



OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE

MICHAEL A. HESTRIN
DISTRICT ATTORNEY

November 9, 2022

Sheriff Chad Bianco
Riverside County Sheriff's Department
4095 Lemon Street, Second Floor
Riverside, CA 92501

Re: Fatal Officer-Involved Shooting of Steven Crosby on January 26, 2021, by Deputy Trevor Vetere, Badge No. 5166, and Deputy Ryan Marin, Badge No. 5443; Riverside County Sheriff Department's Case No. PC210260062.

Dear Sheriff Bianco:

We have reviewed the investigative reports and other materials submitted by the Riverside County District Attorney's Office Investigative Bureau concerning the fatal shooting of Steven Crosby by Deputy Trevor Vetere and Deputy Ryan Marin on January 26, 2021. Our office completed its review of this incident on January 4, 2022.

PERSONS INVOLVED

At the time of the incident, Steven Crosby was [REDACTED] years old and a resident of [REDACTED].

Deputy Marin is employed by the Riverside County Sheriff's Department. At the time of the incident, he had been working for the Riverside County Sheriff's Department for approximately six and a half years and was assigned to the Perris Sheriff Station Watch 3 patrol shift. He was on duty in full uniform and a marked vehicle.

Deputy Vetere is employed by the Riverside County Sheriff's Department. At the time of the incident, he had been working for the Riverside County Sheriff's Department for approximately eight years and was assigned to the Perris Sheriff Station Watch 3 patrol shift. He was on duty in full uniform and a marked vehicle.

FACTUAL SUMMARY OF THE INCIDENT

On January 26, 2021, at 6:32p.m., the Riverside County Sheriff's Department received a call for service in the unincorporated Riverside County area known as Homeland. The reporting party, Witness 1, told Sheriff dispatch operators that [REDACTED] Steven Crosby had entered her home and threatened to kill her. She gave sheriff dispatch operators a description of Crosby and advised that he was armed with a black handgun.

Witness 1 further explained that she and Crosby [REDACTED] and that he did not currently live at the residence. She said Crosby had arrived at the residence in his vehicle, a white Toyota Tacoma. Witness 1 said she had locked herself in the bathroom and her two children were also at the residence.

During the call, dispatch advised responding units that a male's voice could be heard in the background saying, "I'm going to kill you, I'm going to shoot you right now." Deputy Marin and Deputy Vetere responded Code 3 to the location and located Witness 1 and Crosby at the end of the driveway. Witness 1 pointed to [REDACTED] Crosby and told the deputies that she feared he was going to kill the kids. As the deputies attempted to contact Crosby, he refused to cooperate or take his hands out of his jacket. As Crosby was walking away from deputies towards the residence, with his hands in his pockets, he suddenly took out a handgun, turned, and began shooting at the deputies. The deputies took cover behind their vehicles and returned gunfire. Crosby continued shooting at the deputies and they continued to return fire, striking Crosby. Backup deputies arrived and approached Crosby, who was unresponsive and pronounced deceased at the scene. Crosby's handgun was located next to his body with the slide locked to the rear. During a safety sweep, two juveniles were located inside the residence and escorted from the scene.

THE INVESTIGATION

Interview with Deputy Trevor Vetere

Deputy Vetere stated that on the evening of January 26, 2021, he was responding to a domestic dispute. The [REDACTED] Witness 1, had called 911 reporting that [REDACTED] was in the house, with a gun in his pocket, threatening to kill her. Deputy Vetere and Deputy Marin met in the Winchester area to formulate a response plan while parked one street to the west of the location. Dispatch then broadcast that a male voice could be heard saying "I'm going to kill you right now", so they immediately responded to the location.

As they pulled up to the street, Witness 1 was on the corner and flagged them down. She pointed out Crosby, who looked at them and put his hands in his pockets. Deputy Vetere repeatedly told Crosby to remove his hands from his pockets. Crosby ignored the commands and began walking back towards the residence. Witness 1 feared Crosby would kill [REDACTED] children in the residence. They deputies began to drive their vehicles down the driveway behind Crosby when Crosby turned, pulled out a gun, and began shooting at the deputies.

