

**Fatal Officer Involved Shooting of Desiree Garza
Torrance Police Department**

Officer Marcos Solares, #21151

J.S.I.D. File #20-0089



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

July 26, 2022

MEMORANDUM

TO: CHIEF JEREMIAH HART
Torrance Police Department
3300 Civic Center Drive
Torrance, California 90503

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

SUBJECT: Fatal Officer Involved Shooting of Desiree Garza
J.S.I.D. File #20-0089
T.P.D. DR #200010466

DATE: July 26, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 8, 2020, fatal shooting of Desiree Garza by Torrance Police Department (TPD) Officer Marcos Solares. We have concluded that Officer Solares acted lawfully in self-defense when he fired his duty weapon.

The District Attorney's Command Center was notified of the shooting at 12:55 p.m. on March 8, 2020. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, recorded interviews, video from officers' body worn video (BWV) cameras, photographs, the autopsy report and witness statements submitted to this office by TPD Detective Craig Marshall. Solares's voluntary statement was considered as part of this analysis.

FACTUAL SUMMARY

On March 8, 2020, at approximately 10:40 a.m., Desiree assaulted her wife [REDACTED] with a knife in their residence in Torrance. Desiree's mother, [REDACTED], also lived at that location and attempted to intervene, only to have Desiree assault her with the knife, putting it to her throat. [REDACTED], Desiree's sister, also lived at the location and saw the assault taking place. [REDACTED] barricaded herself into her room with her boyfriend [REDACTED], so she could call the police. [REDACTED] spoke with several 9-1-1 operators, being transferred between the California Highway Patrol (CHP) operator and the local TPD operator. [REDACTED] told both operators her sister Desiree had a knife and was threatening their mother. During the several minutes long phone calls, screaming and comments like, "Put the knife away," "I love you. Please put the knife away" and "Better not move or I'll knock you the fuck out" could be heard in the background. [REDACTED] was emotional and crying on the call to TPD. TPD dispatch generated a radio call requesting that all units respond to that location due to what was heard on the phone.

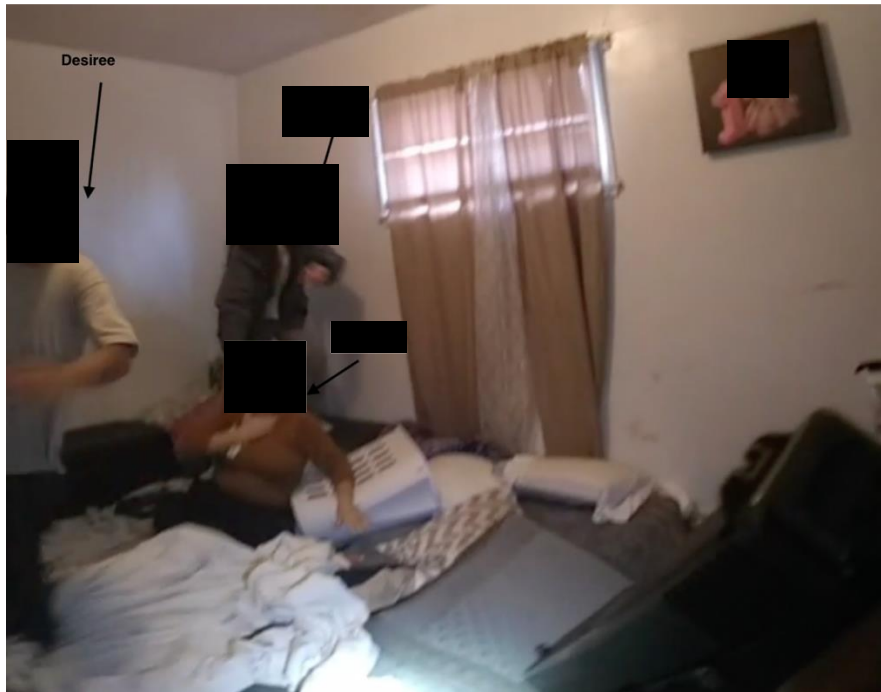
TPD put out a radio call to TPD Officers Marcos Solares and Matthew Gonzalez to respond to a domestic violence call with lights and sirens. On the way, TPD sent out updates to the call that the suspect was acting erratic and destroying items, and that there was an open line where the operator could overhear threats being made. Solares and Gonzalez responded separately to the location, and Gonzalez informed TPD Communications that they were entering the residence. At 10:48 a.m., Gonzalez radioed that shots had been fired and a subject was down. Both Gonzalez and Solares wore BWV cameras which captured the incident from the time they walked into the backyard at the residence through the aftermath of the shooting.

