

**Officer Involved Shooting of Daniel Navarro
Covina Police Department**

Officer Manuel Esquivel, #2592

Officer Ulrich Ramirez, #2113

Officer Michael Colburn, #2350

J.S.I.D. File #17-0540



JACKIE LACEY

District Attorney

Justice System Integrity Division

August 12, 2019

MEMORANDUM

TO: CHIEF JOHN CURLEY
Covina Police Department
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Covina, California 91723

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

SUBJECT: Officer Involved Shooting of Daniel Navarro
J.S.I.D. File # 17-0540
C.P.D. File #17-34876
L.A.S.D. File # 017-00124-3199-013

DATE: August 12, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 26, 2017, fatal shooting of Daniel Navarro by Covina Police Department (CPD) Officers Manuel Esquivel, Ulrich Ramirez and Michael Colburn. We have determined that Officer Esquivel, Officer Ramirez and Officer Colburn acted in lawful self-defense or the defense of others when they fired their duty weapons.

The District Attorney's Command Center was notified of this shooting on November 27, 2017, at approximately 1:00 a.m. The District Attorney Response Team responded to the location of the shooting, where they received a briefing and walk-through of the scene.

The following analysis is based on reports, interviews, radio transmissions, crime scene photographs and diagrams, videos, and autopsy, toxicology and ballistic reports submitted to this office by the Los Angeles County Sheriff's Department (LASD) Homicide Bureau. Compelled statements were not considered for this analysis.

FACTUAL ANALYSIS

On November 26, 2017, at about 2:00 p.m., Mia G. picked up her ex-boyfriend, Daniel Navarro, for a visit with their seven-month old child, Angelina N. Mia G. was driving a white Toyota Scion. Navarro told Mia G. that he wanted to talk to her about their relationship, which she had recently ended. As they were driving, Navarro told her to take them to Walnut Creek Trail, but

Mia G. refused because there was nothing for them to do there with the baby.¹ Navarro became angry and slammed a water bottle down, splashing water all over the Scion. Mia G. told him she was going to take him back home. As Mia G. was driving him back, Navarro grabbed the steering wheel and turned the Scion into oncoming traffic. Mia G. fought to regain control of the Scion and was able to turn into Wingate Park, where she stopped abruptly in the middle of the entrance.

Mia G. told Navarro to get out and leave. Navarro took her two cellphones, exited the Scion, walked around to the driver's side and tried to open her door. When he could not get her door open, Navarro walked back to the passenger side and said he was taking their daughter. Mia G. told him she would call the police if he took their daughter. Navarro responded that he would shoot himself if the cops came. Navarro asked her, "Or do you want me to shoot you first?" At that moment, a police car drove up behind them. Navarro lifted his shirt, showing Mia G. that he had a large, box cutter knife tucked into his front waistband. Navarro told Mia G. that he was going to kill himself now that the police had arrived.

At approximately 2:43 p.m., CPD Officer Manuel Esquivel was in full police uniform driving a marked black and white police vehicle when he observed the Scion parked in the entrance of Wingate Park, blocking traffic. Esquivel saw Navarro standing outside of the Scion, arguing with Mia G. Esquivel parked behind them and exited his vehicle. As Esquivel approached the Scion, Navarro got back into the passenger seat of the Scion. Esquivel observed Mia G. trying to push Navarro out of the Scion. Esquivel asked them if everything was alright. Navarro said, "Yes," but Mia G. yelled, "No!" and started screaming. Esquivel ordered Navarro to get out, but he refused. Esquivel told Mia G. to move away from the Scion. Mia G. complied, leaving the baby in the back seat.

Officer Steven Hickey arrived to assist Esquivel. Mia G. told Esquivel and Hickey that Navarro had threatened her, but she would not tell them exactly what he said. Esquivel ordered Navarro to stop reaching towards his waistband, to show his hands, and to get out of the Scion. Navarro again refused. Esquivel drew his weapon and ordered Navarro to get out. Navarro told the officers that his daughter was in the back seat. Officers repeatedly told Navarro to stop reaching into his waistband and to get out of the Scion.

