



## PUBLIC RELEASE MEMORANDUM

**DATE:** November 24, 2025

**SUBJECT:** Officer Involved Shooting (Fatal)

**Officers:** Sergeant Jonathan Palmer,  
Rialto Police Department  
  
Officer Erik Valtierra,  
Rialto Police Department

**Involved Subject:** Oscar Montes Santiago (Deceased)  
Date of Birth – October 22, 1986

**Date of Incident:** January 9, 2022

**Incident location:** Rialto, CA

**DA STAR #:** 2023-18282

**Investigating Agency:** San Bernardino County Sheriff's Department

**Case Agent:** Detective Owenn Domon

**Report Number:** DR# 602200003

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**PREAMBLE**

Officers from the Rialto Police Department were involved in a fatal shooting that was investigated by the Specialized Investigations Division of the San Bernardino County Sheriff's Department. This factual summary was based on a thorough review of all the investigative reports, photographs, audio recordings, and video recordings submitted by the San Bernardino County Sheriff's Department, DR# 602200003.

**FACTUAL SUMMARY**

On January 9, 2022, Rialto Police Department dispatch broadcasted information as to a man with a knife who was covered in blood. The man, later identified as Oscar Santiago, was reported to be near the 10 Freeway at Riverside Avenue. Subsequent information placed Santiago at the Chevron gas station located in the 100 block of East Valley Boulevard, City of Rialto on the southeast corner of Valley Boulevard and Riverside Avenue. In response to the information, Officer Erik Valtierra, Officer Brianna Reyes, Officer Colin Waidley, and Sergeant Jonathan Palmer, all from the Rialto Police Department, proceeded to the gas station.

Officer Valtierra arrived first at approximately 1:15 p.m. and initially observed Santiago entering the gas station's Extra Mile convenience store with a large knife. Officers described the weapon as a "large butcher's knife" approximately 10 to 12 inches long. Officer Valtierra also saw that Santiago's hands and clothes were similarly covered in blood.

Officer Valtierra parked near gas pumps closest to the front of the store on the south side of the station. Officer Valtierra exited his unit and unholstered his weapon. Officer Valtierra was approximately 30 to 40 feet away from the Extra Mile front entrance. Officer Reyes arrived next at approximately 1:16 p.m., parking on the north side of the gas station near the end of the store's north wall. Officer Reyes exited and stood next to the front driver-side door of her patrol vehicle approximately 25 to 30 feet north of the building's front entrance.

Santiago exited the store with the knife in his right hand. Both Officer Valtierra and Officer Reyes immediately gave commands to Santiago. Officer Valtierra specifically commanded Santiago to drop the knife. Officer Reyes, while similarly directing Santiago to drop the knife, also tried to build rapport by asking Santiago for his name and indicating they should talk.

Both Officer Waidley and Sergeant Palmer separately arrived on scene after Santiago exited. Officer Waidley took a position near Officer Reyes on the north side of the gas station. Sergeant Palmer parked his unit near the gas pumps close to Officer Valtierra. Sergeant Palmer exited his vehicle, walked to Officer Valtierra's location, and stood next to him.

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Santiago did not comply, verbally respond, or otherwise acknowledge the commands. Instead, Santiago started stepping in and out of the building, lingering near the front doors. When outside, Santiago began a series of distinct and noticeable lunging steps toward the officers as if he was going to charge. Looking first in the direction of Officer Valtierra, Santiago took several quick steps toward him but stopped. Immediately afterwards, Santiago turned in the direction of Officers Reyes and Waidley and took several quick steps toward them and likewise stopped. Santiago appeared to be making up his mind as to what to do and who to charge.

The officers continued to give commands as Santiago repeated his charging motions toward the two officer groups. Officer Valtierra again commanded Santiago to drop the knife and, multiple times, told Santiago he did not want to shoot Santiago. Officer Reyes and Officer Waidley also gave multiple commands to Santiago to drop the knife

At one point, Santiago paused, stood at the threshold of the doors, and looked in the direction of Officer Valtierra and Sergeant Palmer, who had just walked over to Officer Valtierra. Officer Valtierra stated "don't do it bro." With the knife in his right hand, Santiago began sprinting toward Officer Valtierra and Sergeant Palmer.

Officer Valtierra fired his handgun when Santiago began his attack. Officer Valtierra moved backwards, discharging 14 rounds as Santiago continued toward them. Officer Valtierra reached the back of his patrol unit where he reloaded his weapon. Officer Valtierra did not discharge any additional rounds because Santiago had fallen to the ground.

Sergeant Palmer unholstered his weapon and moved to his left after Santiago attacked. Sergeant Palmer watched Santiago momentarily pause in the middle of his sprint and thought Santiago had been hit by gunfire. After the pause, Santiago continued to run toward them. When Santiago was approximately 20 feet away, Sergeant Palmer then fired his weapon and did not stop firing until Santiago went to the ground. Santiago landed about five feet in front of Sergeant Palmer with the knife still in his hand. Sergeant Palmer discharged eight rounds.

Starting from the point Officer Valtierra exited his vehicle, until Santiago charged with the knife, the confrontation lasted for one minute and forty seconds. As to Sergeant Palmer, approximately ten seconds elapsed from the time he stood next to Officer Valtierra until the shooting incident began.

After the shooting, Officer Valtierra and Officer Waidley approached Santiago. Officer Valtierra placed his foot on the knife and pushed it away. Officer Waidley then secured Santiago by placing handcuffs on him and turning him over. Officer Waidley began life saving measures to revive Santiago while Officer Valtierra assisted him. Rialto Fire Department personnel, after relieving officer Waidley, declared Santiago as deceased.

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Sergeant Palmer and Officer Reyes went into the Extra Mile store to check on any employee or customer who may have been injured during the incident. Neither the store employee nor the three customers inside the building were injured.

### STATEMENTS BY POLICE OFFICERS

On January 13, 2022, **Officer Erik Valtierra**, of the Rialto Police Department, was interviewed by Detective Owenn Domon and Detective Ian Gosswiller.<sup>1</sup>

On January 9, 2022, Officer Valtierra was on duty driving a marked Rialto Police vehicle. At approximately 1:30 p.m. he responded to radio broadcasts advising of a man with a knife with hands covered in blood. Officer Valtierra consequently proceeded to the Chevron gas station located at the intersection of Riverside Avenue and Valley Boulevard.

