

Non-Fatal Officer Involved Shooting of Rogelio Ochoa III

Los Angeles County Sheriff's Department

**Deputy Adam Nelson #541595, Deputy Sebastian Pombal #616643,
and Deputy Juan Ruiz #531485**

J.S.I.D. File #20-0301



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

August 1, 2023

MEMORANDUM

TO: CAPTAIN ANDREW D. MEYER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

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

SUBJECT: Non-Fatal Deputy Involved Shooting of Rogelio Ochoa III
J.S.I.D. File # 20-0301
L.A.S.D. File # 020-07771-1431-032

DATE: August 1, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 7, 2020, non-fatal shooting of Rogelio Ochoa III by Los Angeles Sheriff's Department (LASD) Deputies Adam Nelson, Sebastian Pombal, and Juan Ruiz. We find that all three deputies acted in lawful self-defense and in defense of others.

The District Attorney's Command Center was notified of the shooting on August 7, 2020, at approximately 6:15 a.m. The District Attorney Response Team responded to the location. They were given a briefing of the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based upon the recorded interviews of involved parties and witnesses, surveillance footage, dash camera footage, photographs, and reports prepared by the Los Angeles County Sheriff's Department (LASD), submitted to this office by Detective Cynthia Toone of the LASD Homicide Bureau on May 5, 2021. There was no body worn video of this incident. The voluntary statements of deputies were considered in this analysis.

FACTUAL ANALYSIS

On August 7, 2020, at approximately 1:03 a.m., Industry Station deputies received a call of an armed robbery at a CVS store located on Hacienda Boulevard in the city of La Puente. Within moments, the handling deputy put out a preliminary crime broadcast which indicated the suspect was armed with a large rifle and was last seen headed south on Hacienda Boulevard.

██████████ (██████████) stated that at approximately 1:00 a.m., she was working as a cashier at CVS and was assisting a customer when Rogelio Ochoa III (Ochoa) entered the store and pointed an AR-15 rifle towards the ceiling. Ochoa stated, "This is a robbery! Where is the Norco¹?" ██████████ observed Ochoa "slap" the magazine into the rifle and she heard a "clicking" sound. ██████████ said she told Ochoa the pharmacy was closed, and he proceeded to walk past the cashier

¹ Norco is a medication used to relieve moderate to severe pain. It contains hydrocodone, an opioid pain reliever.

area, towards the rear of the store where the pharmacy was located. [REDACTED] ran out of the store in fear and got into an unknown customer's vehicle to flee the location. Ochoa then exited the store, entered a black Honda Accord and fled. [REDACTED] was interviewed at the Industry Sheriff's Station by Investigators Cynthia Toone and Howard Cooper. The interview was audio recorded. Los Angeles County District Attorney (LADA) personnel were also present.



Surveillance video still photograph of Ochoa entering the CVS with a large black firearm pointed upward.

Ochoa next drove to a Shell gas station and approached the front door holding a long rifle with the muzzle pointing up. The store clerk, [REDACTED] ([REDACTED] thought it was a joke and motioned for Ochoa to enter the side entrance because the front entrance was locked. Ochoa drove around to the side and entered the store with the rifle and a large black bag. He pointed the rifle at [REDACTED] and demanded he put money in the black bag. [REDACTED] complied and put one hundred twenty-eight dollars inside the bag.

Ochoa demanded to see [REDACTED] identification. [REDACTED] pulled out his wallet and gave his ID to Ochoa. Ochoa read [REDACTED] address out loud and repeated it several times. Ochoa threatened to kill [REDACTED] and [REDACTED] family if he reported the robbery. [REDACTED] said he then looked outside and saw a deputy standing outside. Ochoa grabbed the black bag and walked outside the southside door where the deputy was standing. [REDACTED] ran to the employee office and locked himself inside. A few moments later [REDACTED] heard two voices yelling but could not make out what they were saying. He then heard gunshots but did not see any part of the incident. [REDACTED] stayed inside the office until he was contacted by deputies. [REDACTED] statement was taken on August 7, 2020 at the Industry Sheriff's Station by LASD Investigators Toone and Cooper and was audio recorded. LADA personnel were also present.