Solares' Body Worn Video

Solares's turned on his BWV while in the backyard of the [REDACTED] residence. The video shows him in the backyard of the residence. Screaming can be heard coming from inside the residence. Solares enters the house through a sliding glass door from the backyard. Immediately upon Solares's entry, a small girl and a dog are present in the living room, and screaming can be heard in the background. Solares tells the girl to go outside, while he walks towards the hallway leading to the bedrooms where the screaming can be heard. As Solares enters the hallway, he tells Gonzalez, who is behind him, to get his Taser ready. Solares has his gun drawn with a flashlight on and walks into a narrow hallway to the left where there is a bedroom with an open door where the screaming is coming from. As Solares approaches that room, his BWV shows Desiree standing over her mother [REDACTED] holding a knife to [REDACTED]. [REDACTED] is standing behind [REDACTED] screaming. Desiree was approximately five feet away from Solares as he comes to the room and Desiree is visible standing over [REDACTED].



Still image from Solares's BWV showing his view into the room with Desiree holding knife on [REDACTED]. Solares immediately yells "Hey! Hey! Relax!" Almost immediately, Desiree turns towards Solares and charges at him with the knife in her hand.

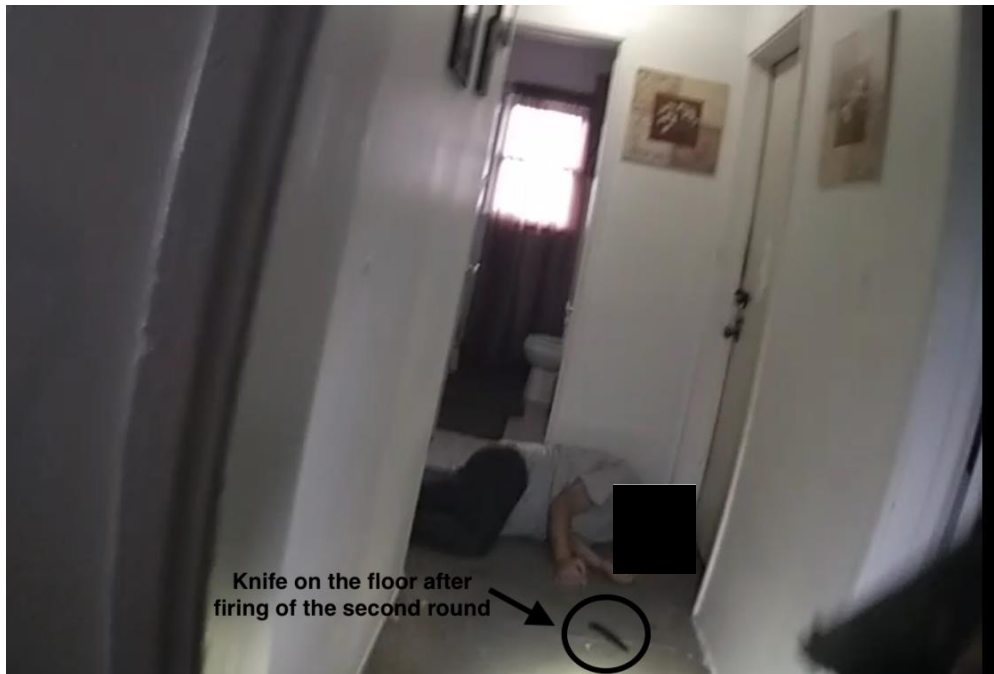


Still image from Solares's BWV showing Desiree turning towards Solares.