Upon arrival at the Chevron, Officer Valtierra drove around the property and observed the individual, later identified as Santiago, walking into the front entrance of the station's Extra Mile convenience store. Santiago carried a large knife approximately 12 inches long, and his hands and pants were covered in blood. Officer Valtierra also observed motorists at the gas pumps.

Officer Valtierra stopped his vehicle east of the gas pumps located on the south side of the station. Officer Valtierra exited his vehicle, unholstered his weapon, and stood 30 to 40 feet away from the building's front entrance. Based on his "Tueller" training addressing encounters with persons possessing knives, Officer Valtierra wanted to keep at least 21 feet between him and Santiago to allow adequate time to react to an attack.

Officer Brianna Reyes arrived and parked on the north side of the property. With Officer Reyes, Officer Valtierra intended to enter the building because Santiago might attack people inside. Santiago, however, stepped outside the building before they could enter. Santiago still had the knife in his hand.

Officer Valtierra quickly directed Santiago to "drop the knife." Officer Reyes directed the same command for Santiago to drop the knife. Officer Valtierra repeated his commands multiple times. Santiago was fidgety and began going in and out of the building. Santiago looked at Officer Valtierra but did not verbally respond or comply with any of the commands. Instead, Santiago lunged toward Officer Reyes and Officer Waidley<sup>2</sup> as if he was going to charge. Santiago then turned his attention to Officer Valtierra and similarly lunged in his direction. Santiago pointed the knife at the officers in a threatening manner as he lunged. Officer Valtierra believed the lunging behavior was Santiago's way of building up courage to attack.

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<sup>1</sup> Prior to the interview, Officer Valtierra reviewed videos of the lethal force encounter recorded on his and Sergeant Palmer's body-worn cameras.

<sup>2</sup> Officer Waidley arrived after Santiago had exited the building.

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Sergeant Johathan Palmer arrived and walked to Officer Valtierra's location. Officer Valtierra continued directing commands at Santiago to drop the knife and telling Santiago "I don't want to shoot you." At one point, Officer Valtierra stated "don't do it bro." Immediately afterwards, Santiago sprinted at Officer Valtierra and Sergeant Palmer holding the knife in his right hand. Officer Valtierra believed Santiago was going to stab and kill him.

Officer Valtierra fired his weapon when Santiago was approximately 25 feet away, discharging 16 rounds. Santiago ducked and moved as if he was dodging bullets coming at him while still advancing. Officer Valtierra stepped toward the rear of his patrol vehicle while facing Santiago. Officer Valtierra next reloaded his weapon and realized Sergeant Palmer was firing his weapon at Santiago. Officer Valtierra observed Santiago fall to the ground with the knife remaining in his hand. Officer Valtierra pointed his weapon at Santiago and ordered him to "drop the knife." Officer Valtierra did not fire his weapon after Santiago went to the ground. Less than two minutes passed from the time Officer Valtierra arrived on scene before Santiago began charging.

Officer Valtierra, along with Office Waidley and Sergeant Palmer, approached Santiago on the ground. Officer Valtierra placed his foot on the knife and pushed it away from Santiago. Afterwards, Office Waidley secured Santiago with handcuffs. Officer Waidley performed life-saving measures on Santiago, including CPR. Officer Valtierra assisted by retrieving his medical supplies.

On January 13, 2022, **Sergeant Jonathan Palmer**, of the Rialto Police Department, was interviewed by Detective Bryan Sprague and Detective Owenn Domon.<sup>3</sup>

On January 9, 2022, Sergeant Palmer was on duty driving a marked Rialto Police Department patrol vehicle. At approximately 1:05 p.m., dispatch reported a man, later identified as Santiago, covered in blood holding a large knife. Sergeant Palmer proceeded to the Chevron gas station located on the 100 block of East Valley Boulevard, in the City of Rialto.

Arriving at approximately 1:08 p.m., Sergeant Palmer observed Officer Erik Valtierra standing alone near a gas pump located on the south part of the property. Officers Colin Waidley and Brianna Reyes were present but on the north side of the business. After parking his unit, Sergeant Palmer walked over to Officer Valtierra and stood near him.

Sergeant Palmer observed Santiago at the entrance of the business standing in the threshold of the doors. Santiago was approximately 50 feet away from Sergeant Palmer, holding a bloody 12-inch knife in his right hand. Sergeant Palmer also saw that Santiago's hands and pants were covered in blood.

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<sup>3</sup> Prior to the interview, Sergeant Palmer reviewed video of the lethal force encounter recorded on his body-worn camera.

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Sergeant Palmer heard Officer Valtierra telling Santiago to “drop the knife,” “not to go inside,” and “not to do it.” Santiago did not verbally respond or acknowledge the commands. Instead, Santiago moved in and out of the building. Santiago made several moves as if he was going toward Officers Reyes and Waidley. Santiago then turned toward Sergeant Palmer and Officer Valtierra. Sergeant Palmer believed Santiago was trying to determine which group of officers to attack.

Santiago’s movements continued for approximately ten seconds before Santiago charged in his and Officer Valtierra’s direction. Santiago sprinted toward them holding the knife in his right hand, close to his chest. Sergeant Palmer believed Santiago was trying to kill him or Officer Valtierra.

Santiago covered approximately 10 to 15 feet before Sergeant Palmer heard gunfire coming from Officer Valtierra. When Santiago was approximately 20 feet away, Sergeant Palmer thought Santiago had been struck by gunfire because Santiago paused his advance. However, with knife in hand, Santiago resumed the advance on their position.

Sergeant Palmer next raised his weapon and moved to his left. Sergeant Palmer opened fire on the advancing Santiago. Sergeant Palmer did not stop firing until Santiago fell to ground, discharging six to eight rounds over a period of five seconds. Santiago landed approximately five feet in front of Sergeant Palmer. Sergeant Palmer estimates 15 seconds had passed from the time he was on scene until Santiago charged at him.