LASD Deputies Pombal and Nelson canvassed the area for Ochoa and observed a vehicle matching the description of a dark Honda at a Shell gas station at the intersection of Hacienda Boulevard and Gale Avenue. Once in the parking lot, Nelson and Pombal observed Ochoa exit the store with a large black rifle in hand. Nelson and Pombal ordered Ochoa to drop the rifle. Ochoa refused and pointed it at the deputies. Deputy Pombal fired several rounds at Ochoa, but Ochoa was able to get into his Honda and drive away. Ochoa fled southbound on Hacienda Boulevard and then entered the westbound 60 freeway.



Photograph of the contents of the black tactical bag found outside of the Shell gas station. The bag contained \$128.

██████████'s (██████████) statement was taken on August 7, 2020 by LASD Investigators Toone and Cooper and was audio recorded. LADA personnel were also present. ██████████ stated she was in her vehicle, in the process of exiting the 60 freeway at Crossroads Parkway, when she saw Ochoa's vehicle approaching from behind at a very high rate of speed. At the last minute, Ochoa passed ██████████ on the right but, due to his high rate of speed, Ochoa was unable to negotiate the sharp right hand turn on the off-ramp. ██████████ watched as Ochoa's vehicle struck the metal guard railing which ran along the west side of the lanes and careened sharply to the east, sliding across both lanes of the off-ramp. Ochoa's Honda came to rest over the east curb.

Within moments of the Honda crashing, Ochoa exited. ██████████ observed Ochoa was carrying a large black rifle. She described the gun as something from a war movie. Upon seeing the rifle, ██████████ slouched down in her driver's seat in an attempt not to be seen by Ochoa. Her last view of Ochoa was when he turned away from her and began running down the lanes of the off-ramp away from her. Seconds later, ██████████ began to hear police sirens approaching. A short time after the police arrived, ██████████ heard multiple gunshots ring out, however she did not witness the shooting.

Ochoa fled on foot to the parking lot of the nearby Chevron Station where deputies ordered Ochoa to drop the rifle. He ignored the commands and again pointed the rifle at the deputies. A second deputy involved shooting occurred and Ochoa was struck in the face by gunfire. Ochoa was taken into custody, treated by paramedics, and transported to the hospital in stable condition for further medical treatment. Due to his hospitalization, Ochoa was never interviewed. Ochoa was unconscious and had a CT scan done on his head area where he was wounded. He was also intubated. Ochoa's doctor stated that he was in stable condition and would be in the ICU for a few weeks.

On August 17, 2020, Ochoa was charged in case KA125252 with eleven felony counts including two counts of shooting at an uninhabited building, one count of shooting at an inhabited dwelling/occupied vehicle,² attempted second degree robbery, dissuading a witness from reporting a crime, assault with a firearm upon an officer, fleeing a pursuing peace officer while driving recklessly and three counts of exhibiting a firearm in the presence of an officer. The case is currently post preliminary hearing and is pending trial.



Ochoa's Honda Civic where it came to rest on the exit ramp off the 60 Freeway onto Crossroads Parkway.

² The two incidents of shooting at an uninhabited dwelling and the one incident of shooting at an occupied dwelling/occupied vehicle are not part of this analysis as these crimes were not reported or discovered until after the deputy involved shootings occurred. None of the deputies involved had knowledge of these crimes at the time of the deputy involved shootings.



Ochoa at the Chevron station just after he turned towards the officers and before he was shot.

Deputy Nelson's Statement

On August 7, 2020, Investigators Toone and Cooper met with Deputy Adam Nelson at the Industry Sheriff's station. The interview was audio recorded.

Nelson was assigned to a two-man patrol assignment and was partnered with Deputy Pombal, who was driving them in a fully marked black and white Ford Explorer police vehicle. Both Pombal and Nelson were wearing their long sleeved LASD uniforms. While on patrol, Nelson heard a crime broadcast regarding a robbery that had just occurred at the CVS. The suspect, who was armed, was last seen fleeing southbound on Hacienda Boulevard in a black Honda Civic.