Crosby was walking southbound and turning his torso as he pointed the gun back towards Deputy Vetere and Deputy Marin. Deputy Vetere described that Crosby was walking away from them, with his hips facing forward and his torso turned so he could see behind himself. Deputy Vetere described seeing Crosby fire the first shot while he was walking, holding the gun with one hand. Prior to that Crosby had his hands in his pockets, which is where Witness 1 said he had the gun. Crosby continued firing multiple shots.

When Crosby began shooting at the deputies, Deputy Marin's vehicle was located approximately ten feet in front of Deputy Vetere's vehicle with Crosby located approximately five to ten feet in front of Deputy Marin's vehicle. Deputy Vetere was inside the driver's seat of his vehicle and had a clear view of Crosby when Crosby began shooting at them. Deputy Vetere was able to immediately step out of his vehicle and return fire through the vehicle's window. However, his gun initially jammed and failed to fire, causing him to clear and rack a new round. Deputy Vetere

estimated Crosby was about fifteen to twenty-five feet away from him as he was walking and shooting.

Deputy Vetere described that Crosby began shooting but fell down, causing all gunfire to cease. Crosby got back up and began shooting at them again, causing the gunfire to commence again. Crosby then fell a second time, causing gunfire to cease again. .

Deputy Vetere stated that it was dark, and the dirt road had poor lighting, but both of the patrol vehicles were facing Crosby with the headlights activated, enabling a clear view of Crosby. Deputy Vetere believed that he himself had fired about three or four rounds. Deputy Vetere was unfamiliar with Crosby or his name, never having had any prior contact with him. Deputy Vetere was positive that Crosby knew they were police officers since they were in a marked black and white patrol vehicle and full uniform.

Deputy Vetere stated there was no time to give further commands or use any other means of less lethal options because when Crosby pulled out his gun, he immediately began shooting at them. Deputy Vetere believed Crosby was trying to kill both him and Deputy Marin. Deputy Vetere also believed Crosby was walking back to the house to kill the children inside the residence. Deputy Vetere believed it was necessary to use deadly force. Deputy Vetere stopped firing when he perceived there was no longer a threat.

Interview with Deputy Ryan Marin

Deputy Marin stated that on the evening of January 26, 2021, he was on his way to another call when he heard dispatch broadcast a domestic dispute involving a gun. Deputy Marin responded as backup and met Deputy Vetere in the residence vicinity to stage and wait for additional backup. They consulted a map of the area and discussed an approach plan to the residence, which was set back from the main road. However, when dispatch broadcast threats to kill, Deputy Marin and Deputy Vetere decided to approach immediately.

Deputy Marin could see a man and a woman arguing with each other near the mailboxes on the corner. Deputy Marin exited his unit to inquire if they had called 911. Witness 1 was hysterical saying [REDACTED] Crosby, was going to kill the children in the residence. Crosby then began walking away with his hands in his pockets. Deputy Vetere gave repeated verbal commands for Crosby remove his hands from his pockets, but Crosby ignored him.

Deputy Marin got back into his patrol vehicle and began to drive up the dirt driveway behind Crosby to contact him. Deputy Marin pulled in front of Deputy Vetere and put his unit in park as he opened his door to step out. Crosby was approximately three feet from the hood of Deputy Marin's vehicle when he yelled something at Deputy Marin and pulled out a gun from somewhere on his person. Crosby pointed the gun at Deputy Marin and began shooting at him. Deputy Marin estimated that Crosby fired two rounds before Deputy Marin was even out of his vehicle. Deputy Marin slid down into his seat to avoid getting shot and then exited his vehicle. Deputy Marin regained his footing and returned fire towards Crosby while yelling at Crosby to "stop firing" and "drop the gun". Crosby continued shooting at Deputy Marin while simultaneously walking towards the house. Deputy Marin continued to return fire. Crosby fell to the ground, got back up, and continued shooting at the deputies. Crosby fell again and Deputy Marin stopped firing when Crosby stopped moving. Deputy Marin did not reload his gun. At that point, Deputy Marin checked with Deputy Vetere to make sure he was okay as other deputies began arriving.