Still image from Solares's BWV showing Desiree charging Solares just before the shooting.

As Desiree rapidly approaches, Solares retreats quickly backwards down the hall and fires a single round at Desiree from approximately four to five feet. He continues backpedaling around the curve and Desiree follows around the curve, now crawling on the ground and attempting to get up. Solares fires another round at Desiree as she is about five to six feet away from him. Desiree falls completely to the floor and stops approaching Solares. The time between Solares' initial contact with Desiree and his first shot is approximately four seconds, and the second shot is approximately two seconds later. Solares orders Desiree to drop the knife and show her hands. Solares' BWV shows immediately after he fired the second round, Desiree was lying on the ground, showing her hands in response to his commands, with the knife no longer in her hands. Solares communicates with the people in the other rooms, and then he and Gonzalez handcuff Desiree and begin to render aid to her.



Still image from Solares's BWV showing Desiree on the ground with the knife next to her.



Photograph of knife possessed by Desiree.

Gonzalez's Body Worn Video

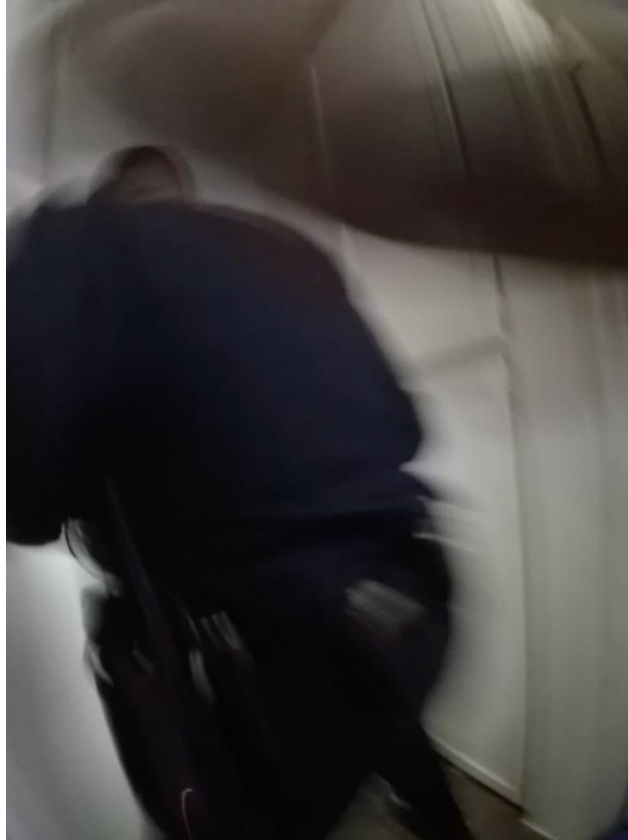
Gonzalez turns on his BWV while in the backyard, where screaming can be heard coming from inside the residence. Gonzalez follows Solares into the residence approximately ten feet behind

him. As Solares starts to walk down the hallway, he turns to Gonzalez and tells him to get his Taser.



Still image from Gonzalez's BWV showing Solares entering the hallway and telling Gonzalez to get his Taser ready.

Gonzalez follows Solares and loses sight of him as Solares turns the corner towards the bedroom with the screaming. As Gonzalez turns the corner, a retreating Solares backs into him as Desiree charges and a gunshot can be heard.



Still image from Gonzalez's BWV showing Solares backing into Gonzalez as the first shot is fired.

Gonzalez retreats around the corner of the hallway and Solares continues to retreat. Solares backs into Gonzalez a second time as Desiree turns the corner. Solares fires his duty weapon again.



Still image from Gonzalez's BWV showing Solares again backing into Gonzalez as the second shot is fired.

Solares issues commands to drop the weapon and show her hands (Solares' BWV shows Desiree complying and raising her hands, leaving the knife on the floor). Both Solares and Gonzalez handcuff Desiree and begin to render aid to her. Solares and Gonzalez also clear other family members out of the house. At that time, TPD Officer Rachel Couto arrives and assists in clearing other residents from the house.