Sergeant Antonio Zavala arrived and also ordered Navarro out of the Scion. Navarro again refused, and Zavala tased him twice. As officers moved in to detain him, Navarro pulled the knife from his waistband, forcing officers to retreat. Navarro pulled the Taser darts from his chest and closed the Scion's door. Officers saw Navarro reach under his seat. Officers continued to order Navarro to exit the Scion and show his hands.

Mia G. informed officers that Navarro had threatened to shoot her and then himself. Mia G. told them that she thought he might be "high" because of the way he was acting. She told officers that she did not think Navarro would hurt the baby, but she was not sure. Additional officers arrived and evacuated Wingate Park. Around 4:00 p.m., officers with the CPD Special Response Team (SRT) arrived, including Officer Ulrich Ramirez and Officer Michael Colburn.

¹ Walnut Creek Trail is a remote hiking area without amenities or a playground.

For nearly eight hours, CPD officers tried to persuade Navarro to release the baby and surrender peacefully. The Los Angeles County Sheriff's Department Crisis Negotiation Team (CNT) also negotiated with Navarro for several hours. Navarro told officers he was going to get "ten years" and was not going to be able to see the baby again. During the standoff, Navarro spoke with his family on the phone. Officers also played messages over the loudspeaker from Navarro's family and Mia G., begging him to release the baby.

Throughout the standoff, Navarro kept one hand concealed inside the Scion or covered with a baby blanket. Despite using binoculars and a rifle scope, officers could not definitively determine whether Navarro was concealing a knife or a handgun. At approximately 6:15 p.m., Navarro exited the driver's side with the baby in the car seat and crouched down behind the car seat for cover. Navarro pointed his hand that was covered with a blanket towards his head, as if he was holding a handgun. Navarro also pointed his covered hand at the baby and towards the officers surrounding him. After a half an hour, Navarro got back into the Scion with the baby.

Around 8:00 p.m., Navarro placed both hands under the blanket, as if he was manipulating something underneath. Ramirez heard what he believed was the sound of a gun being racked, and the information was broadcast to all officers. Navarro closed the Scion's door and stopped responding to negotiators.

SRT devised a plan to rescue the baby and take Navarro into custody.² At approximately 10:20 p.m., two SRT teams approached from either side of the vehicle. A flash-bang device and a less-than-lethal round were deployed outside the Scion. Navarro opened the driver's side door, holding the baby in the car seat in one hand and the knife in the other.³ As officers surrounded him, Navarro, still seated in the driver's seat, screamed wildly, kicked his legs, and flailed his arms while holding the knife. Officers believed that Navarro was trying to attack them and stab the baby. Fearing for the safety of the baby as well as officers, Ramirez and Colburn fired their duty weapons at Navarro from the driver's side of the Scion. Esquivel fired his duty weapon at Navarro from the passenger side. The baby fell onto the ground underneath the car seat next to the driver's side of the Scion. Sergeant Ryan Davis picked up the car seat with the baby and took her to safety.⁴ Officers removed Navarro from the Scion and began CPR. Navarro died at the scene.

Witness Statements

Statement of Mia G.

On November 27, 2017, investigators interviewed Mia G.⁵ Mia G. and Navarro had been in a dating relationship for about a year and a half and had a seven-month old daughter, Angelina N. Mia G. said she ended their relationship about a month prior because Navarro pushed her up against a wall and yelled in her face. After that incident, Navarro moved to his grandmother's

² At the time, officers believed the baby was in the back seat of the Scion.

³ Some officers said Navarro held the knife in his left hand, while others said the knife was in his right hand. Other officers were not sure which hand the knife was in or could not see the knife from their vantage point.

⁴ The baby was examined by paramedics and was not injured.

⁵ Mia G. spoke with several officers throughout the incident and gave essentially the same statement.

house in Covina. Mia G. said that in October 2017, Navarro tried to keep the baby from her, and she called the police. She obtained a custody order, and Navarro was given visitation overnight every Sunday to Monday.

Mia G. told investigators that during the standoff, she informed officers that Navarro had threatened to shoot her and kill himself. She also confirmed that she told officers Navarro had a knife, but she had not seen a gun. She told investigators she thought Navarro might have been under the influence of methamphetamine, because he was acting angry “for no reason.”

