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April 5, 2024

**PUBLIC REPORT ON OFFICER INVOLVED SHOOTING OF FRANCISCO GOMEZ
SOLANO ON DECEMBER 15, 2022**

The Santa Barbara County District Attorney's Office has completed its review of the Santa Barbara Sheriff's Office ("SBSO") investigation into the non-fatal shooting of Francisco Gomez Solano, age 24, on December 15, 2022, in the City of Santa Maria, California.¹

The following analysis is based upon investigative reports, video and audio recordings, photographs, and witness interviews, including the voluntary statement of Santa Maria Police Officer Mason Jackson, taken during the investigation and submitted to this office by SBSO Detective Ruben Esparza.

The District Attorney finds the shooting by Santa Maria Police Department Officer Mason Jackson was a justified use of force pursuant to Penal Code section 835a, and he bears no state criminal liability.

FACTUAL HISTORY

Summary

On Thursday December 15, 2022, around 5:30 p.m. in the area of 223 E. McElhaney Ave. in Santa Maria, suspect Francisco Gomez Solano pointed a gun at a woman getting out of her car and demanded her keys. Frightened that she was going to be shot, the woman gave Solano her keys, ran away and called 911. Solano fled in the woman's silver Nissan Altima, while Santa Maria Police Department (SMPD) dispatch advised officers of the carjacking. Shortly after the carjacking, Solano collided with another vehicle, and although the Altima was damaged, he continued driving. An SMPD Officer saw the Altima matching the stolen vehicle's description near the intersection of Main St. and College Ave. and began pursuing Solano. Solano drove erratically at a high rate of speed, running red lights, and eventually lost control, crashing into a vehicle in the parking lot of a 7-Eleven on S. Railroad Ave. Two SMPD officers responded and positioned their patrol vehicles to the side of the Altima where they had a view of the driver's side. The Altima was so damaged on the driver's side that the door would not open. Solano rolled down the driver's side window while holding a gun to his head with his left hand.

¹ The District Attorney's Office filed charges against Francisco Gomez Solano following this incident. He pled guilty to violating Penal Code section 215(a), carjacking, and the court found true the aggravating factor that Solano was armed with and used a weapon during the commission of the crime. Solano was sentenced to five years in state prison on April 12, 2023. It is the policy of the District Attorney's Office to prepare this public report at the conclusion of the criminal case.

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Officers gave him commands to drop the gun but Solano only shook his head back and forth. Solano then climbed out of the driver's side window while still holding the gun to his head in his left hand. Officers continued to yell commands at Solano to drop the gun. In response Solano moved the gun towards officers and then to his own mouth. When he moved the gun towards the officers, an officer fired one round, hitting Solano in the right lower face/jaw area. Solano immediately ran southbound on Railroad Ave. with the gun still in his hand. Officers chased Solano who ran into a nearby business where the owner was inside. Solano grabbed the owner from behind and held his gun to the man's neck as though he were going to take him hostage. The man was able to escape and run outside to arriving officers. Officers then placed Solano in custody and transported him to the hospital. When officers examined Solano's firearm, they determined it was a replica firearm with no identifiable markings such as an orange tip to signify it was a pellet gun.

Solano later pled guilty to one count of carjacking, in violation of Penal Code section 215(a)(1) and admitted as true the special allegation that he used a weapon in the commission of the crime. In April 2023 he was sentenced to five years in state prison.