Radio Calls

██████ called 9-1-1 and initially spoke with a CHP operator, and then was transferred to a TPD operator. ██████ told the operator that she had locked herself in her room and that her sister Desiree was going crazy. ██████ told the operator that Desiree had a knife and was in a room with Desiree's wife and mother. In the background, screaming and talk of a knife could be heard. The operator requested that units respond Code three (with lights and sirens on).

██████ Statement

While in her bedroom with her boyfriend ██████, ██████ heard loud banging and thuds and went outside to investigate. ██████ went to the other room where the banging was coming from, opened the door to that bedroom, and saw her sister Desiree. Desiree charged at her and ██████, so ██████ and ██████ retreated back to her bedroom, closed their bedroom door, and called 9-1-1. ██████ heard a female yelling about a knife. Later she heard officers entering the residence. One of them yelled something like "Calm down!" and then she heard gunshots.

██████ Statement

██████ is ██████ boyfriend. While in his bedroom with ██████, ██████ heard shouting coming from the other bedroom. ██████ and ██████ approached the other bedroom and opened the door, at that time Desiree ran at them. ██████ and ██████ returned to their bedroom. ██████ barricaded the door to prevent Desiree from entering and ██████ called 9-1-1. ██████ heard shouting in the distance. Shortly thereafter he heard two gunshots.

██████ Statement

██████ said that Desiree was acting violently towards her and Desiree's wife, ██████. ██████ believed that Desiree was under the influence of methamphetamine. ██████ saw Desiree fighting with ██████ and tried to intervene. Desiree then hit ██████ numerous times, pulled out a knife, stabbed the wall next to ██████ and then held the knife to ██████ throat. The police arrived while Desiree had the knife at ██████ throat. ██████ saw Desiree run out of the room, heard two to three gunshots, and saw Desiree fall to the floor. Desiree's assault created a laceration to ██████ neck that bled onto her face and shoe.



Photo depicting ██████ injury to her neck

██████ Statement

██████ said that Desiree accused her of giving away methamphetamine to someone, so Desiree punched ██████ in the face several times until ██████ entered the room and intervened. Desiree pushed ██████ to the ground, kept punching ██████ and then took out a knife saying, "This is what you wanted - a monster." Desiree then put the knife to ██████ throat. The police entered and Desiree ran at the police with the knife in her hand. ██████ suffered bruising to her face and nose as a result of Desiree's assault.

██████████ Statement

██████████ is Desiree's father. ██████████ was not present at the time of the incident, but he told police that Desiree's health and emotional state had been getting progressively worse over the previous months. Desiree had been getting more aggressive and had been hallucinating. ██████████ said that Desiree had been using methamphetamine for the last six to seven months and had attempted suicide by ingesting rat poison.

Officer Solares' Statement

Solares provided a voluntary statement to investigators. Solares was responding to a vandalism call when he was called off by dispatch and told to respond to a domestic violence call Code 3. Solares found it relatively unusual to be told to immediately respond Code 3 and figured it was serious. He was on greater alert when he responded to a volatile domestic violence call knowing their greater propensity for violence. He received updates as he drove there, indicating the suspect was acting erratically, breaking things, and threatening someone in the residence. As he approached, dispatch reported that the reporting party had locked themselves in the house, which made him decide to walk through the backyard. He also heard dispatch indicate a knife was involved. As he went into the backyard, Gonzalez joined him. Solares heard screams while in the backyard. The screams were atypical for domestic violence, in that they were pleading for help.

Solares entered the house through the sliding glass door to the backyard. Solares entered the house unannounced due to the exigency of the situation, the fact that someone was armed, and because he wanted to maintain an element of surprise on a potentially armed suspect. The screaming and crying were more pronounced as he entered, and Solares heard someone screaming to "Drop it!" Solares feared the reporting party was being stabbed. As Solares walked towards the screams, he instructed Gonzalez to get his Taser. Solares turned towards the bedroom where the screaming was coming from and saw three women crying. Desiree had her back to Solares, ██████████ was in front of Desiree and ██████████ was behind ██████████. ██████████ had blood coming from her neck. Solares said "Relax!" Desiree turned to him with a look of anger on her face and he saw the knife in Desiree's hand for the first time. Desiree immediately charged at him with the knife raised in her right hand, as if to stab him. Desiree was four to five feet away from Solares when she first turned to him and raised the knife. Solares tried to back up, and in fear for his life, he fired his duty weapon one time at Desiree.