Statement of Officer Manuel Esquivel

On December 14, 2017, investigators interviewed Esquivel. Esquivel was working uniformed patrol, driving a marked police vehicle, when he saw a white Scion parked in the driveway of Wingate Park. Esquivel saw a man, later identified as Navarro, standing on the passenger side arguing with someone inside. As Esquivel waited for oncoming traffic to pass, Navarro got into the passenger side of the Scion.

As Esquivel approached the Scion, he saw the driver, later identified as Mia G., pushing against Navarro’s back and screaming at him to get out. Esquivel asked them what was going on, but Navarro would not answer. Esquivel ordered Navarro to get out of the vehicle, but he refused. Esquivel told Mia G. to exit the vehicle and move away from the Scion.⁶

Esquivel asked Navarro if he was on probation or parole and if he had any weapons. Navarro would not answer. Esquivel asked Mia G. what happened. Mia G. told Esquivel that Navarro had threatened her, but she refused to say exactly what the threat was. Navarro leaned back in his seat holding his shirt and reached towards his waistband. Esquivel drew his handgun and asked Navarro if he had a weapon. Navarro reached down towards the floorboard. Zavala arrived and deployed his Taser. When Navarro was struck by the Taser darts, he raised a knife in his left hand. Esquivel tried to detain Navarro until he saw the knife, then Esquivel backed away.

Additional units arrived. Several officers tried to build rapport with Navarro for an hour and a half. CNT negotiated with Navarro for several more hours. Esquivel said Navarro kept one of his hands hidden the entire time and kept looking around, like he was looking for a target. During the standoff, Navarro brought the baby out of the Scion in her car seat, placed her on the ground and crouched behind her with his hand covered. Navarro pointed his hand at the police. Someone announced over the radio they heard something racking like a gun.⁷ Esquivel said at that time, he was unsure whether Navarro had a gun.

After several more hours, CNT said they were going to end negotiation and allow SRT to come up with a plan. Esquivel, Hickey and Officer Tim Fink were supposed to recover the child from the passenger side. Fink was tasked with breaking the passenger window, Hickey was to recover

⁶ Esquivel said he did not realize there was a baby in the back seat because the back windows were tinted.

⁷ Throughout the standoff, officers informed dispatch that Navarro was holding an unknown object under a towel or blanket or that his hands were hidden inside the Scion. At approximately 8:00 p.m., Zavala reported to dispatch, “Both hands concealed, sounds of something racking.”

the baby, and Esquivel was to provide the officers cover. The other members of the team were to deploy a flash-bang device and arrest Navarro from the driver's side.

After the countdown, Esquivel heard the flash bang and saw smoke. Fink fired his less-than-lethal weapon to break the passenger window, but as they approached the Scion, Esquivel saw that the passenger window was not broken completely. Esquivel looked into the Scion and saw Navarro in the driver's seat, facing the officers on the other side of the Scion. Esquivel saw "some kind of struggle" and heard one gunshot but did not know who was shooting. Esquivel saw Navarro fall backwards towards the passenger seat with his left hand reaching towards his waistband and holding a knife in his right hand.

Esquivel said he thought Navarro was trying to stab the officers standing in front of him. Esquivel was concerned that Navarro would stab the baby, who he believed was in the back seat.⁸ Esquivel also said he did not want Navarro to be able to get another weapon that might have been inside the Scion. In order to avoid cross-fire, Esquivel stepped to the left and opened fire, aiming at Navarro's torso. Esquivel believed he fired four shots.⁹

Statement of Officer Ulrich Ramirez

Investigators interviewed Ramirez on November 28, 2017. Ramirez arrived at the scene after 4:00 p.m. as part of SRT. He was informed that there was a man with a knife or gun barricaded inside a vehicle with a baby. Ramirez stood behind a police car twenty feet from the driver's side of the Scion. An officer watching Navarro through a rifle scope broadcast that Navarro was concealing his right hand in the center console. Shortly after Ramirez arrived, Navarro closed the passenger door, moved to the driver's seat and opened the driver's door. When Navarro moved to the other side of the Scion, he concealed his left hand. CNT arrived and began negotiating with Navarro.

