

**Fatal Officer Involved Shooting of Fernando Fierro
Los Angeles County Sheriff's Department**

Deputy Robert Maas,#509025

J.S.I.D. File #22-0446



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

July 18, 2024

MEMORANDUM

TO: CAPTAIN ANDREW D. MEYER
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Homicide Bureau
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Monterey Park, California 91755

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

SUBJECT: Fatal Officer Involved Shooting of Fernando Fierro
J.S.I.D. File #22-0446
L.A.S.D. File #022-21677-1135-013

DATE: July 18, 2024

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 21, 2022, fatal shooting of Fernando Fierro by the Los Angeles County Sheriff's Department (LASD) Deputy Robert Maas. We have determined that the evidence supports a reasonable belief by the officer that the use of deadly force was necessary in the defense of others when he fired his duty weapon.

The District Attorney's Command Center was notified of this shooting on December 21, 2022 at approximately 9:48 p.m. The District Attorney Response Team responded to the scene and was given a briefing and walk-through by Lieutenant Omar Camacho of LASD.

The following analysis is based on reports and other materials, including recorded interviews, photographs, video recordings, and radio communications submitted to this office by LASD Homicide Bureau on November 16, 2023. Maas provided investigators a voluntary statement, which was considered in this analysis.

FACTUAL ANALYSIS

On December 20, 2022, at approximately 11:44 p.m., California Highway Patrol (CHP) officers were on patrol in a fully marked black and white CHP patrol vehicle travelling northbound on SR-14 north of Golden Valley Road. A white 2022 Kia Telluride drove past the patrol vehicle at 132 miles per hour.¹ Officers attempted an enforcement stop to no avail, resulting in additional units joining the pursuit. CHP officers were informed that the driver of the Kia, Fierro, called the LASD dispatcher, stating that he had his 17-month-old son (██████) in the vehicle, would shoot at officers, and would not go back to prison. As part of the pursuit, CHP Officer Douglas

¹ This speed was determined using the patrol vehicle's forward-facing RADAR unit.

Alderete approached the Kia to attempt a Precision Immobilization Technique (PIT) maneuver.² Alderate then observed a muzzle flash and the rear window of the Kia shattering as Fierro discharged a firearm towards the CHP patrol vehicle.



LASD impound photograph depicting the shattered rearview window of Fierro’s Kia.

The officers were not struck by the gunfire and did not fire back, but continued the pursuit. Dispatch advised the officers that Fierro stated he would shoot again if officers attempted another PIT maneuver. Fierro stated, “If they try to do a PIT maneuver, my son’s gonna die!” As the pursuit continued, Fierro told dispatch that he was going to, “blow [the child’s] brains out and then [his] own.”³

Alderete followed the Kia until it parked at Fierro’s residence located on East Avenue I in the city of Lancaster. Fierro exited the vehicle holding his son in his left arm and a black handgun in his right hand. The muzzle of the firearm was pointed directly towards the head of his son. Fierro backed up towards the door of the residence, opened it, entered with his son and barricaded himself in a standoff that lasted approximately 20 hours. CHP officers contained the scene until relieved by LASD personnel.

² Precision Immobilization Technique is a law enforcement pursuit tactic in which a pursuing vehicle causes another vehicle to turn sideways abruptly causing the driver to lose control and stop.

³ LASD dispatch statements were recorded.



Dashcam still from CHP Officer Alderate's patrol vehicle of Fierro's Kia as it entered the driveway of Fierro's residence at the end of the pursuit.



Fierro's residence.

On December 21, 2022 at 4:00 a.m., LASD's Special Enforcement Bureau (SEB)⁴ and LASD's Crisis Negotiation Team (CNT) were dispatched to the location and established control of the perimeter. CNT made numerous phone calls to Fierro, announcements through an armored vehicle, and provided a "throw phone" via a robot.⁵ However, all attempts at communication were met with negative results as Fierro refused to surrender or speak with law enforcement. SEB deputies observed Fierro through a window holding his son in one arm and the firearm in the other hand. Fierro opened the front door while still holding the child and placed a sign which stated, "McDonalds." CNT officers stated they would provide food if the child was released. Fierro did not release his son.

CNT deployed a Fire Cat in Fierro's driveway to remove his Kia.⁶ Fierro began yelling profanities and again opened the front door pressing the barrel of the firearm against the child's cheek. Fierro then closed the door. More announcements were made without compliance.⁷ Negotiation attempts continued until almost 9:00 p.m.

