonable, the danger the person perceived need not to have actually existed. *Id.* 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.

According to the law in California, 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; (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and (3) he used no more force than was reasonably necessary to defend against that danger. CALCRIM No. 505. The People have the burden of proving beyond a reasonable doubt that a person did not act in lawful self-defense or defense of another. If the People fail to meet this burden, a jury must find the defendant not guilty. CALCRIM No. 3470.

California law also permits the use of deadly force by police officers when necessary to affect the arrest of a person who has committed a forcible and atrocious felony which threatens death or serious bodily harm. *People v. Ceballos* (1974) 12 Cal.3d 470. Forcible and atrocious crimes are those crimes whose character and manner reasonably create a fear of death or serious bodily injury. *Ceballos, supra*, 12 Cal.3d at 479. "An officer may use reasonable force to make an arrest, prevent escape or overcome resistance." *Brown v. Ransweiler* (2009) 171 Cal.App.4th 516. When protecting the public peace, a police officer "is entitled to even greater use of force than might be in the same circumstances required for self-defense." *Id.*

The evidence examined shows that Mendez, Vasquez and Munoz were informed through the LoJack alert that the driver of the gold SUV that passed them was armed and dangerous, and had committed a carjacking at gunpoint less than an hour earlier. When the officers tried to pull him over, Pacas fled at speeds of 80-85 miles per hour through a red light and into oncoming traffic. His disregard for human life created a catastrophic traffic collision involving five cars. Pacas demonstrated to the officers that he was willing to risk his life and the lives of others to avoid capture.

After the collision, Pacas fled on foot, armed with a replica pistol which was altered to appear to be a real firearm. Pacas held the weapon in his hand, in a manner consistent with holding a real firearm. Under these circumstances, it was reasonable for the officers to conclude that Pacas posed a deadly threat to them and anyone in his path as he fled from the officers.

Although Mendez was first made aware that Pacas had a firearm when he heard Munoz shouting out a warning, he held his fire until Pacas pointed the weapon at him. It was reasonable for

Mendez to believe that Pacas was raising the gun towards him to shoot him, and he fired in justifiable self-defense.

Munoz saw Pacas holding the replica prior to Mendez firing his weapon. When Munoz ran to head off Pacas' flight, he heard gunfire and believed Pacas was shooting at his fellow officers. When Munoz reached the southern end of the pathway behind the apartments, he saw Pacas fleeing. Munoz ordered for Pacas to stop. Pacas turned to look at him, his right arm in front of his chest holding a firearm as if he intended to shoot Munoz. Munoz reasonably believed his life was in danger, and in response, fired at Pacas.

Vasquez heard Munoz shouting that Pacas had a gun, though she did not see the weapon herself at that time. Vasquez heard the shots fired by Mendez and Munoz. When she emerged from behind the truck, Vasquez did not see either of the other officers, but looked up the pathway behind the apartments for Pacas. She saw Pacas running up the stairs away from her as he held both hands in front of his waistband. Believing Pacas was armed and then hearing gunshots, she reasonably feared Pacas had shot her fellow officers. She saw Pacas holding both hands near his waistband in a manner consistent with holding a firearm. When Pacas turned to look at her she reasonably feared he would fire. In fear for her life, she fired one round from her service weapon in reasonable self-defense.

After firing an initial volley at Pacas, Munoz lost sight of him and ran north on the driveway in the direction that Pacas was heading, which was also in the direction he expected additional units to arrive. Munoz knew shots had been fired prior to his own and believed Pacas had fired those shots. Munoz acted to defend the lives of others when he ran to confront Pacas, who he reasonably believed was an armed man. On his way, he heard another gunshot. He did not know who fired that shot, but that shot alerted him that the firefight was not over. When he saw Pacas running towards him between the third and fourth buildings, Munoz held his fire and commanded Pacas to stop. Pacas again ignored his commands and continued to approach Munoz quickly. At this point, Munoz did not see Pacas' pistol, but saw Pacas' right hand under his shirt as Pacas approached him, consistent with Pacas concealing a firearm. Given the events leading to this moment: the traffic collision, Pacas' flight, seeing what he believed to be a handgun in Pacas' hand, Pacas' unwillingness to obey commands or surrender, and repeated instances of gunfire, it was reasonable for Munoz to believe Pacas was armed and presented a deadly threat. Because the evidence presented supports the conclusion that Munoz reasonably believed that Pacas posed a deadly threat, his actions were legally justified.

Finally, the law applying to fleeing felons further justifies the officers' use of their firearms in these circumstances. The officers believed Pacas had carjacked someone at gunpoint less than an hour before the officers pursued him. Carjacking with a firearm qualifies as "an atrocious felony threatening death or serious bodily harm" pursuant to *Ceballos*, cited above. Additionally, all three officers witnessed his commission of felony evasion, which risked death to anyone on the road and actually led to serious bodily harm to Karina G. The officers' awareness that Pacas had just committed these crimes and fled with what appeared to be a firearm entitled them under the law to use "even greater... force than might be in the same circumstances required for self-defense."

Ransweiler, 171 Cal.App.4th 516.

CONCLUSION

We find that Officers Mendez, Munoz and Vasquez acted lawfully in self-defense and in defense of others when they used deadly force against David Pacas. We are closing our file and will take no further action in this matter.