Nelson and Pombal canvassed the area to locate the robbery suspect. They observed a black Honda Civic parked facing southbound on the south side of a Shell gas station at the intersection of Hacienda Boulevard and Gale Avenue. Nelson also saw a second black Honda which appeared to be parked hastily between gas pumps.

Pombal pulled into the gas station and walked toward the hastily parked Honda while Nelson walked toward the gas station convenience store. Nelson looked inside the window and made eye contact with Ochoa who was holding a semi-automatic rifle. Nelson said Ochoa appeared to mouth, "What the fuck?" Nelson immediately retreated to the southeast to gain cover and concealment while shouting at Pombal that there was an armed robbery in progress.

Nelson made an emergency broadcast via his radio regarding the robbery and requested assistance. Immediately after doing so, Nelson observed Pombal fire several rounds at Ochoa.

Nelson radioed that a deputy involved shooting had occurred. Ochoa got back into the Honda and drove down Hacienda Boulevard and took the exit onto the 60 Freeway. Pombal and Nelson followed. The high-speed chase ended with Ochoa crashing into the metal guardrails at the Crossroad Parkway exit. Ochoa fled on foot.

Pombal proceeded to drive northbound while Nelson opened the front passenger door, held it open with his foot and aimed his weapon at Ochoa. He could not recall if he fired his weapon at Ochoa as they traveled north. Pombal continued driving northbound and stopped south of the Chevron gas station. Nelson observed Ochoa approach a four-door vehicle at the gas station and point his weapon at the driver. Nelson thought Ochoa may have been trying to carjack the vehicle. That vehicle ultimately exited the gas station.

Nelson yelled for Ochoa to drop his weapon several times, but Ochoa did not comply. Ochoa turned in the direction of Nelson and Pombal and pointed his weapon directly at them, at which point Nelson fired several rounds at Ochoa from approximately 40-50 yards. Nelson observed Ochoa fall to the ground in the gas station area.

Nelson expressed being in fear for his life and the lives of his partners throughout the course of the incident due to the type and caliber of Ochoa's weapon and the ability of its ammunition to pierce body armor.

Deputy Pombal's Statement

On August 7, 2020, Investigators Toone and Cooper met with Deputy Sebastian Pombal at the Industry Sheriff's station. The interview was audio recorded.

Deputy Pombal stated that he was working patrol with his partner Deputy Nelson. Both were wearing Sheriff uniforms and Pombal was driving a marked Ford Explorer patrol vehicle. Pombal said that he heard radio traffic regarding a robbery that had just occurred at the CVS on Hacienda Boulevard and the suspect was fleeing in a black Honda. As they were patrolling, Pombal saw a black Honda in the Shell gas station parking lot.

Pombal pulled into the Shell station and both he and Nelson exited the vehicle to investigate. Pombal approached the Honda on the south side of the parking lot when he heard Nelson yell that the suspect was inside the Shell station store and was armed with a rifle. Nelson took cover and put out emergent radio traffic regarding the robbery in progress.

Pombal said he looked towards the store and saw Ochoa step out of the gas station with an assault rifle equipped with a drum magazine in his hand. Pombal gave Ochoa commands to drop the weapon. Ochoa said something unintelligible as he pointed the weapon at Pombal.

Pombal immediately fired several rounds from his handgun at Ochoa. Ochoa entered a black Honda and drove southbound on Hacienda Boulevard. Pombal and Nelson got back in their vehicle and joined in the pursuit of Ochoa as the secondary vehicle.

Ochoa drove onto the westbound 60 Freeway and exited on Crossroads Parkway. Pombal said he lost sight of Ochoa for a short time and regained a visual upon exiting when he saw Ochoa's vehicle had collided onto the east side of the roadway. Pombal said he saw Ochoa running northbound in the roadway towards a Chevron station with several deputies pursuing him on foot. Ochoa was still armed with his rifle.

Pombal saw Ochoa point the rifle at a vehicle in the gas station and yelled at him to drop the weapon. Ochoa then directed his attention toward deputies and pointed the rifle at them. Pombal and Nelson both fired several rounds at Ochoa who went down in the Chevron gas station parking lot. Pombal said it was apparent Ochoa had been struck by gunfire.