Carjacking

Just before 6:00 p.m. on December 15, 2022, a 19 year-old female parked her silver Nissan Altima near 223 E. McElhaney Street in Santa Maria. After parking she stayed in her car for a few minutes, using her cellphone, before exiting. She was gathering items from her car when suddenly a man, later identified as Francisco Gomez Solano, approached her and pointed a gun at her chest. Solano was within arm's reach as he pointed the gun at her chest, and he repeatedly yelled at her to give him her keys. The female was frightened for her life and wanted to scream for help but she was afraid Solano would shoot her. She described the gun as a black handgun with scratch marks on it as if it had been dropped or scratched. She said the gun looked similar to the guns police officers carry and that it did not have any markings on it that would lead her to believe it was a replica gun. She began walking backwards towards the curb while reaching into her purse to find her keys. The female was also able to use the Emergency SOS feature on her iPhone to call 911 which allowed for an open phone line during the carjacking. A male voice was heard on the recording saying "Gimme, gimme, gimme," which corroborated her statement that Solano repeatedly demanded her keys. Eventually Solano grabbed the keys from her hand, got into her vehicle and drove away. The victim ran to a nearby residence to ask for help where she called 911.

Pursuit

Santa Maria Police Officer Ruben Peinado was on a call for service when dispatch notified him of an armed carjacking in the 200-300 block of E. McElhaney Street. Dispatch described the vehicle the suspect was now driving to be a 2011-2014 Nissan Altima with the front two hubcaps missing. Officer Peinado headed in the direction of the carjacking and scanned vehicles in the

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area. As he reached the intersection of Main Street and College Avenue, he saw a vehicle matching the description of the Altima traveling southbound.

Officer Peinado turned his patrol vehicle around to follow the Altima, which began accelerating into a merging lane. Officer Peinado positioned his patrol car behind the Altima and it attempted to pass a vehicle. He activated his overhead emergency lights and sirens but the Altima did not stop. The vehicle drove through a solid red light and Officer Peinado pursued it westbound on Cook Street.

The Altima stopped in traffic at Broadway and Cook Street. Officer Peinado exited his patrol vehicle while pointing his firearm at the Altima and gave commands to the driver to roll the window down. He could see damage to the Altima and believed it to be inoperable. When traffic opened up, however, the Altima drove away westbound on Cook Street towards Depot Street. The Altima continued traveling through stop signs without stopping until the driver lost control and collided into another vehicle in the 7-Eleven parking lot on S. Railroad Avenue.

Officer Involved Shooting

Officer Peinado parked and positioned his patrol car in an angled position with a view of the driver's side door of the Altima. He exited his vehicle and gave commands for the suspect, later identified as Francisco Gomez Solano, to roll the window down. Officer Mason Jackson arrived on scene and parked just behind Officer Peinado.

The Altima appeared disabled due to the crash, and the windows were tinted so that the officers could not see the suspect. Solano rolled down the driver's side window and Officers Jackson and Peinado could see he was holding a gun in his left hand and the gun was pointed at his temple. Both officers described the gun as a dark-colored, shiny, metal gun with no identifying marks such as an orange tip or anything to signify it was a replica gun. Both officers believed it to be a real firearm. Officers Peinado and Jackson yelled numerous commands to Solano to drop the gun. In response, Solano climbed out of the driver's side window with the gun still pointed at his temple in his left hand. There were other people in the 7-Eleven parking lot and incoming responding officers in the area. Officer Peinado reported feeling stress and fear for the safety of the nearby civilians and officers.

Officer Jackson retrieved his AR-15 rifle² from his patrol vehicle and re-positioned himself behind Officer Peinado's vehicle. By the time Officer Jackson retrieved his rifle, Solano was standing next to the Altima, staring towards Officers Jackson and Peinado, with the gun still to the left side of his head. Officer Jackson looked through the magnified sight on his rifle and was focused on Solano's left hand holding the gun. As the officers continued to yell commands to drop the gun, Solano moved the gun from his temple, towards the officers and eventually to his

² Affixed to Officer Jackson's rifle was a magnified sighting system which allowed Officer Jackson to see in greater detail at a given distance than what is possible with the human eye.