Santiago was secured after the shooting occurred. Life-saving measures were performed on Santiago by Officers Waidley and Valtierra. Sergeant Palmer and Officer Reyes conducted safety checks of the individuals within the store, secured the scene, and spoke with individuals who were on scene.

On January 13, 2022, Rialto Police Department **Officers Brianna Reyes and Colin Waidley**, were separately interviewed by Detective Bryan Sprague and Detective Ian Gosswiller. The officers were positioned near each other on the north side of the Chevron gas station when the incident took place. The statements of each officer are substantially the same and thus summarized together.

On January 9, 2022, both Officer Reyes and Officer Waidley responded to reports of a man with a knife. Officer Reyes proceeded to the Chevron gas station located in the 100 block of E. Valley Boulevard, in the City of Rialto. Officer Waidley arrived at the same location after Officer Reyes. Both Officers parked their patrol vehicles on the north side of the gas station. Officer Valtierra was positioned on the southwest part of the business, 35 to 40 feet away from Officer Reyes.

Officers Reyes and Waidley observed Santiago at the front entrance of the store approximately 25 to 30 feet away from them. Santiago held a large knife in his hand. Blood covered Santiago’s chest, stomach, and hands.

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Santiago moved in and out of the building. With the knife in his hand, Santiago appeared to charge at the two officers by taking a few distinct steps in their direction before stopping. Afterwards, Santiago turned in the direction of Officer Valtierra and Sergeant Palmer and similarly appeared to charge at them but stopped. Officer Waidley likened Santiago's actions to an athlete trying to make up his mind and motivate himself to act on the decision.

Officer Reyes directed commands to Santiago to drop the knife. Trying to build rapport with Santiago, Officer Reyes asked for his name and offered to talk about his situation. Santiago did not comply nor respond to Officer Reyes. Officer Waidley gave similar commands to drop the knife with no compliance from Santiago.

Within a minute or two minutes after her arrival, Officer Reyes observed Santiago run straight at Officer Valtierra and Sergeant Palmer while holding his knife. Officer Reyes thought Santiago wanted to stab Officer Valtierra. Officer Reyes observed Officer Valtierra shoot at Santiago in response. Santiago then fell, got up and again ran toward Officer Valtierra<sup>4</sup> again.

Officer Waidley observed Santiago sprinting in the direction of Officer Valtierra and Sergeant Palmer, swinging the knife back and forth from his right hand. Officer Waidley thought Santiago was trying to stab either of them. Gunshots began after Santiago charged. As Santiago ran forward, he appeared to jump. Afterwards, Santiago fell to the ground, landing a few feet in front of Officer Valtierra and Sergeant Palmer. Santiago landed on his right side with the knife still in his right hand.

After the shooting, Officer Waidley secured Santiago and performed life saving measures, including CPR. Officer Reyes went into the convenience store to check on the individuals inside the building.

### **STATEMENTS BY CIVILIAN WITNESSES<sup>5</sup>**

On January 9, 2022, **Witness 1** was interviewed by Detective Michelle Del Rio. Witness 1 was driving on Riverside Avenue when her boyfriend saw Santiago covered in blood and holding a knife; they decided to call 911 and report the incident. Witness 1 drove into the Chevron gas station parking lot to better describe him. Witness 1 initially saw Santiago crouching between vehicles. After they parked, Witness 1 saw Santiago enter the Extra Mile store. A Rialto Police officer, later identified as Officer Valtierra, arrived at the gas station and parked near the gas pumps.

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<sup>4</sup> The videos do not show Santiago falling in the middle of his sprint. Instead, the videos show Santiago moving as if he was dodging the shots fired at him and continuing to move directly toward the area where Officer Valtierra and Sergeant Palmer were located.

<sup>5</sup>All reports and recordings of civilian statements were reviewed, though not all are summarized here.

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Santiago re-emerged from the store and began pacing back and forth with a knife. Witness 1 heard the officer loudly command Santiago to “put your knife down, put your knife down, I don’t want to shoot you, bro.” Santiago ignored the commands and continued to pace in front of the doors. Santiago suddenly sprinted toward the officer’s voice where the police vehicle was parked. The sound of rapid gunfire followed. Witness 1 saw Santiago moving side to side as if he was dodging bullets. Witness 1, however, did not see Santiago get hit or fall to the ground.

On January 9, 2022, **four witnesses** who were inside the Extra Mile convenience store when Santiago entered the building were interviewed by detectives from the San Bernardino County Sheriff’s Department. Summarized collectively, the witnesses saw Santiago covered in blood and holding a large knife. The cashier heard Santiago say that he [Santiago] was going to take someone hostage. Consequently, the individuals locked themselves in the restrooms. Sometime after, the witnesses heard gunfire. All witnesses remained in the restrooms until Rialto Police officers safely contacted them.

### **INCIDENT VIDEO AND AUDIO**

#### **Police Video.**

**Sergeant Palmer** recorded the incident on his body worn camera. The video was reviewed in its entirety. The relevant parts of the video are summarized below.

00:01 - Sergeant Palmer drives north on Riverside Avenue approaching Valley Boulevard.

00:08 - Sergeant Palmer turns into the Chevron gas station and drives toward the “Extra Mile” convenience store.

00:15 - Santiago walks back and forth in front of the store’s entrance doors and moves in and out of the building. Officer Valtierra stands next to his patrol vehicle, southwest of Santiago with weapon drawn and pointed in Santiago’s direction.

00:20 - Sergeant Palmer parks his vehicle.

00:25 - Sergeant Palmer exits his vehicle and walks to Officer Valtierra. Santiago continues to walk in and out of the building, holding a knife in his right hand. Santiago steps toward Officers Reyes and Waidley to the north but stops and returns to the entrance doors.

00:38 - Sergeant Palmer stands to the left and slightly behind Officer Valtierra. Santiago walks outside the building, pausing to look in the direction of both Sergeant Palmer and Officer Valtierra. Santiago takes a step back into the building while Officer Valtierra states “don’t do it bro, don’t do it, just drop the knife.”



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00:42 - Before Officer Valtierra finishes his last command, Santiago sprints from the building toward Officer Valtierra and Sergeant Palmer. Officer Valtierra begins discharging his weapon multiple times.