During the standoff, Ramirez saw Navarro wrap his hand in a blanket, get out of the Scion, and sit behind the baby's car seat. Ramirez thought Navarro was using the baby as cover. The negotiator continued talking to him, but Navarro did not respond. Ramirez said Navarro hugged the baby and took deep breaths, "as if he was preparing himself" for something. Navarro pointed his covered hand at officers as well as at himself. Ramirez said he did not fire at Navarro at that time, because he was not certain Navarro had a gun and was concerned that he was attempting "suicide by cop." Later, Navarro placed both hands under the blanket, and Ramirez heard what he believed sounded like a gun being racked.¹⁰ Navarro got back into the Scion with the baby and closed the door.

When SRT was given the signal, Ramirez approached the driver's side of the Scion with Officer Frank Medina and Colburn. When the door opened, Navarro kicked his legs and screamed at the officers. Ramirez was surprised to see the baby in the carrier in Navarro's lap, because he believed Navarro had set her down. Ramirez saw Navarro holding the knife in his right hand.

⁸ Esquivel later found out that the baby was recovered on the driver's side of the Scion.

⁹ Esquivel said he had 16 rounds in his duty weapon at the beginning of his shift. Twelve rounds were recovered from his weapon after the incident.

¹⁰ The CPD CAD printout shows this occurred at approximately 8:00 p.m.

Ramirez said Navarro pulled the knife above the baby's head and made a downward stabbing motion twice. Ramirez believed he yelled out, "He's stabbing the baby," and then fired at Navarro. Navarro continued moving as Ramirez fired at him. Ramirez realized the baby was no longer in Navarro's lap, but Navarro continued swiping with the knife in front of him. Ramirez fired two more times, and Navarro dropped the knife. Ramirez realized that another officer was shooting as well. Ramirez believed he fired five rounds, but when his firearm was collected, it was missing six rounds.¹¹

Statement of Officer Michael Colburn

Investigators interviewed Colburn on November 28, 2017. Colburn was assigned to SRT. Prior to his arrival at the scene, he was informed that an armed suspect was barricaded in a vehicle with a seven-month old child. Colburn arrived at the location at approximately 4:00 p.m. Colburn was informed that Navarro told his girlfriend he was going to shoot her and himself. During the standoff, Colburn saw Navarro point his wrapped hand towards his own head, at the baby, and towards the officers.

Colburn was assigned to approach the driver's side door with Ramirez and Medina. As Colburn got closer, the driver's door opened. Colburn saw Navarro sitting in the driver's seat, facing the officers with his feet on the ground. Navarro was screaming and had the car seat on his lap and was holding a dark-bladed knife in Navarro's left hand. Navarro lunged towards the officers with the knife, swiping quickly back and forth two to three times. Colburn believed Navarro was trying to stab or injure the officers and was concerned for his and the other officers' safety. Navarro turned the knife in a downward motion, trying to stab the baby in his lap. When the car seat lowered slightly, creating a separation between the baby and Navarro's body, Colburn fired one round towards Navarro's upper torso. Colburn believed he heard gunshots before he fired but was not certain.

Navarro fell backward across the driver and passenger seats, and the car seat fell face down onto the ground. Colburn saw a blanket on the ground and thought the baby had fallen onto the concrete. Colburn reached down and realized the baby was not there. Davis grabbed the car seat with the baby inside and walked away from the Scion. Officers turned back to Navarro, who was unresponsive. Colburn saw that the knife was no longer in Navarro's hand. Officers pulled Navarro from the Scion and performed CPR until paramedics arrived.