Deputy Khounthavong's Statement

On August 7, 2020, LASD Deputy Benny Khounthavong was interviewed by Investigators Toone and Cooper at the Industry Sheriff's Station. LADA personnel and LASD Internal Affairs Bureau personnel were also present. Khounthavong stated that he was working with Deputy Juan Ruiz, both in uniform, when they got a call regarding a robbery that had just occurred at the CVS located at Amar Road and Hacienda Boulevard. The call indicated that the suspect was armed with an AK-47 rifle and was last seen driving southbound on Hacienda Boulevard.

Khounthavong and Ruiz proceeded, in full uniform, to canvass the area in their marked police car. Moments later Khounthavong heard Nelson put out emergent radio traffic regarding a second robbery in progress at the Shell gas station. Prior to arriving at the Shell, Khounthavong heard additional radio traffic regarding a deputy involved shooting at the area. As Ruiz and Khounthavong neared the Shell station, Khounthavong observed a black Honda Civic drive southbound onto Hacienda Boulevard at a high rate of speed. Ruiz immediately made a U-turn, activated the unit's emergency overhead light bar and siren, and initiated a vehicle pursuit.

Khounthavong and Ruiz pursued Ochoa southbound on Hacienda Boulevard onto the westbound 60 Freeway. Ochoa drove at a high rate of speed as he merged into the carpool lane. At one point, Ochoa turned off all his vehicle's lights before he abruptly crossed all lanes of traffic and exited on Crossroads Parkway. When this happened, Khounthavong briefly lost sight of Ochoa's vehicle.

Khounthavong and Ruiz exited Crossroads Parkway and discovered that Ochoa's vehicle had collided into a guardrail and came to a rest on the east shoulder of the roadway. Khounthavong saw Ochoa running northbound in the center of the roadway, approximately 300 feet north, with his rifle in his hand. Ruiz stopped their vehicle south of Ochoa's vehicle and they began to pursue Ochoa on foot.

While pursuing Ochoa, Khounthavong heard gunshots from the west and attributed them to have come from assisting deputies who were positioned in that general area. Khounthavong proceeded towards the Chevron parking lot and took cover near the Frye's Electronics store on the east side of the roadway behind a white pick-up truck. Soon after, Khounthavong observed

Ruiz shoot in the direction of Ochoa. Khounthavong then observed Ochoa go down in the Chevron gas station lot. It was apparent he had been struck by gunfire.

Khounthavong and several other deputies approached Ochoa, who was face down on the pavement. Ochoa moved one of his hands that had been resting on the pavement adjacent to his rifle. Assisting deputies secured the weapon and took Ochoa into custody. Khounthavong described Ochoa's weapon as an AR-15 with a drum magazine.



Photograph of the AR-15 rifle with a drum magazine that Ochoa was holding at the time he was shot by deputies.

Deputy Ruiz's Statement

On August 7, 2020, Investigators Toone and Cooper took a statement from Deputy Juan Ruiz at the Industry Station. The interview was audio recorded. Ruiz stated that he was working patrol on the P.M. shift with Khounthavong. Khounthavong was the passenger and Ruiz was the driver of their marked patrol car.

On Hacienda Boulevard, Ruiz was approaching the on-ramp of the westbound 60 Freeway when he heard the radio traffic indicating an in-progress robbery at the Shell station. Ruiz went back towards the Shell station and observed Ochoa leaving in the black Honda at a high rate of speed nearly striking Ruiz's vehicle. Ruiz made a U-turn and initiated a pursuit of Ochoa's vehicle. Ruiz followed Ochoa onto the 60 freeway and stayed behind him until Ochoa crashed into the guardrail at the Crossroads Parkway off-ramp.

Ruiz parked their patrol vehicle behind Ochoa's vehicle and pursed Ochoa on foot. Ochoa ran northbound in the center of the roadway while holding his rifle. Ruiz observed Nelson and Pombal drive northbound on the roadway to the east of him. Shortly thereafter, Ruiz observed Ochoa turn around in their direction while still holding the rifle in his hands. Ruiz then heard five to eight gunshots. Ruiz continued northbound on foot and lost sight of Ochoa. Ruiz heard additional gunfire near the Chevron station.