Deputy Marin had no previous familiarity with Crosby or the location. Deputy Marin described the location as dark during the incident, but the patrol vehicle headlights and spotlights provided light. Deputy Marin stated that no other means of less lethal force would have been appropriate since Crosby was shooting a gun at him. Deputy Marin believed Crosby was going to kill him or Deputy Vetere and believed Crosby had the means and the intent to kill them. Deputy Marin believed that if he had not returned fire, Crosby would have killed them.

Interview with Witness 1

Witness 1 had been [REDACTED] Witness 1 said that Crosby had never been diagnosed with any mental health issues but had been a drug user since age twelve. Witness 1 and Crosby [REDACTED] In the interim, Crosby had come and gone from their shared home. The last time Crosby stayed overnight was about two months prior to the incident. Witness 1 [REDACTED] described Crosby's behavior as getting "worse and worse" recently. He had threatened to kill her and told her to "sleep with one eye open bitch". Witness 1 was aware that Crosby owned several guns.

On Saturday, January 23, 2021, Witness 1 was woken up around 5:00a.m. by Crosby, who had snuck into the residence while she and the kids were asleep. He confronted her about [REDACTED] and became physically violent with her. Crosby climbed on top of her, while she was in the bed, and pressed his head against her face so forcefully it left a mark on her eyelid and cheek. When Witness 1 began to scream for Crosby to get off of her, he put his hand over her mouth to silence her. Crosby finally got off of her and left the residence. Prior to the night of the shooting Crosby had keys to the house and the exterior gate to the property. However, Witness 1 changed the lock to the exterior gate on the day of the shooting in an attempt to prevent Crosby from showing up unannounced in the residence.

On January 26, 2021, around 5:30-6:00p.m., Crosby showed up at the house unannounced and discovered that the gate lock had been changed. Crosby climbed the fence and entered the residence through the front door. Witness 1 did not know Crosby was coming to the residence. Crosby was extremely upset that the lock had been changed and became even more upset when he saw that Witness 1 had purchased a new couch. Witness 1 did not want the kids to see him yelling so they went outside to talk. Crosby said he was not going to let the [REDACTED] happen and that he was going to have to kill her. He began telling Witness 1 to say goodbye to the [REDACTED]. Witness 1 could tell Crosby had a gun in his jacket pocket and became fearful.

Crosby followed Witness 1 back into the residence and continued telling her to "kiss the [REDACTED] goodbye". Witness 3 [REDACTED] was in the living room witnessing this behavior. Witness 1 feared Crosby was going to kill her, so she went into the bathroom and called 911. She told dispatchers Crosby was threatening to kill her and that he was armed with a gun. She remained in the bathroom until [REDACTED] had to use the bathroom. She went back out to the living room where Crosby was still talking about killing her. Witness 1 told Crosby that she was going to check the mailbox. She left the residence, but Crosby followed her down the dirt driveway to the mailbox.

Witness 1 remained by the mailbox to wait for the police. Crosby began questioning if she had called the police. She did not respond. Witness 1 then saw the police arriving and waived at them, pointing at Crosby. Witness 1 heard the police telling Crosby "Get your hands out of your pocket" but he just started walking back up towards the house. Witness 1 described that the two police cars were driving up towards him repeatedly saying "Get your hands out of your pockets".

Witness 1 stated: "I'm pretty sure [REDACTED] shot at the cops". She also stated: "I thought that he had shot at the cops and then they shot at him." Witness 1 heard many gunshots but did not actually see who was shooting. She stated that she was extremely fearful Crosby might kill her and felt the police arriving was necessary and that the police did not do anything wrong.