Statement of Officer Frank Medina

Investigators interviewed Medina on November 28, 2017. Medina was assigned as the lead officer to approach the driver's side and open the door. He was carrying a shield and a hammer to force the door open. When officers approached the Scion, the door opened. Navarro had a knife in his left hand and made a slashing motion towards Medina two to three times. Medina stepped back. Ramirez moved in front of him and fired his duty weapon at Navarro two to three times. Colburn also fired his weapon. Medina realized that the car seat was face down on the ground and saw the baby's hand sticking out from underneath. An officer grabbed the car seat

¹¹ Ramirez stated that at the beginning of his shift, his weapon was loaded with 16 rounds. Ramirez's weapon had ten rounds remaining when it was recovered after the shooting.

with the baby inside and walked away from the Scion. Medina and Colburn pulled Navarro from the Scion and performed CPR.

Statement of Rayanne H [REDACTED]

During the standoff, CPD Detective Tim Statler spoke with Navarro's sister, Rayanne H [REDACTED]. Investigators asked her if Navarro had mental health issues or had ever talked about suicide. Rayanne said that Navarro sent her text messages that he was upset that Mia G. did not let him see his daughter on Thanksgiving. Navarro also sent Rayanne a text message about missing his daughter, writing, "All I feel is pain. I don't want to be alone anymore." Rayanne said she spoke with Navarro after receiving the messages, and he was upset. Navarro called her during the standoff, but she did not speak with him.

Statement of Remy H [REDACTED]

Investigators spoke with Remy H [REDACTED], Navarro's mother, on November 27, 2017. Remy said Navarro called her between 5:00 and 5:30 p.m. and said he loved her. Navarro told her, "The cops have guns pointed at me. I'm going to die today." Remy told him, "Drop the phone and raise your hands. Do what they say." She could hear the police tell him to get his hands up.

Remy saw the standoff on the television and called him back on the phone. She asked him where the baby was and if she was okay. Navarro told her the baby was in the backseat and was fine. She asked him if he had a weapon, and he said no.¹² She tried to call him back, but he did not answer.

Remy arrived at the location of the standoff about 8:50 p.m. She could see Navarro inside the Scion from where she was standing behind the yellow tape. The negotiators let her talk to Navarro on a microphone, and she told him to give the police the baby.

Remy told investigators that she had not seen Navarro for several months and had never met the baby or Mia G. Remy was not aware of what had happened earlier that day but knew that Navarro and Mia G. were having domestic problems and had been to court about visitation.

Other Witnesses

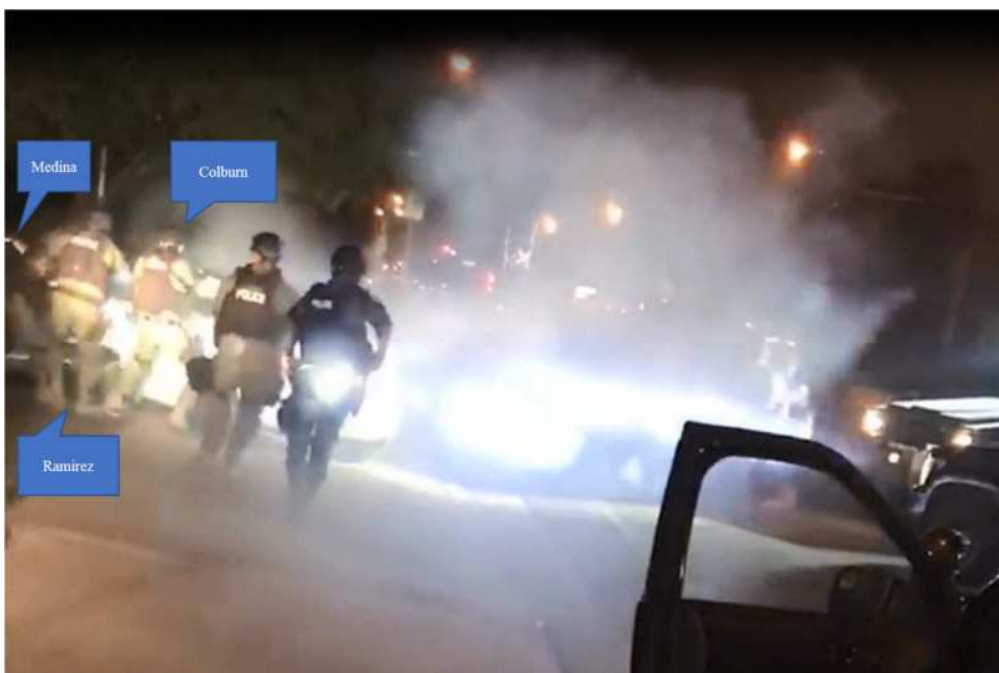
Investigators spoke with several other witnesses. Kevin N. told officers that he watched the incident from nearby for over seven hours. Kevin N. said he knew Navarro from school and thought he was "a little crazy." Kevin N. said Navarro had a knife, but during the incident he thought it might be a gun. Kevin N. heard the officers negotiating with Navarro. During the standoff, Kevin N. saw Navarro exit the car with the baby and cover his own head with a blanket. Kevin N. believed that Navarro using the blanket to cover himself made it unsafe for the baby, since Navarro knew the police were aiming their weapons at him. Kevin N. told investigators, "I believe it was his (Navarro's) fault, 100%." He said the police did a good job.