Ruiz heard someone yell, "Drop the gun!" twice followed by additional gunfire. Ruiz took cover near the gas station water pump area and positioned himself where he could safely regain a view of Ochoa. While in this position, Ruiz observed Ochoa turn in the direction where he and several other officers were positioned, while holding the rifle in his hand at stomach level. Ruiz fired two or three rounds at Ochoa. It appeared to Ruiz that his round had an immediate effect on Ochoa as he fell forward onto the pavement. Ruiz estimated he was approximately seventy-five feet from Ochoa at the time he fired his weapon.

Ruiz expressed amplified fear for his safety and that of his partners as he believed Ochoa's weapon had the ability to pierce body armor. Ruiz described the weapon as an "AR-15 or AK-47,".

Dash Camera Video from Ochoa's Vehicle

During the examination of Ochoa's vehicle, investigators found a windshield mounted video camera system. The ROAV brand dash camera mounted inside Ochoa's vehicle took videos both internally and externally of the entire chain of events.

The internal camera shows Ochoa in the driver's seat, belligerently ranting as he is driving. At approximately 12:49 a.m., Ochoa went to the parking lot of a store called "Gun Effects." Ochoa exited his vehicle and began firing his rifle into the gun store. Investigators noted that the rate of fire was much faster than a standard semi-automatic weapon. The investigators noted that it appeared Ochoa's weapon was a fully automatic weapon (machine gun), not a semi-automatic as would typically be found in an AR-15. When Ochoa left the parking lot, amidst his rambling, he mentioned an "Echo Trigger" installed in his weapon. An echo trigger allows a weapon to fire at the rate of an automatic weapon.

At 12:52 a.m., Ochoa entered the parking lot of the La Puente Firing Range and pointed his car directly at the entrance. Ochoa stated that he was a "pissed off ex-employee." He exited the vehicle and within moments, he rapidly fired directly into the firing range. Ochoa then returned to his vehicle and drove out of the parking lot.

At 12:56 a.m., Ochoa stated, "Forgive me Father for I'm going to do the biggest sin of my life, I'm a fucking shoot a church." After making this statement, Ochoa stopped his car on the curb.

At 12:57 a.m., Ochoa exited the vehicle and moments later three somewhat muffled gunshots rang out. Ochoa is then heard screaming something as he ran back to the car. Upon entering the vehicle, Ochoa stated, "Forgive me guys, you guys have insurance. I didn't make much damage."

At 12:59 a.m., Ochoa entered a large parking lot where the CVS store and several other stores were located. Within seconds of entering, Ochoa contacted someone in the parking lot and said, “This is my varrio, get the fuck out! I’m serious, do you want to die?” Ochoa did not fire his weapon in the CVS parking lot.

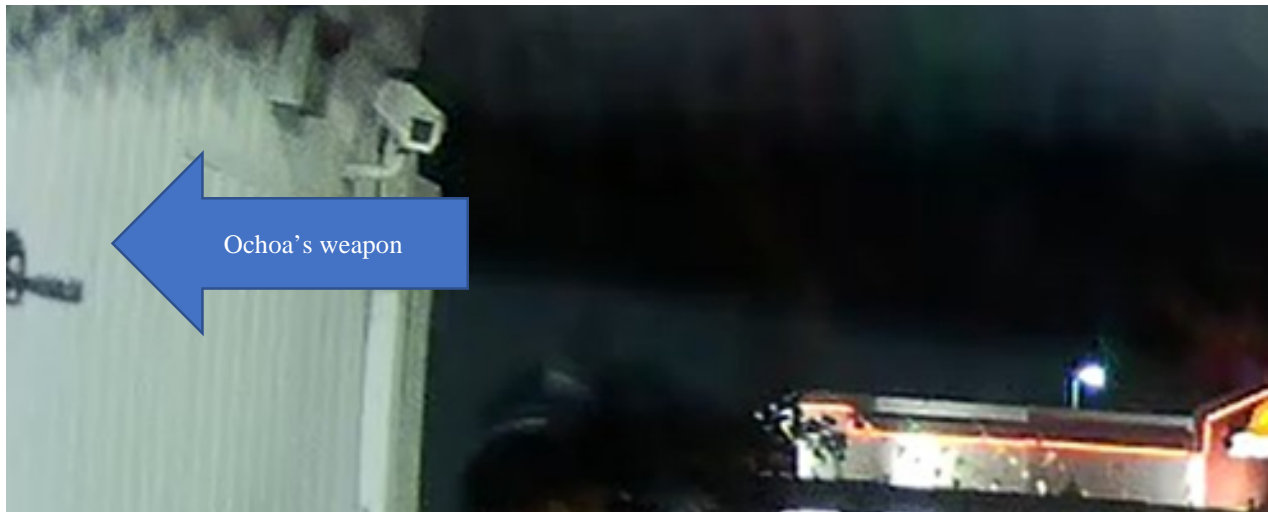
At 1:00 a.m., Ochoa parked his car directly in front of the CVS on Hacienda Boulevard. A few minutes later he reentered and drove out of the parking lot.