00:43 - Sergeant Palmer raises his weapon in Santiago's direction while Officer Valtierra moves out of frame. Santiago runs directly at Sergeant Palmer.

00:46 - Sergeant Palmer fires his weapon and continues shooting as Santiago maintains his sprint and closes the distance between them.

00:47 - Santiago falls forward, rolling onto his back and ending on the right side of his body with the knife still in his hand. Sergeant Palmer stops firing after Santiago stops moving.

00:54 - Officers Valtierra and Officer Wadley secure Santiago and the knife.

The remainder of the video shows Sergeant Palmer and other officers doing safety checks of individuals within the building, securing the scene and speaking with individuals on property. The video captures officers performing life-saving procedures on Santiago.

**Officer Erik Valtierra** recorded the incident on his body worn camera. The video was reviewed in its entirety, and the relevant parts of the video are summarized below.

00:01 - Officer Valtierra drives in his patrol unit. Dispatch reports a man with a knife seen at the back of the Chevron gas station.

01:46 - Officer Valtierra turns into the Chevron gas station from the entrance on Valley Boulevard and drives around the gas pumps.

02:29 - Officer Valtierra parks next to a gas pump southwest of the building and exits his patrol unit.

02:50 - A second police unit arrives and parks north of the "Extra Mile" building. Officer Briana Reyes steps out of her patrol vehicle.

03:00 – Santiago opens the south door of the building and steps outside. Officer Valtierra immediately raises his weapon and gives multiple commands to Santiago to "drop the knife." Santiago goes back inside the building.

03:37 – Santiago opens the north door, exits the building, and throws a can into a trash container.

03:40 – Santiago continues to stand outside the doors' threshold and raises the knife. Santiago appears to take steps in the direction of Officer Reyes before the view is blocked

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by Officer Valtierra's raised weapon. Officer Valtierra states "Sir, I don't want to shoot you. I don't want to shoot you please. Sir, I don't want to shoot you. Just drop the knife."

04:15 – Officer Valtierra states "Don't do it, don't do it bro" as Santiago appears to look directly at Officer Valtierra. Santiago emerges from the door and sprints in Officer Valtierra's direction. Officer Valtierra begins to discharge his weapon. Facing Santiago as he advances, Officer Valtierra fires additional rounds while moving backwards to the end of his patrol vehicle.

04:19 – Santiago lowers his head and charges forward toward Sergeant Palmer. As Sergeant Palmer shoots, Santiago falls forward, landing on ground with the knife in his right hand.

04:25 – Officer Valtierra changes the empty magazine of his weapon for a loaded magazine. He then resumes commands to Santiago to drop the knife.

4:30 – Officer Valtierra approaches Santiago, who is on the ground in front of him. Officer Valtierra directs other officers as they approach telling them to get the knife and handcuff Santiago.

5:05 – Officer Valtierra directs another officer to start CPR on Santiago.

The remaining video records Officer Valtierra directing securing the scene, as well as directing and assisting officers performing CPR and other lifesaving procedures on Santiago.

**Officer Briana Reyes** recorded the incident on her body worn camera. The video was reviewed in its entirety, and the relevant parts of the video are summarized below.

00:01 – Officer Reyes faces south pointing her weapon at Santiago initially standing in the threshold of the building's entrance door. Officer Reyes addresses Santiago stating, "just drop the knife man", "what's your name," "you are ok man, just step out," while Santiago walks in and out the store.

00:13 - Santiago walks into the building with the door closing completely.

00:22 – Santiago opens a door and steps out of the building. Officer Reyes resumes giving commands to drop the knife and offering to talk. Santiago begins a series of fake charges toward the direction of either Officer Reyes or Officer Valtierra.

01:01 – Santiago sprinting toward Officer Valtierra. Sounds of gunfire begins thereafter.

01:03 – Santiago momentarily stops and steps to his left in a jerking motion. Santiago appears to be dodging rounds discharged by officers.

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01:04 – Santiago resumes advancing upon Officer Valtierra and Sergeant Palmer. Officer Valtierra and Sergeant Palmer continue to discharge rounds at Santiago as they step away from each other.

01:06 – Santiago falls forward and rolls to a stop in front of Sergeant Palmer.

01:10 - Officer Reyes reports shots fired, one down.

The remainder of the video shows Officer Reyes going into the building, checking on the individuals within the gas station, visually inspecting the building and later interviewing potential witnesses.

### **INCIDENT SCENE**

The lethal force encounter occurred at the Chevron gas station located in the 100 block of E. Valley Boulevard, City of Rialto. The gas station is on the southeast corner of the intersection at Riverside Avenue and Valley Boulevard. The station's Extra Mile convenience store is located on the east side of the property; the building's front entrance faces west. A driving lane and parking spaces west of the building separate the store and the station gas pumps. The gas pumps are under a permanent canopy, with gas pumps 3 and 4 under the southeast corner of the canopy. The shooting incident occurred in the area between the Extra Mile's front entrance and gas pumps 3 and 4.

Two Rialto Police Department patrol units were parked close to pumps 3 and 4. The patrol vehicle driven by Officer Valtierra was parked southeast of pump 3 facing in a northeast direction. The patrol vehicle driven by Sergeant Palmer faced east and was parked northwest of pump 4. In between the two vehicles, just northeast of pump 4, Santiago's body lay flat on ground. A large fixed-blade knife, approximately twelve inches in length, was directly in front of Sergeant Palmer's patrol vehicle. Multiple fired cartridge casings were located near and around pumps 3 and 4, the patrol vehicles, and Santiago's body.

Numerous bullet entry holes were located on glass panels that make up part of the Extra Mile's west wall. The bottom of the north glass entry door was shattered.

Two additional Rialto Police Department police vehicles were parked just north-west of the building.

**SUSPECT WEAPON**

The knife used by Santiago's during the attack was recovered in the area where the shooting incident took place.



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**DECEDENT**

**AUTOPSY.** Dr. Brian Hutchins, Forensic Pathologist for the Coroner Division of The San Bernardino County Sheriff's Department, conducted the autopsy of Oscar Montes Santiago on January 20, 2022. Dr. Hutchins determined the cause of death were gunshot wounds to the head and chest.