¹² When Remy arrived at the scene, she told LASD Deputy Collette that she had spoken with Navarro. Collette asked her if Navarro said he had any weapons. Remy told Collette that Navarro would not answer her but kept saying he was sorry, and that he was going to die.

Officers also spoke with Sharon B. Sharon B. watched the incident with family and other bystanders. Sharon B. said that during the incident, she heard Navarro being “very violent and angry” and heard the police “pleading with him” to cooperate and think about his child. Sharon B. said during the incident, she was standing next to people watching with binoculars, who told her that Navarro “had a gun to his head and was threatening to shoot police and kill himself.” Sharon B. thought the police were being compassionate towards Navarro, but he was being aggressive and threatening towards the officers.

Video Evidence

Several CPD vehicle dash cameras captured various portions of the incident from different perspectives. Three videos capture the end of the standoff: a CPD dash camera video of the driver’s side of the Scion; a CNT video filmed on the driver’s side of the Scion; and a video filmed from a distance by an unknown person on the passenger’s side of the Scion.¹³ The three videos show SRT approaching the Scion from both sides of the vehicle. The driver’s side door opens slightly as officers get close. A flash-bang device is deployed, creating a cloud of smoke on the driver’s side.¹⁴ An officer yells, “Put your hands up!” as the driver’s door suddenly opens. Navarro starts screaming, holding the car seat and a blanket in front of him as he thrashes with his arms and legs, his feet kicking towards the officers surrounding him.¹⁵



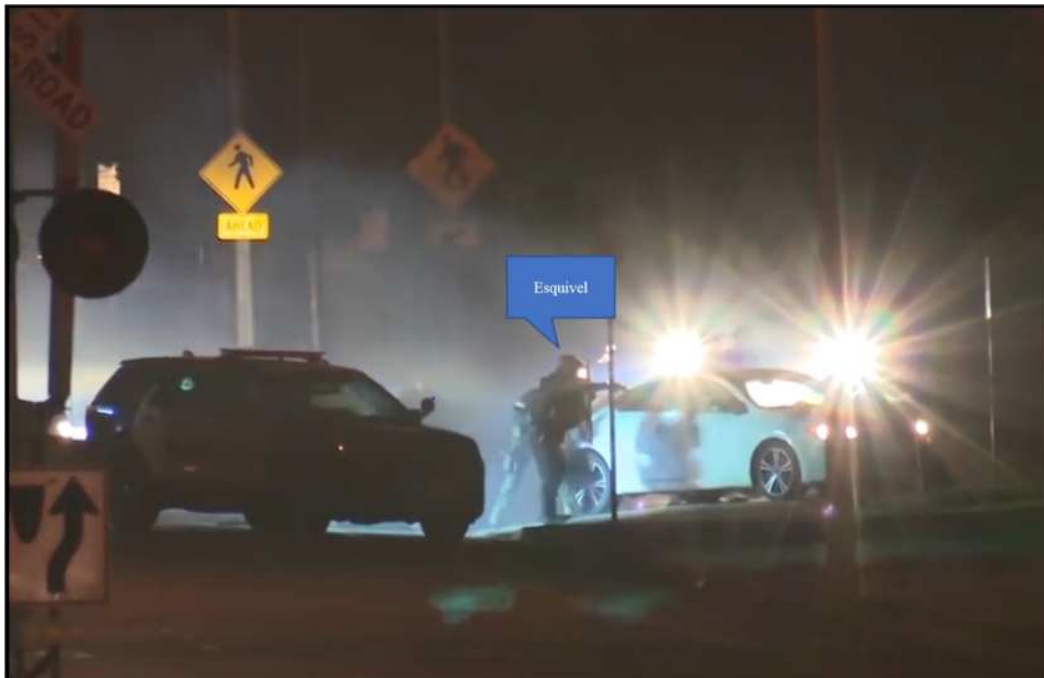
Still from the CNT video of SRT approaching the driver’s side of the Scion.