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own mouth. Officer Jackson described the gun moving from Solano's temple towards Officer Peinado and himself. When Officer Jackson saw Solano moving the gun towards them he believed Solano was either going to shoot at him or at Officer Peinado so he fired one round at Solano. As soon as he fired he saw that Solano continued moving the gun towards his own mouth, so Officer Jackson reassessed and did not fire any more rounds. Solano grabbed the side of his face after he was struck in the lower face/neck area. Officer Jackson continued yelling to Solano to drop the gun, but Solano ignored the commands and ran southbound on Railroad Ave. still holding the gun.

Officers Jackson and Peinado chased after Solano keeping some distance because he was still armed. Solano ran into a mechanic's shop at 537 S. Railroad Ave. and Officers Jackson and Peinado lost sight of him. They were waiting for other officers to arrive before entering the business when another man, later identified as the owner of the mechanic shop, frantically ran out pointing inside and telling the officers a man with a gun was inside. The officers entered the mechanic's shop and saw Solano run into a bathroom. Shortly after, Solano came out of the bathroom. He was bleeding from his neck/lower face area. He surrendered to officers and officers began performing first aid on him. Solano was eventually airlifted to Cottage Hospital for treatment.

The mechanic shop owner later told detectives that he was working inside the shop when Solano ran inside, forcefully grabbed him from behind and pointed a gun to his neck. He believed Solano was taking him hostage. The mechanic shop owner was able to wrestle the gun away from Solano and freed himself from Solano's grip so that he could run away. Once outside he encountered police officers and directed them inside where Solano was located.

Suspect's Statement to Police

Solano spoke to detectives on December 16, 2022 at Cottage Hospital in Santa Barbara where he was treated for the gunshot wound to his face/neck area. He told detectives he moved from Mexico to the Santa Maria area about three months prior. Since arriving in Santa Maria he began using alcohol and methamphetamine. On the day he committed the carjacking he and an unidentified friend had been smoking methamphetamine and drinking tequila when they decided to rob a store. They entered an unidentified store and stole some clothes. They were chased away by an employee and Solano did not know where his friend went after that. Solano ran a few blocks away and saw a female unloading her car. Solano had a pistol with him that he knew was a fake gun. He approached the female and pointed it at her. He said she was scared and handed him her car keys. Solano then drove away in her car.

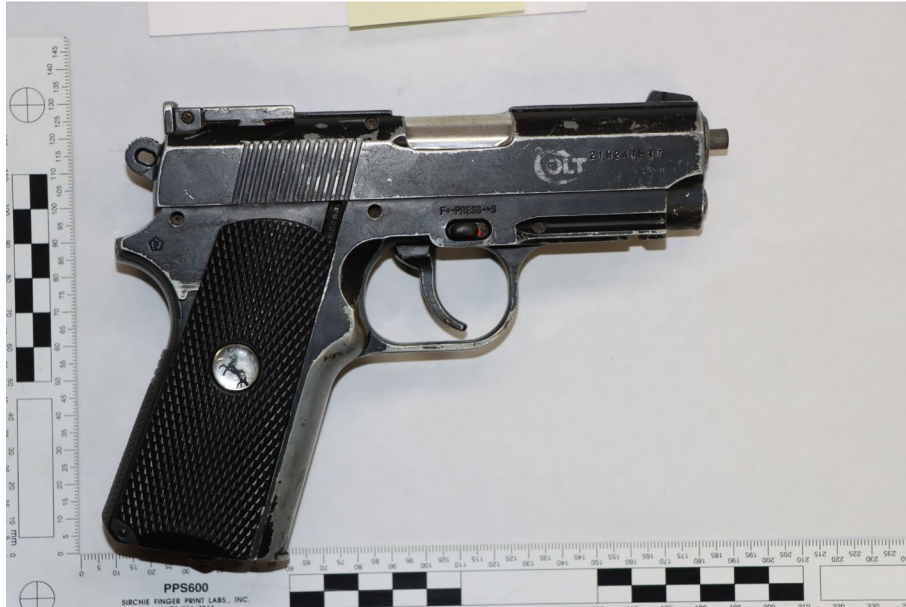
While Solano was driving he noticed a police car behind him but he kept driving. At some point he saw about seven police cars behind him with their lights on, so he sped away. He crashed into what he believed was a light pole and continued driving. He eventually crashed again at the 7-Eleven where he could no longer drive the car because of its damage. He could not open the car door so he climbed out of the window and pointed the gun to his head. He heard police officers