**Gunshot Wound of the Head.** A gunshot entry wound was located on the left parietal scalp, one inch from the top of the head and two inches left of midline. The wound was a ¼ inch circular defect. The direction of the wound path was from front to back, left to right and downward. No exit wound was noted. A copper jacketed bullet was recovered from the right side of the neck.

**Gunshot Wound of the Chest.** A gunshot entry wound was located on the posterior shoulder, ten inches from the top of the head and seven inches right of midline. The wound was a ¼ inch circular defect. The direction of the wound path was front to back, right to left, and downward. No exit wound was noted. A copper jacketed bullet was recovered from the right side of the spine.

**Gunshot Wound of the Chest.** A gunshot entry wound was located on the right arm (lateral), five inches from the top of the right shoulder and 1½ inches lateral to the anterior vertical line through the right arm. The wound was a 3/8 inch circular defect. An exit wound was located on the right arm (medial), 3½ inches from the top of the right shoulder and midline to anterior vertical line through the right arm. The wound was a ½ inch irregularly shaped defect. A reentry wound was also located on the right chest, 25½ inches from the top of the head and 6 inches right of midline. The reentry wound is a ½ inch irregularly shaped defect. The direction of the wound path was front to back, right to left, and downward. A copper jacketed bullet was recovered from the posterior right chest.

**Gunshot Wound of the Chest.** A gunshot entry wound was located on the right chest (near midline), 16 inches from the top of the head and one inch right of midline. The wound was a 1 x ½ inch irregularly shaped defect. The direction of the wound path was front to back, left to right, and downward. There was no exit wound noted. A copper jacketed bullet was recovered from the right flank.

**Gunshot Wound of the Right Hand.** A gunshot entry wound was located on the posterior right hand, near the base of the second finger, 25 inches from the top of the right shoulder and 1½ inches lateral to posterior vertical line through the right arm. The wound was a ¼ inch circular defect. The direction of the wound path was right to left, and upward. An exit wound was located on the posterior right skin, 23 inches from the top of the right shoulder and one inch lateral to posterior vertical line through the right arm. The wound was a 2 x 1 inch irregularly shaped defect.

**Gunshot Wound of the Left Arm.** A gunshot entry wound was located on the left arm (lateral), 9 inches from the top of the left shoulder and 1½ inches lateral to anterior vertical

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line through the right arm. The wound was a 3/8-inch circular defect. The direction of the wound path was from back to front, left to right, and upward. A gunshot exit wound was located on the left arm skin, 7½ inches from the top of the left shoulder and ½ inch lateral to anterior vertical line through the left arm. The exit wound was a ¾ inch irregularly shaped defect.

**Gunshot Wound of the Left Wrist.** A gunshot entry wound was located on the posterior left wrist, 23 inches from the top of the left shoulder and ½ inch medial to posterior vertical line through the left arm. The circular wound was a 3/8-inch defect. The direction of the wound path was back to front, left to right, and upward. A gunshot exit wound was located on the anterior left wrist, 22 inches from the top of the left shoulder and 1½ inch medial to anterior vertical line through the left arm. The exit wound was a one inch irregularly shaped defect.

**Gunshot Wound of the Left Leg.** A gunshot entry wound was located on the left lateral lower leg, 14 inches from the bottom of the left heel and 1½ inches lateral to the anterior vertical line through the left leg. The circular wound was a ¼ inch defect. The direction of the wound path was front to back, left to right, and downward. A gunshot exit wound was located on the left lower posterior leg skin, 11 inches from the bottom of the left heel and midline to posterior vertical line through the left leg. The exit wound was a 1 x ½ inch oval shaped defect.

#### **Gunshot Wound of the Groin.**

A gunshot entry wound was located on the left side of the groin, 36 inches from the top of the head and ½ inch left of midline. The wound was a ½ inch irregularly shaped defect. Neither the direction of the wound path nor the location of an exit wound were noted.

**Other Injuries.** Abrasions and contusions were located on Santiago's extremities. Sharp force injuries were also located on Santiago's wrists and forearms.

**TOXICOLOGY.** Femoral blood, Chest blood, Urine, and Vitreous fluid samples were collected from Santiago on January 20, 2022.

Toxicology results for the femoral blood sample were listed as follows:

- Amphetamine - 92 ng/mL
- Methamphetamine – 480 ng/mL

#### **CRIMINAL HISTORY.**

- October 29, 2018, Penal Code 69 Obstructing/Resist Executive Officer (a Felony) and Penal Code 487(c) Grand Theft Person (a Misdemeanor), Orange County Case 18NF2485.
- October 29, 2018, Penal Code 484(a) Petty Theft (a Misdemeanor) /488, Orange County Case 17NM16820.
- August 10, 2007, Vehicle Code 12500(a) Driving Without a License (a Misdemeanor), Orange County Case AN1365350.

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**DE-ESCALATION**

Approximately one minute and 40 seconds elapsed from the time Officer Valtierra exited his patrol vehicle until Santiago charged at him and Sergeant Palmer. During that short period, multiple commands were directed at Santiago to de-escalate the encounter. The quickly evolving incident provided no additional opportunities to de-escalate through some other less lethal means.

Officer Valtierra was first on-scene followed by Officer Reyes. Both officers wore Rialto Police Department uniforms, and each arrived in clearly identified police vehicles. Each officer directed verbal commands at Santiago to drop the knife. The commands were given multiple times by both officers. In addition, Officer Valtierra implored several times "I don't want to shoot you," and "don't do it." Officer Reyes similarly tried to de-escalate the encounter by asking Santiago for his name, assuring Santiago he was ok, and offering to talk with Santiago.

Santiago did not comply with any of the commands given by the officers. As the officers addressed him, Santiago neither acknowledged nor responded to the officers' directives. Instead, Santiago engaged in a series of fake charging attacks while holding a large knife in his hand.

The use of less lethal means to de-escalate the encounter were either not available, given the timeframe of the encounter, or would not have been effective under the circumstances.

While a police dog was present in Officer Valtierra's patrol unit, use of the animal would not necessarily have been effective or appropriate. Santiago was armed with a large knife that could have been used to hurt or kill the animal. A Taser was also not a viable alternative under the circumstances because all officers were at least 20 feet away from Santiago. Using a taser effectively would have required officers to move closer to Santiago and thus place themselves in more danger of being killed or seriously injured.