¹³ Investigators provided this video of the shooting, which was posted on YouTube.

¹⁴ In all three videos, smoke from the flash-bang device, placement of the officers, and lighting obscures the view of the driver’s side of the Scion.

¹⁵ Navarro’s hands cannot be seen in the videos.

As another SRT team approaches the passenger side from the rear of the Scion, an officer on the driver's side fires his weapon into the driver's side of the Scion.¹⁶ The blanket and car seat fall to the ground as several more gunshots are fired in rapid succession. Officers bend down towards the ground to pick up the car seat as Esquivel fires his weapon on the passenger side.



Still from the YouTube video showing Esquivel firing his weapon on the passenger side.

After the gunshots cease,¹⁷ someone yells, “Get the baby!” Davis picks the car seat up from the ground and walks away from the Scion. Officers approach the Scion from both sides. Navarro is taken from the driver's side and laid on the ground. Officers begin CPR until the paramedics take over.

Autopsy and Toxicology Reports

On December 1, 2017, Dr. Gleniecki, Deputy Medical Examiner with the Los Angeles County Department of the Medical Examiner-Coroner, conducted the autopsy of Navarro. Dr. Gleniecki recovered seven fired projectiles and fragments from Navarro's body. Dr. Gleniecki determined Navarro's cause of death was multiple gunshot wounds, five of them being fatal or potentially fatal. Navarro's blood toxicology results were positive for amphetamine and methamphetamine.

Ballistic Evidence

Ten expended .40 caliber cartridges were recovered from the crime scene. Two fired bullets were recovered from the floorboard of the driver's side of the Scion. One fired bullet was later recovered from the interior of the front passenger door frame of the Scion.

¹⁶ From the totality of the evidence, it appears that Ramirez fired first.

¹⁷ All of the gunshots were fired in approximately four seconds.

CPD Sergeant Daniel Regan took custody of the officers' duty weapons, which Regan turned over to LASD investigators. Esquivel, Ramirez and Colburn were each armed with a department issued Glock 22 Gen 4 .40 caliber handgun. After the incident, Esquivel's weapon contained twelve live rounds, Ramirez's weapon contained ten live rounds, and Colburn's weapon contained fifteen live rounds.

Other Evidence

A fully extended, 9 inch box cutter knife was recovered from the floorboard on the driver's side of the Scion.



Box cutter knife used by Navarro during the incident.

LEGAL ANALYSIS

A police officer may use reasonable force to effect the arrest, to prevent escape, or to overcome resistance of a person the officer has reasonable cause to believe has committed a crime. Penal Code section 835a. When acting under Penal Code section 196, an officer “may use all the force ‘that appears to him as a reasonable man to be necessary to overcome all resistance, *even to the taking of life,*’ ... the resistance must be such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him.” *People v. Mehserle* (2012) 206 Cal. App.4th 1125, 1146 (quoting *People v. Bond* (1910) 13 Cal.App.175, 189-190). The officer may use no more force than would appear necessary to him as a reasonable person. *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147.

A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime.