Desiree continued stumbling towards Solares, while Solares stumbled backwards. Solares said that he fell backwards and was struggling to get up as Desiree also tried to get up. Solares saw the knife on the floor next to Desiree within her immediate reach. Solares said he still feared Desiree posed a threat to him, so Solares fired a second round at Desiree from his duty weapon. Solares said that when he fired the second round he believed the first shot did not have an effect on Desiree and that Desiree was going to keep charging at him.

After firing the second time, Solares made sure that Desiree was no longer a threat and that the knife was no longer near her. After confirming that Desiree posed no further threat, Solares, Gonzalez and Couto cleared the house of other people and began to render aid to Desiree.

Solares did not remember having any contact with Desiree in the past, nor did he think he had ever responded to the location before in any prior calls.

Officer Gonzalez's Statement

Gonzalez also responded Code 3 to the location in response to the domestic violence call. As Gonzalez drove to the location he listened to the comments from the call. As he pulled up to the location he heard that the suspect had a knife. He arrived after Solares and saw him standing by the gate. Gonzalez heard Solares ask dispatch to have the reporting party come outside, at which point Gonzalez heard that the phone line had gone dead. Solares walked inside the yard and they both heard screaming. Gonzalez followed Solares into the residence and could hear the screaming was coming from a back bedroom. As Solares reached the hallway inside the residence he told Gonzalez to get out his Taser. Solares was approximately ten feet in front of Gonzalez, and when Gonzalez turned the hallway corner Solares was backing up right into him. Gonzalez saw a blur in front of Solares, and as Gonzalez backed up he heard gunfire. The shots happened quickly and seemed like in rapid succession to Gonzalez. Solares was so close to Gonzalez that Gonzalez had to extend his arms to prevent Solares from running into him. Gonzalez saw Desiree laying down in the hallway after being shot, and saw a knife next to her. Gonzalez reached down and took the knife away and threw it onto the porch. They cleared the house and began to render aid to Desiree.

Autopsy

On March 11, 2020, Dr. Abubakr Marzouk conducted an autopsy of Desiree and determined that she died from two gunshot wounds, one to her chest, and one to her abdomen. Toxicology reports showed a presence of alcohol, amphetamines and methamphetamine in Desiree's system.

LEGAL ANALYSIS

A peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, 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 the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code section 197; *People v. Randle* (2005) 35 Ca1.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Ca1.4th 1172, 1201); *People v. Humphrey* (1996) 13 Ca1.4th 1073, 1082; see also, CALCRIM No. 505.

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).

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).

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.

The evidence examined in this case shows Solares responded to the scene of a domestic violence emergency at the residence where the call stated the suspect was a woman armed with a knife. Solares heard screaming when he got to the location, and went inside to investigate the source of that screaming. Solares got to the back bedroom and saw Desiree standing over [REDACTED] with a knife to her throat. Solares immediately said, "Relax!" Within a second, Desiree turned and charged Solares with the knife in her hand, rapidly approaching Solares while Solares attempted to backpedal away from her in the narrow hallway. In fear for his life, Solaris fired his gun and continued to retreat around the corner. Desiree was able to keep moving and Solares fired again as he again backpedaled into Gonzalez. The second shot took place less than two seconds after the first, and according to Solares he believed she still represented a deadly threat to him at the time he fired the second round. Solares' decision to use deadly force was objectively reasonable because Desiree was a threat at that time, in that she had just attacked him and was moving towards him, she still had easy access to a knife, and Solares was in a narrow and confined space with little to no room to retreat. Solares acted in reasonable fear for his safety, and therefore lawfully.

CONCLUSION

We conclude that the Officer Solares used reasonable force in self-defense.