Officer Waidley arrived at the Chevron and directed a few commands at Santiago to drop the knife. Officer Waidley thought of retrieving a less-lethal projectile launcher from his patrol unit. Santiago, however, charged Officer Valtierra and Sergeant Palmer before Officer Waidley could act on his thought.

Sergeant Palmer had just arrived and stood next to Officer Valtierra when Santiago began to charge in his direction. Sergeant Palmer had no opportunity to give commands or retrieve a less-lethal means to de-escalate.

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### APPLICABLE LEGAL PRINCIPLES

A peace officer may use objectively reasonable force to effect an arrest if he believes that the person to be arrested has committed a public offense. (Calif. Penal C. §835a(b).)<sup>6</sup> If an arresting officer encounters resistance, actual or threatened, he need not retreat from his effort and maintains his right to self-defense. (Penal C. §835a(d).) An officer may use objectively reasonable force to effect an arrest, prevent escape or overcome resistance. (Penal C. §835a(d).)

An arrestee has a duty to refrain from using force or any weapon to resist arrest, if he knows or should know that he is being arrested. (Penal C. §834a.) This duty remains even if the arrest is determined to have been unlawful. (*People v. Coffey* (1967) 67 Cal.2d 204, 221.) In the interest of orderly resolution of disputes between citizens and the government, a *detainee* also has a duty to refrain from using force to resist detention or search. (*Evans v. City of Bakersfield* (1994) 22 Cal.App.4th 321, 332-333.) An arrestee or detainee may be kept in an officer's presence by physical restraint, threat of force, or assertion of the officer's authority. (*In re Gregory S.* (1980) 112 Cal. App. 3d 764, 778, *citing, In re Tony C.* (1978) 21 Cal.3d 888, 895.) The force used by the officer to effectuate the arrest or detention can be justified if it satisfies the Constitutional test in *Graham v. Connor* (1989) 490 U.S. 386, 395. (*People v. Perry* (2019) 36 Cal. App. 5th 444, 469-470.)

An officer-involved shooting may be justified as a matter of self-defense. (Penal C. §§196 and 197.)

**PENAL CODE §196.** Police officers may use deadly force in the course of their duties, under circumstances not available to members of the public. Penal Code §196 states that homicide by a public officer is justifiable when use of force "is in compliance with Section 835a." Section 835a specifies a ***police officer is justified in using deadly force*** when he reasonably believes based upon the totality of the circumstances, that it is necessary:

- (1) to defend against an imminent threat of death or serious bodily injury to the officer or another, or
- (2) to apprehend a fleeing felon who threatened or caused death or serious bodily injury, if the officer also reasonably believes that the fleeing felon would cause further death or serious bodily injury unless immediately apprehended,

(Penal C. §835a(c)(1).) Discharge of a firearm is "deadly force." (Penal C. §835a(e)(1).) The " '[t]otality of the circumstances' means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly

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<sup>6</sup> All references to code sections here pertain to the California Penal Code.



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force.” (Penal C. §835a(e)(3).) A peace officer need not retreat or desist from efforts to arrest a resistant arrestee. (Penal C. §835a(d).) A peace officer is neither the aggressor in this instance, nor does he lose the right of self-defense when using objectively reasonable force to effect the arrest, prevent escape or overcome resistance. (*Id.*)

While the appearance of these principals was new to section 835a in 2020,<sup>7</sup> courts have defined the constitutional parameters as to the use of deadly force for many years. The United States Supreme Court held that when a police officer has probable cause to believe that the suspect he is attempting to apprehend “has committed a crime involving the infliction or threatened infliction of serious physical harm” to the officer or others, using deadly force to prevent escape is not constitutionally unreasonable. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11-12.) California courts have held that when a police officer’s actions are reasonable under the Fourth Amendment of our national Constitution, the requirements of Penal Code §196 are also satisfied. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 349; *Brown v. Grinder* (E.D. Cal., Jan. 22, 2019) 2019 WL 280296, at \*25.) Caselaw also demonstrates *how* to undertake the analysis as to what is a reasonable use of force under the totality of the circumstances. (See *Reasonableness* discussion, *infra*.) As such, our pre-2020 state caselaw, developed upon the former iteration of section 196, is still instructive.

There are two new factors in section 835a that did not appear in the section previously, nor did they develop in caselaw pertaining to use of deadly force. First, a peace officer must make reasonable efforts to identify themselves as a peace officer and warn that deadly force may be used, prior to using deadly force to affect arrest. (Penal C. §835a(c)(1).) The requirement will not apply if an officer has objectively reasonable grounds to believe that the person to be arrested is aware of those facts. (Penal C. §835a(c)(1).) Second, deadly force cannot be used against a person who only poses a danger to themselves. (Penal C. §835a(c)(2).)

While the standards for use of deadly force during arrest are set forth at subsections (b) through (d) of Section 835a, the legislature also included findings and declarations at subsection (a). While they provide guidance, the findings and declarations are distinct from the binding standards that succeed them within the section. In sum, the findings are as follows:

- (1) that the use of force should be exercised judiciously and with respect for human rights and dignity; that every person has a right to be free from excessive uses of force;
- (2) that use of force should be used only when necessary to defend human life and peace officers shall use de-escalation techniques if it is reasonable, safe and feasible to do so;

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<sup>7</sup> Assem. Bill No. 392 (2019-2020 Reg. Sess.) approved by the Governor, August 19, 2019. [Hereinafter “AB-392”]

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- (3) that use of force incidents should be evaluated thoroughly with consideration of gravity and consequence, lawfulness and consistency with agency policies;<sup>8</sup>
- (4) that the evaluation of use of force is based upon a totality of the circumstances, from the perspective of a reasonable officer in the same situation; and
- (5) that those with disabilities may be affected in their ability to understand and comply with peace officer commands, and suffer a greater instance of fatal encounters with law enforcement, therefore.

(Penal C. §835a(a).)