CALCRIM No. 507; Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333. An officer has “probable cause” in this context when he knows facts which would “persuade someone of reasonable caution that the other person is going to cause serious physical harm to another.” CALCRIM No. 507. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

California law permits any person, including police officers, to use deadly force in self-defense or in the defense of others, and, if someone dies as a result, this is a “lawful excuse” which precludes a conviction for murder. Penal Code sections 197, 198; CALCRIM No. 505. This defense is available if the killer actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code sections 197; CALCRIM No. 505; *see also 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. CALCRIM Nos. 505, 3470. Actual danger is not necessary to justify the use of deadly force in self-defense; if the person’s beliefs were reasonable, the danger does not need to have actually existed. CALCRIM Nos. 505, 3470. The prosecution has the burden of proving beyond a reasonable doubt that the killer did not act in self-defense. *Id.*

Before the nearly eight hour-long standoff began, Navarro tried to persuade Mia G. to drive to a remote location to talk about their relationship that she had recently ended. When she refused, Navarro became extremely angry, grabbed the steering wheel and forced the Scion into oncoming traffic. Mia G. was able to pull the Scion over and told him to leave. When Mia G. told him she would call the police if he took the baby, Navarro threatened to shoot Mia G. and himself. When the police arrived, Navarro showed Mia G. that he was armed with a box cutter knife and told her that he was going to kill himself.

Navarro repeatedly refused to follow Esquivel, Hickey and Zavala’s commands to show them his hands and exit the vehicle. When Zavala tased him, officers saw that he was armed with a knife and were forced to retreat. Officers knew that a seven-month old baby was inside the Scion with Navarro. Navarro refused to surrender or to release the baby.

During the standoff, officers were concerned that Navarro had a handgun as well as the box cutter knife. Officers were aware that Navarro had threatened to shoot Mia G. and himself before they arrived and saw Navarro reach underneath his seat. Throughout the standoff, Navarro kept one hand covered with a blanket or otherwise concealed. When Navarro briefly got out of the Scion with the baby, he pointed his concealed hand at his own head, at the baby and towards officers, as if he was holding a handgun. At one point, an officer believed he heard a noise that sounded like a metal handgun being racked.

For over eight hours, CPD officers and the Sheriff’s CNT continuously tried to get Navarro to release the baby that he was holding hostage. When the CNT ultimately decided that Navarro was not going to release the baby or surrender, SRT devised a plan to rescue the baby and arrest Navarro. As SRT officers moved in, Navarro opened the driver’s side door holding the knife in

one hand and the baby in the car seat on his lap. As officers approached, Navarro waived the knife in front of him towards the officers and appeared to be trying to stab the baby.

From his vantage point on the passenger side of the vehicle, Esquivel saw that Navarro was still holding the knife, even after being shot the first time. Esquivel believed that the officers' lives on the driver's side of the Scion were in imminent danger, and he fired his weapon at Navarro. Esquivel said although he thought the baby was in the backseat when he fired, he also believed the baby was in danger. The evidence supports the conclusion that Esquivel actually and reasonably feared for the safety of others when he fired his weapon.

Ramirez stated that as he approached the driver's side, he saw Navarro holding the knife in his hand with the baby in the carrier on his lap. Ramirez saw Navarro making stabbing motions towards the baby. In fear for the baby's life, he fired at Navarro's chest. Even after being shot, Navarro continued holding the knife and waiving it in front of him. Ramirez fired at Navarro again. Ramirez stated he stopped firing when Navarro dropped the knife. The evidence supports the conclusion that Ramirez actually and reasonably feared for his safety and the safety of others when he fired his weapon.

Colburn believed that Navarro was trying to attack the officers and stab the baby. In fear, Colburn fired one shot at Navarro's torso to prevent him from killing or injuring the baby or officers. The evidence supports the conclusion that Colburn actually and reasonably feared for his safety and the safety of others when he fired his weapon.

CONCLUSION

We find that Officer Manuel Esquivel's use of deadly force was reasonable to stop the deadly threat posed by Daniel Navarro. Accordingly, we find that Esquivel acted in lawful defense of others when he used deadly force against Navarro.

We find that Officers Ulrich Ramirez and Michael Colburn's use of deadly force was reasonable to stop the deadly threat posed by Navarro. Accordingly, we find Ramirez and Colburn acted in lawful self-defense and defense of others when they used deadly force against Navarro.

We are closing our file and will take no further action in this matter.