Interview with Witness 2

Witness 2, [REDACTED], stated [REDACTED] Crosby, had moved out about four months prior because [REDACTED] argued frequently. Witness 2 described that Crosby would yell at Witness 1, who would just try to ignore him. Witness 2 said that the only violence he witnessed was five days prior to the shooting when he woke up around 6:00a.m. to the sound of Witness 1 yelling at Crosby to get off her while Crosby was crying and begging Witness 1 for another chance. Witness 2 said that Crosby would come by the house often to visit.

On the evening of the shooting, Witness 2 said Crosby showed up at the house around 6:00p.m. when it was already dark. Witness 2 was sitting on the living room couch when Crosby walked into the house and started yelling at Witness 1. Witness 1 suggested they go outside, which they did. Witness 2 could still hear [REDACTED] arguing outside for about ten to fifteen minutes. When they returned, Crosby was saying "might as well kiss the kids goodbye" and Witness 1 went to the bathroom for a few minutes. [REDACTED] then went back outside and he could hear more yelling. Witness 2 heard a male voice he did not recognize yelling something like "get down" and then he heard gunshots. Shortly after that, Witness 1 called and told him to wait in her bedroom. He and Witness 3 waited in the bedroom until police deputies came into the house.

Witness 2 believed that Crosby possessed a shotgun, a rifle, and a handgun. Witness 2 had seen a black pistol in Crosby's nightstand drawer.

Interview with Witness 3

Witness 3, [REDACTED], described living with Witness 1 and Witness 2. [REDACTED] Crosby, had moved out several months ago. He stated Crosby had anger problems and would fight with Witness 1 often. Witness 3 said that Crosby still came over to visit but that it would always end with Crosby fighting with Witness 1 about [REDACTED]

On the evening of the shooting, Witness 3 was in his bedroom but knew Crosby was at the house because he could hear Crosby yelling at Witness 1 in the living room. Witness 3 described that Witness 1 would try to prevent arguments with Crosby in front of them. He then heard [REDACTED] go outside for about 30 minutes. When they came back inside, he could hear Crosby telling [REDACTED] "You better give them one last kiss goodbye". He then heard [REDACTED] go back outside.

Witness 3 could hear Crosby yelling from outside but could not make out what he was yelling about. He heard Crosby make a loud yelling noise and then heard gunshots. Shortly after that, Witness 1 called him and told him to wait in her bedroom with Witness 2. They waited in the bedroom until police deputies came into the house. Witness 3 said that Crosby had been at the house about forty-five minutes before the gunshots occurred.

Witness 3 knew that Crosby owned guns because he had seen a black pistol on Crosby's nightstand a couple years ago.

Interview with Witness 4

Witness 4 was familiar with [REDACTED], Crosby, who was involved in the shooting. Witness 4 described that on the day of the shooting, she was cooking in her kitchen area when she heard what sounded like fireworks. When she heard it several more times, she thought it was possibly gunshots. She looked out her kitchen window and saw [REDACTED], Crosby, holding a handgun. He was walking away from something and towards his residence. He was pointing a handgun behind him as he faced forward, and away from the direction his handgun was pointing. She heard several gunshots as Crosby pointed the handgun behind him. Witness 4 immediately took shelter in her kitchen.

Interview with Witness 5

Witness 5 [REDACTED] raised Crosby [REDACTED] since Crosby was five years old. Witness 5 described Crosby as stubborn and hardheaded. Witness 5 said Crosby has a dislike for police, even though that was not how he was raised. Witness 5 stated Crosby did not have any mental health diagnosis but smoked marijuana and used methamphetamine for the past ten years. Witness 5 knew that Crosby and his [REDACTED] and that Crosby was not dealing with it well. Witness 5 had seen Crosby the morning of the shooting and he seemed okay. Witness 5 was aware that Crosby had guns and had been a security guard at one point. Witness 5 opined that he could see Crosby utilizing the police for a "suicide type situation" because of how Crosby perceived the state of his life.