**PENAL CODE SECTION 197.** California law permits *all persons* to use deadly force to protect themselves from the imminent threat of death or great bodily injury. Penal Code §197 provides that the use of deadly force by any person is justifiable when used in self-defense or in defense of others.

The pertinent criminal jury instruction to this section is CALCRIM 505 (“Justifiable Homicide: Self-Defense or Defense of Another”). The instruction, rooted in caselaw, states that a person acts in lawful self-defense or defense of another if:

- (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury;
- (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and
- (3) he used no more force than was reasonably necessary to defend against that danger.

(CALCRIM 505.) The showing required under section 197 is principally equivalent to the showing required under section 835a(c)(1), as stated *supra*.

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<sup>8</sup> Penal C. §835a (a)(3) conflates a demand for thorough evaluation of a use of force incident with a dictate that it be done “in order to ensure that officers use force consistent with law and agency policies.” On its face, the section is clumsily worded. Nothing included in AB-392 plainly requires that a use of force also comply with agency policies. A provision in the companion bill to AB-392—Senate Bill No. 230 [(2019-2020 Reg. Sess.) approved by the Governor, September 12, 2019] (Hereinafter “SB-230”), does explicitly state that “[a law enforcement agency’s use of force policies and training] may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably, but shall not be considered as imposing a legal duty on the officer to act in accordance with such policies and training.” (Sen. Bill No. 230 (2019-2020 Reg. Sess.) §1.) It is noteworthy, however, that this portion of SB-230 is uncoded, unlike the aforementioned portion of Penal C. §835a (a)(3).

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**IMMINENCE.** “Imminence is a critical component” of self-defense. (*People v. Humphrey* (1996) 13 Cal.4th 1073, 1094.) A person may resort to the use of deadly force in self-defense, or in defense of another, where there is a reasonable need to protect oneself or someone else from an apparent, *imminent* threat of death or great bodily injury. “An imminent peril is one that, from appearances, must be instantly dealt with.” (*In re Christian S.* (1994) 7 Cal.4th 768, 783.) The primary inquiry is whether action was instantly required to avoid death or great bodily injury. (*Humphrey, supra*, 13 Cal.4th at 1088.) What a person knows and his actual awareness of the risks posed against him are relevant to determine if a reasonable person would believe in the need to defend. (*Id.* at 1083.) In this regard, there is no duty to wait until an injury has been inflicted to be sure that deadly force is indeed appropriate. (*Scott v. Henrich, supra*, 39 F. 3d at 915.)

Imminence, defined in the context of use of force to effect an arrest, is similar:

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 C. §835a(e)(2).)

**REASONABLENESS.** Self-defense requires both subjective honesty and objective reasonableness. (*People v. Aris* (1989) 215 Cal.App.3d 1178, 1186.) The United States Supreme Court has held that an officer’s right to use force in the course of an arrest, stop or seizure, deadly or otherwise, must be analyzed under the Fourth Amendment’s “reasonableness” standard. (*Graham v. Connor, supra*, 490 U.S. at 395.)

The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on scene, rather than with 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.

(*Id.* at 396-397, citations omitted.)

The “reasonableness” test requires an analysis of “whether the officers’ actions are ‘objectively reasonable’ given the facts and circumstances confronting them, without regard to their underlying intent or motivation.” (*Id.* at 397, citations omitted.) What constitutes “reasonable” self-defense or defense of others is controlled by the

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circumstances. A person's right of self-defense is the same whether the danger is real or merely apparent. (*People v. Jackson* (1965) 233 Cal.App.2d 639.) If the person's beliefs were reasonable, the danger does not need to have actually existed. (CALCRIM 505.) Yet, a person may use no more force than is reasonably necessary to defend against the danger they face. (*Id.*)

When deciding whether a person's beliefs were reasonable, a jury is instructed to consider the circumstances as they were known to and appeared to the person and considers what a reasonable person in a similar situation with similar knowledge would have believed. (*Id.*) In context of an officer-involved incident, this standard does not morph into a "reasonable police officer" standard. (*People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147.)<sup>9</sup> The officer's conduct should be evaluated as "the conduct of a reasonable person functioning as a police officer in a stressful situation." (*Id.*)

The *Graham* court plainly stated that digestion of the "totality of the circumstances" is fact-driven and considered on a case-by-case basis. (*Graham v. Connor, supra*, 490 U.S. at 396.) As such, "reasonableness" cannot be precisely defined nor can the test be mechanically applied. (*Id.*) Still, *Graham* does grant the following factors to be considered in the "reasonableness" calculus: the severity of the crime committed, whether the threat posed is immediate, whether the person seized is actively resisting arrest or attempting to flee to evade arrest. (*Id.*)

Whether the suspect posed an immediate threat to the safety of the officer or others has been touted as the "most important" *Graham* factor. (*Mattos v. Agarano* (9th Cir. 2011) 661 F.3d 433, 441-442.) The threatened use of a gun or knife, for example, is the sort of immediate threat that justifies an officer's use of deadly force. (*Reynolds v. County of San Diego* (9th Cir. 1994) 858 F.Supp. 1064, 1071-72 "an officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack.") Again, the specified factors of *Graham* were not meant to be exclusive; other factors are taken into consideration when "necessary to account for the totality of the circumstances in a given case." (*Mattos v. Agarano, supra*, 661 F.3d at 441-442.)

When undertaking this analysis, one court explained:

under *Graham* we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes 'reasonable' action may seem quite different to someone

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<sup>9</sup> The legislative findings included in Penal C. section 835a(a)(4) suggest to the contrary that "the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation." As such, if the officer using force was acting to *effect arrest*, as is governed by section 835a, then it appears the more generous standard included there would apply.

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facing a possible assailant than to someone analyzing the question at leisure.

(*Martinez v. County of Los Angeles*, *supra*, 47 Cal.App.4th at 343, citing *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.) Specifically, when a police officer reasonably believes a suspect may be armed or arming himself, it does not change the analysis even if subsequent investigation reveals the suspect was unarmed. (*Baldrige v. City of Santa Rosa* (9th Cir. 1999) 1999 U.S. Dist. LEXIS 1414 \*1, 27-28.)