Approximately 21 minutes later, Fierro re-opened the front door, again holding the child in his left hand, and using his right hand to hold the firearm against the child's head. SEB Deputy Maas was positioned in the unit directly next door to Fierro's unit.⁸ Maas told investigators that he observed a black semi-automatic pushed into ██████'s cheek. Maas explained that Fierro inched forward towards the threshold of the residence, while pushing the firearm harder into his son's cheek, causing ██████'s head to move to one side. At this time, Maas stated he feared Fierro would use the firearm against ██████.⁹ Maas aimed his rifle at Fierro's head and fired one shot. Maas then observed Fierro and the child fall backwards. Deputy Joshua Whiting broadcasted over the radio, "Long rifle, one shot away."¹⁰

⁴ SEB is responsible for handling high-risk tactical operations involving barricaded suspects, hostage situations, and high-risk warrant services for LASD. SEB was not equipped with body worn video.

⁵ Fierro never answered the throw phone.

⁶ A Fire Cat is an armored vehicle equipped with a winch.

⁷ Maas stated the announcements identified LASD and directed Fierro to "surrender himself" and "come out the front door unarmed."

⁸ Maas was interviewed by LASD investigators on January 5, 2023. The interview was recorded. Maas stated he was directed to position himself inside another unit, directly south of Fierro's residence. He was armed with a Remington .308 rifle and aimed it at the exterior window of Fierro's unit with a direct view into Fierro's unit.

⁹ Maas was briefed on the entirety of the incident, including Fierro's threats via 9-1-1.

¹⁰ Deputy Whiting was set up and designated as an observer to Deputy Maas' actions. Whiting also provided a recorded statement to investigators consistent with Maas' statements. Whiting stated that he observed Fierro cradling the child in his left arm while holding a black semi-automatic handgun in his right hand. Whiting saw Fierro press the barrel of the gun against ██████'s cheek. Whiting said he observed Fierro lower ██████, exposing Fierro's head, and watched as Maas fired one round. Whiting stated that as Fierro was struck in the head, his head snapped back, and he fell back into the residence.



The photograph depicts Maas' Remington rifle installed on a tripod and aimed at the exterior window of Fierro's residence.

After the shooting, Deputy Rodriguez entered the residence and observed the child crying on the floor in between Fierro's legs. [REDACTED] was handed to emergency services workers. Rodriguez observed Fierro's body sitting on a chair with a gunshot wound to the left side of his orbital area. Blood covered Fierro's chest and stomach area, leading to a pool of blood underneath the chair. A black Glock 43x 9mm pistol was resting on Fierro's right leg, inches from his right hand. The Glock was loaded with one live cartridge in the chamber. Rodriguez removed the handgun and placed it outside the front door.

Fierro was pronounced dead at the scene at 9:10 p.m. by LASD Emergency Services Detail (ESD) Unit.



Fierro's Glock was photographed outside the front door.

After the incident, Deputy Smith interviewed [REDACTED].¹¹ She explained that she and Fierro had two children in common, including 17-month-old [REDACTED]. [REDACTED] stated that during the CHP pursuit, Fierro contacted her via phone. Fierro told her to call the police, and to tell them to stop chasing him. Fierro told Iris that the child was in the car. [REDACTED] stated that she "begged" Fierro to stop fleeing from the police and Fierro hung up. [REDACTED] attempted to call Fierro several times after he hung up to no avail.

LASD Detective Camacho searched the Kia and observed a spent 9mm cartridge located on the driver side rear passenger door armrest and a black magazine containing unspent ammunition located in the driver side door lower storage area.

On December 30, 2022, an autopsy was conducted. The medical examiner determined that the cause of Fierro's death was a single gunshot wound to the head. A drug screen of Fierro's urine indicated a presumptive positive for methamphetamine and amphetamine.

LEGAL ANALYSIS

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance. A peace officer is justified in using deadly force upon another

¹¹ This interview was recorded.

person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person, or 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 § 835a(b), (c)(1)(A), and (c)(1)(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 § 835a(e)(2).

“Totality of circumstances” means 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. 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 § 835a(a)(4) and (e)(3).

Fierro risked the lives of his child, civilians, and CHP officers when he drove at an excessive speed (130 mph) and fired his gun at others on the freeway. Fierro threatened to kill himself and his child when speaking to the LASD radio dispatcher. Additionally, Fierro barricaded himself and his son inside his residence for a 20-hour standoff. During this time, law enforcement made numerous attempts to deescalate and free ██████ to no avail. Fierro continued to use his child as a human shield, pressing the firearm against the head of his son. Deputy Maas stated he was in fear for ██████’s life. In response, Maas fired one round to end the threat. The evidence supports a reasonable belief that the use of deadly force was necessary under the circumstances.

CONCLUSION

We conclude that the evidence supports a reasonable belief that the use of deadly force was necessary to save the life of ██████.