Physical Examination of the Scene

The home is a single wide trailer with a raised porch on a gated property with a chain link fence on a dirt dead-end road which runs north and south and is only accessible from St. Hwy 74. Inside the gated property was a silver 2012 Toyota Rav 4 registered to Crosby and Witness 1. Outside the gated property, blocking the entrance/exit, was a white 2010 Toyota Tacoma registered to Crosby. There was one possible gunshot hole in the rear window. North of the truck was an AMR ambulance. There were three marked Riverside County Sheriff Department vehicles parked within the crime scene just north of the ambulance and property.

Deputy Marin's vehicle was parked at an angle with the driver's side door open and a possible gunshot hole in the driver's fender. The angle of the vehicle and location of the hole, suggest the hole was caused by Crosby's gunfire before the vehicle came to a stop. There was also one expended 9mm casing located on the front windshield of this unit and numerous small possible projectile fragments located on the ground underneath the driver's side door. The evidence suggests that the projectile which entered the front driver's side fender may have been lodged in the door jam and fell to the ground when the door was opened.

Deputy Vetere's vehicle was parked behind Deputy Marin's to the northeast with the driver's side door open. One possible projectile was located on the ground just west of this unit and two expended 9mm casings were located on the ground just east of this unit. One live unexpended casing and one expended casing were located on the floorboard of this unit. Sergeant Clear's vehicle was parked behind the two other units to the west.

Crosby's body was lying on the ground between the Toyota Tacoma and the ambulance, covered by a blanket with his hands handcuffed behind his back. There was a black semi-automatic Ruger 9mm handgun, in the slide-lock position with a magazine in the well, on the ground a short distance from his body. The magazine did not have any live rounds in it. This gun was registered to Crosby. His left front pocket contained a clear baggie with methamphetamine and a white plastic container with marijuana. His right front pocket contained two glass pipes and another plastic baggie with methamphetamine. The methamphetamine totaled 22.95 grams. His jacket pocket contained a cellular phone and keys to the Toyota Tacoma. His back pocket contained a wallet with a possible projectile embedded into it.

There were ten 9mm casings on the ground west of the ambulance. There was one expended 9mm casing and one live 9mm unexpended casing underneath the ambulance. There was one expended 9mm casing and one live 9mm unexpended casing north of the ambulance. There were seventeen additional 9mm casings located on the ground just west of Deputy Marin's vehicle.

Physical Examination of the Vehicles

In addition to the bullet hole in the rear window, the Toyota Tacoma registered to Crosby contained a loaded rifle magazine underneath the driver's front seat with seven live, unexpended .223 casings, two large knives, a hatchet, and a handgun holster.

Deputy Vetere's vehicle did not have any evidence or damage noted to the exterior. The vehicle had a department issued shotgun in the shotgun rack with four unexpended live casings in the well and six unexpended live cartridge casings in the saddle.

Deputy Marin's vehicle had a possible gunshot hole in the driver's fender. The vehicle had a department issued shotgun in the shotgun rack with four unexpended live casings in the well and six unexpended live cartridge casings in the saddle. A Daniel Defense model DDM4 rifle was on the passenger front floorboard with a fully loaded magazine in the well and no live casings in the chamber.

Physical Examination of Deputy Marin's Gun

Deputy Marin's guns and magazines were collected and processed. Deputy Marin's primary gun, a Glock 34 (Gen 5) 9mm pistol with an attached Surefire gun lights and optic and 19 round capacity magazine contained one cartridge in the magazine and one cartridge in the chamber, indicating Deputy Marin shot eighteen rounds. Deputy Marin's backup magazines and gun, a Glock 26 Gen. 5 handgun, were fully loaded and not missing any rounds. Deputy Marin's primary gun operated within factory specifications and functioned as designed with no malfunctions.