The Supreme Court's definition of reasonableness is "comparatively generous to the police in cases where potential danger, emergency conditions or other exigent circumstances are present." (*Martinez v. County of Los Angeles*, *supra*, 47 Cal.App.4th at 343-344, citing *Roy v. Inhabitants of City of Lewiston* (1st Cir. 1994) 42 F.3d 691, 695.) The police are surrounded with a wide "zone of protection" when the aggrieved conduct pertains to on-the-spot choices made in dangerous situations. (*Id.* at 343-344.) One court explained that the deference given to police officers (versus a private citizen) as follows:

unlike private citizens, police officers act under color of law to protect the public interest. They are charged with acting affirmatively and using force as part of their duties, because 'the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.'

(*Munoz v. City of Union City* (2004) 120 Cal.App.4th 1077, 1109, citing *Graham v. Connor*, [*supra*] 490 U.S. 386, 396.)

**NON-LETHAL FORCE.** "[A]ll force—lethal and non-lethal—must be justified by the need for the specific level of force employed." (*Bryan v. MacPherson* (9th Cir. 2010) 630 F.3d 805, 825, citing *Graham v. Connor* (1989) 490 U.S. [386], 395.) The *Graham* balancing test, as described *supra*, is used to evaluate the reasonableness of lethal and non-lethal force, alike. (*Deorle v. Rutherford* (9th Cir. 2001) 272 F.3d 1272, 1282-83.)

Use of a Taser or a shotgun-fired bean bag has been categorized as intermediate non-lethal force. (*Bryan v. MacPherson*, *supra*, 630 F.3d at 825 [Taser]; *Deorle v. Rutherford*, *supra*, 272 F.3d at 1279-80 [bean bag].) This designation exists even though such force is *capable* of being used in a manner causing death. (*Id.*) To be deemed "lethal force" the instrumentality must be force that "creates a substantial risk of death or serious bodily injury." (*Smith v. City of Hemet* (9th Cir. 2005) 394 F.3d 689, 693.); use of a Taser or shotgun-fired bean bag fall short of this definition. (*Bryan v. MacPherson*, *supra*, 630 F.3d at 825; *Deorle v. Rutherford*, *supra*, 272 F.3d at 1279-80.) Similarly, the use of a trained police dog is not "deadly force" as it falls short of the definition in *Smith*. (*Thompson v. County of Los Angeles* (2006) 142 Cal.App.4th 154, 165-169.)

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Beyond the traditional *Graham* factors, and particularly in the use of non-lethal force, the failure of officers to give a warning and the subject's mental infirmity can also be considered when assessing the totality of the circumstances. (*Bryan v. MacPherson*, *supra*, 630 F.3d at 831; *Deorle v. Rutherford*, *supra*, 270 F.3d at 1283-84.) Failure to pass-muster under *Graham* can deem the use of non-lethal force as "excessive" and therefore violate the Fourth Amendment. (*Id.*) On the other hand, active resistance could justify multiple applications of non-lethal force to gain compliance and would not be deemed "excessive" nor violate the Fourth Amendment. (*Sanders v. City of Fresno* (9th Cir. 2008) 551 F.Supp.2d 1149, 1182 [not excessive to use physical force and tase an unarmed but actively resisting subject with 14 Taser cycles where such was needed to gain physical control of him].)

**ANALYSIS**

The lethal force used against Santiago by both Officer Valtierra and Sergeant Palmer was justified in this matter. Their use of lethal force was based on honest and objectively reasonable beliefs that Santiago posed an imminent risk of serious bodily injury or death to each officer individually, and to both officers collectively.

Prior to the time Officer Valtierra and Sergeant Palmer discharged their weapons, Santiago was armed with a knife while blood covered his hands and clothes. Santiago ignored multiple commands to drop the knife and disregarded efforts to peacefully end the encounter. The officers directed their commands from 20 to 40 feet away from Santiago, never approaching or initiating a physical encounter with him.

Santiago responded by sprinting toward Officer Valtierra and Sergeant Palmer while still armed with a knife. Santiago's attack was unprovoked. While an attack may have been anticipated based on Santiago's previous series of fake charges, the actual attack occurred without true warning and quickly evolved. Video shows that in two seconds Santiago sprinted approximately half the distance from the building's front entrance to where Officer Valtierra and Sergeant Palmer stood. Santiago ultimately landed on the ground near Officer Valtierra's original location approximately five seconds after initiating his attack. Starting from the point Officer Valtierra had exited his patrol unit, one minute and forty seconds had elapsed before the incident began. As to Sergeant Palmer, he was standing at Officer Valtierra's side for approximately four seconds before Santiago charges. In total, Sergeant Palmer had been at the gas station for approximately 34 seconds prior to the shooting. Both Officer Valtierra and Sergeant Palmer believed Santiago wanted to hurt or kill them with the knife.

The use of lethal force is objectively reasonable when there is a sudden attack by a rapidly advancing suspect carrying a knife. This is especially true when the confrontation takes place in a small, proximate area. (*Reynolds v. County of San Diego*, *supra*, 661 F.3d at 1072.) In this instance, Santiago's knife attack presented an imminent danger resulting

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in the need for Officer Valtierra and Sergeant Palmer Deputy to protect themselves individually and each other.

Santiago ran directly at the two officers despite the option to run in any direction where they were not present. The encounter was fast moving and took place within a limited area. In seconds, Santiago was in front of the officers and physically close. The videos also show Santiago's determination to reach the officers after first being slowed by the rounds but then resuming the sprint afterwards. Under such circumstances, neither Officer Valtierra nor Sergeant Palmer was required "to hold fire ... to ascertain whether [Santiago would] in fact, injure or murder [them]." (*Id.*) The facts and circumstances surrounding this shooting event called for Officer Valtierra and Sergeant Palmer to protect themselves individually and collectively by use of deadly force. Their belief Santiago was an imminent threat was honest and objectively reasonable.

**CONCLUSION**

Based on the facts presented in the reports and the applicable law, the use of lethal force by both Officer Valtierra and Sergeant Palmer was a proper exercise of the right of self-defense and defense of others. Officer Valtierra was legally justified in his action, and no criminal liability attaches in this case. Similarly, Sergeant Palmer's acts were legally justified, and no criminal liability attaches in this case.

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