At 1:06 a.m., Ochoa arrived at the Shell station, grabbing a large black bag, and slinging the assault weapon over his neck as he exited the vehicle. Moments later he reentered the vehicle, drove around to another entrance, and exited the car again. The strap on his neck is visible but the weapon cannot be seen until later in the video.

From the external camera, Deputy Nelson approached the south windows of the Shell station, looked inside, and immediately backed away and took cover. Moments later, deputies yelled, “Drop the gun!” several times. Ochoa replied, “I’ll drop you right now fucker!” The butt of Ochoa’s gun can be seen raised on the far left of the video.



Still photo from Ochoa’s external video camera showing Deputy Nelson approaching the south window of the Shell station.



Video still photograph from Ochoa's external camera showing the butt of Ochoa's gun raised just after saying, "I'll drop you right now fucker."

Just prior to Ochoa getting back into the car about four gunshots can be heard on the dash camera. Ochoa then reentered the car and took off. Another hail of bullets is fired by the deputies and this time the gunfire clearly hits the car as a cloud of dust and shards of glass can be seen in the video. Ochoa reoriented himself and adjusted the strap on his neck. As he did this, a portion of the AR-15 is visible. Ochoa screamed, "I got shot by a fucking bullet and it didn't even hurt that much." Ochoa commented on his windshield being blown out. Ochoa entered onto the 60 freeway and drove erratically until the point where he lost control of the vehicle and crashed against the metal guard rail on the Crossroads Parkway off ramp. Ochoa then exited the vehicle with the neck strap still on his body and fled. Several pursuing deputies arrived within seconds of Ochoa leaving his vehicle. Moments later numerous gunshots are heard.

The Chevron station where the deputy involved shooting occurred was not in range of the external dash camera so there was no footage of the deputy involved shooting.

Ochoa's car was examined and found to have bullet related damage to the front and right side of the vehicle and a shattered front passenger door window. A Springfield Armory .45 caliber pistol, a fired cartridge casing, a pellet rifle and pellets, and an empty magazine were all found inside the vehicle.



Video still photograph from Ochoa's internal camera showing the neck strap, butt of the gun and Ochoa grabbing his chest after the hail of gunfire as he fled the Shell station.

LEGAL ANALYSIS

Any 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.

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).

The jury instructions for self-defense say 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.

In this case, the responding deputies knew that Ochoa had committed an attempted armed robbery inside the CVS. Moreover, Deputy Pombal and Nelson interrupted an armed robbery in progress where Ochoa was armed with an AR-15 rifle. Ochoa pointed that weapon at Pombal and made a verbal threat before Pombal fired at him. Pombal continued to fire as Ochoa fled. Ochoa drove recklessly and endangered the public by turning off his headlights, weaving in and out of traffic and speeding before he crashed his car. Ochoa then fled his vehicle, still armed with his weapon. Ruiz, Pombal and Nelson, all in fear, fired at Ochoa after Ochoa turned towards the deputies and again pointed his weapon in their direction. Given the totality of the evidence, the deputies reasonably believed that the use of force was necessary to prevent imminent harm to themselves and others.

CONCLUSION

We find that all three shooting deputies acted in lawful self-defense and in the defense of others at the time they fired their weapons.