Physical Examination of Deputy Vetere's Gun

Deputy Vetere's gun and magazines were collected and processed. Deputy Marin's primary gun, a Glock 17, 9mm pistol with an attached Streamlight gun light and a seventeen round capacity magazine, contained twelve cartridges in the magazine and one cartridge in the chamber, indicating Deputy Vetere shot five rounds. Deputy Vetere's primary gun operated within factory specifications and functioned as designed with no malfunctions although the firing pin channel and assembly were clogged with dirt, grease, and grime.

Surveillance Video

Residents near to the scene provided their video surveillance footage to law enforcement. It captured Crosby walking southbound away from what appears to be flashing police lights. Crosby turns back towards the deputies and is seen firing a handgun multiple times. The video depicts puffs of dirt at Crosby's feet as he is firing. The video shows Crosby falling to the ground and attempting to get back up. The deputies are not shown in the video as they are out of frame.

Deputy Vetere's Body Worn Camera

A recording from January 26, 2021, begins with Deputy Vetere is in his unit with Deputy Marin's unit in front of him. At 0:15, a scream is heard and then one gunshot. At 0:17, Deputy Marin is seen exiting his unit and falling as two more gunshots are heard. At 0:19, the sound of a gun being racked is heard and Deputy Marin is seen getting back up and taking his stance behind the driver's side door of his unit. Numerous gunshots are heard. At 0:29, Deputy Vetere advises dispatch "shots fired". Another gunshot is heard. Deputy Marin is heard yelling at Crosby, "drop the gun". Several more gunshots are heard. At 0:34, Deputy Marin is heard yelling at Crosby, "Stop Firing. Drop the Gun." Deputy Vetere tells dispatch to stage medical. Other sirens become audible as backup deputies are approaching. At 0:46, Deputy Marin is heard yelling at Crosby, "Drop the gun! Do not move!" Deputy Marin continues to yell "Do not move!" several times at Crosby. At 1:05, Deputy Marin again yells at Crosby "Don't move". At 1:17, Deputy Marin is heard yelling at Crosby "Medical's on the way dude, do not move." The remainder of the recording captures the aftermath of the shooting.

Deputy Marin's Body Worn Camera

A recording from January 26, 2021, begins after the shooting with Deputy Marin giving commands from the driver side of his vehicle to Crosby to not move. The remainder of the recording captures the aftermath of the shooting.

Additional Body Worn Camera

Deputy Casillas, Deputy King, and Deputy Whitford all had body worn camera footage of the immediate aftermath of the shooting which recorded their approach to Crosby, handcuffing him, and administering CPR until medical personnel arrived.

Deputy Hardie, Deputy Hefington, Deputy Machado, Sergeant Reyes, and Sergeant Thompson all had body worn camera footage of the safety sweep and searches conducted after the shooting.

Deputy Torres, Deputy Walker, and Sergeant Clear all had body worn camera footage of maintaining the crime scene after the shooting.

Autopsy of Steven Crosby

On February 9, 2021, Dr. Plaza performed Crosby's autopsy. The cause of death was determined to be *Multiple Gunshot Wounds*. The manner of death was classified as *Homicide*. The mode of death was determined to be *Shot during confrontation with law enforcement*. Crosby suffered eight separate gunshot wounds and two graze gunshot wounds to his chest, right arm, right leg, right knee, right thigh, left thigh, left groin, and lower back.

APPLICABLE LEGAL STANDARDS

The decision by a peace officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by a peace officer, in order to ensure that officers use force consistent with law and agency policies. (Pen. Code, § 835a, subd. (a)(3).) This evaluation shall be conducted from the perspective of a reasonable officer in 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, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force. (Pen. Code, § 835a, subd. (a)(4).)

Under California law, a peace officer who has reasonable cause to believe that a person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance. (Pen. Code, § 835a, subd. (b).) Pursuant to the statute, a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or another person, or 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. (Pen. Code, § 835a, subd. (c)(1).) The officer need not retreat or end his efforts to make the arrest because of the person's resistance. (Pen. Code, § 835a, subd. (d).) Penal Code section 834a requires that if a person has either actual or constructive knowledge that he is being arrested by a peace officer, the person must refrain from using force or any weapon to resist such arrest.