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yelling at him but could not understand what they were saying. He then moved the gun from his head towards his mouth when he felt something strike his neck. He saw that he was bleeding and realized he had been shot. He was scared so he began to run. Solano said he placed the gun inside his mouth because he wanted to kill himself rather than go to jail. He acknowledged that he knew the gun was a pellet gun.



Solano's gun

LEGAL ANALYSIS

Applicable Law

A peace officer is justified in using deadly force upon another when the officer reasonably believes, based on the totality of the circumstances that such force is necessary for either of the following reasons: (1) to defend against an imminent threat of death or serious bodily injury to the officer or another; or (2) to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. *Penal Code section 835a(c)(1)(A) and (B)*.

A threat of death or serious bodily injury is "imminent" when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one

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that, from appearances, must be instantly confronted and addressed. *Penal Code section 835a(e)(2)*.

The decision by a peace officer to use force shall be evaluated from the perspective of a reasonable peace officer under the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight. The totality of the circumstances shall account for occasions when an officer may be forced to make quick decisions about using force. *Penal Code section 835a(4)*.

In determining whether the use of deadly force is necessary, officers shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer. *Penal Code section 835a(2)*.

“Totality 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 force. *Penal Code section 835a(e)(3)*. The Santa Barbara District Attorney’s Office evaluates the investigation of any peace officer, on or off duty, who shoots and injures or kills any person to determine if the officer bears any criminal liability.

Application of Law

Just after 5:30 p.m. on December 15, 2022, Santa Maria Police Department responded to a call of a carjacking. A suspect, Francisco Gomez Solano, was high on methamphetamine when he pointed a firearm at a 19 year-old woman and demanded her car keys. Solano then drove erratically through the city, refusing to stop when Officer Peinado pursued him, and ultimately crashed into a car at the 7-Eleven parking lot on S. Railroad Avenue.

After crashing the stolen vehicle, Solano refused to follow officer’s commands while holding what appeared to be a black semiautomatic firearm to his temple. Instead of complying with the officer’s demands to drop the gun, Solano climbed out of the vehicle’s window while still holding the gun to his temple. Officer Jackson drew his AR-15 rifle and maintained his view on Solano’s gun using the magnified sight affixed to his rifle. When Solano moved the gun from his head, Officer Jackson saw the gun point towards himself and Officer Peinado. Officer Jackson thought Solano was going to either shoot him or Officer Peinado. Fearing for his life and the life of his partner, Officer Jackson fired once at Solano’s head area. The bullet struck Solano in the lower face/neck area. Solano grabbed the side of face and ran southbound on Railroad Avenue. Solano eventually entered a mechanic’s business and held the business owner at gun point until he was captured and taken into custody.

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CONCLUSION

In reviewing the evidence and considering all of the circumstances, the actions taken by Officer Jackson were reasonable based on the facts known and perceived by him at the time of the shooting. Officer Jackson reasonably believed that Solano posed an imminent threat of serious bodily injury or death to himself, Officer Peinado, and other people in the vicinity of this location. Officer Jackson's ability to perceive Solano's movements with the firearm was enhanced by the magnified sight on his rifle. He was forced to respond to the threat when Solano pointed his firearm in the direction of the officers. Any reasonable law enforcement officer in the same situation as Officer Jackson would perceive Solano's actions as an immediate lethal threat to themselves and others in the immediate vicinity. Therefore, Officer Jackson's use of lethal force was justified and he bears no state criminal liability for his actions.

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