Peace officers, in the course of their duties, may use deadly force to protect themselves or others from the threat of death or great bodily harm. A homicide by a peace officer is justifiable when the homicide results from a peace officer's use of force in compliance with Penal Code section 835a. (Pen. Code, § 196.) Indeed, the test for determining whether a homicide by a peace officer is justifiable under the statute is whether the circumstances reasonably created a fear of death or serious bodily harm to the officer or to another. (*Brown v. Ransweiler* (2009) 171 Cal.App.4th 516, 527-528.) At trial, the prosecution has the burden of proving beyond a reasonable doubt that the killing was not justified; if the prosecution does not meet its burden, the officer must be found not guilty.

In addition to the laws specifically applicable to the use of deadly force by peace officers in the performance of their duties, the laws of self-defense and defense of another are available to any person, including peace officers. (See Pen. Code, § 197.) Homicide by any person is justifiable, among other reasons, when resisting any attempt to murder any person, to commit a felony, or to do some great bodily injury upon a person. (Pen. Code, § 197, subd. (1).) For perfect self-defense, one must actually and reasonably believe in the necessity of defending oneself from imminent danger of death or great bodily injury. (*People v. Lopez* (2011) 199 Cal.App.4th 1297, 1305.) Self-defense, when based on a reasonable belief that killing is necessary to avert an imminent threat of death or great bodily injury, is a complete justification, and such a killing is not a crime. (*People v. Elmore* (2014) 59 Cal.4th 121, 133-134.) Additionally, if an individual kills an innocent person, but circumstances make it reasonably appear that killing was necessary in self-defense, that is tragedy, not murder. (See *People v. Minifie* (1996) 13 Cal.4th 1055, 1068.)

With regard to officer-involved incidents, the United States Supreme Court, in *Graham v. Connor* (1989) 490 U.S. 386, held that an officer's use of force is to be analyzed under the Fourth

Amendment's objective reasonableness standard, and "[t]he 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 pp. 396-397.) Further, the Court directed, "[t]he 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight," and the totality of the circumstances must be taken into account. (*Id.* at p. 396.) "[I]ts proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight." (*Ibid.*)

CONCLUSION

At the time of the shooting, Deputy Marin and Deputy Vetere were sworn peace officers lawfully performing their duties. They were both on duty in full uniform and marked police vehicles. They were responding to an escalating domestic dispute involving a gun and threats to kill. When they arrived at the location of the emergency call, the reporting party was hysterical and fearful Crosby would kill her or [REDACTED] children. The deputies attempted to peacefully contact Crosby, the aggressor making the threats and possessing the gun, from the safety of their patrol vehicles. Deputy Vetere repeatedly told Crosby to remove his hands from his pockets. Crosby refused to comply and proceeded to walk away from the deputies towards the residence where the children were located. Deputy Marin and Deputy Vetere followed Crosby up the driveway in their patrol vehicles in an effort to close the distance and contact him. However, Crosby suddenly turned around, produced a gun, and began shooting at the deputies. Crosby struck Deputy Marin's patrol vehicle and continued shooting at the deputies while continuing to walk towards the residence. Both Deputy Marin and Deputy Vetere exited their vehicles, utilized them as protection, and returned fire. Deputy Marin repeatedly yelled "Stop Firing. Drop the Gun." but Crosby continued to shoot at them. When Crosby fell to the ground, the deputies stopped firing believing the threat had been neutralized. However, Crosby got to his feet and continued to shoot at the deputies. The deputies returned fire until Crosby fell to the ground again and stopped shooting at them. At that point, the deputies stopped firing as the threat had ceased.

Both Deputy Marin and Deputy Vetere acted in reasonable self-defense and defense of others and therefore bear no criminal liability for their actions. A copy of this letter, along with the materials submitted for our review will be retained in our files.

Very truly yours,

MICHAEL A. HESTRIN
District Attorney


JOHN AKI
Chief Assistant District Attorney