

MONTEREY COUNTY

OFFICE OF THE DISTRICT ATTORNEY

JEANNINE M. PACIONI
DISTRICT ATTORNEY



March 26, 2019

Chief Adele Fresé
Salinas Police Department
222 Lincoln Avenue
Salinas, CA 93901

RE: Injury to Guadalupe Aguirre Espinoza

Dear Chief Fresé:

The District Attorney's Office has completed its investigation and review of the facts surrounding the officer involved shooting on February 1, 2019. The scope of this review is narrow. It is not to advise concerning best practices for law enforcement in the field, but rather to determine if any officer committed a crime beyond a reasonable doubt.

Under the law, any person—including a police officer—may use deadly force in self-defense or in defense of others if the person reasonably believes the immediate use of deadly force is necessary to defend against an imminent danger of great bodily injury or death. The danger does not need to have actually existed as long as the person reasonably believed the danger existed. Further, a person acting in self-defense or defense of others is not required to retreat. The person is entitled to stand his or her ground or even, if reasonable, to pursue an assailant until the danger of death or bodily injury has passed. This is so even if safety could have been achieved by retreating.

Police officers can lawfully use deadly force even if from 20/20 hindsight other feasible options may have existed. Under the law, the situation must be viewed from the perspective of a reasonable officer at the scene. Officers are 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.

The investigation conducted by the District Attorney's Office included:

- DA interviews of the involved officers and civilian witnesses;
- Review of audio and video recording by law enforcement and civilian witnesses, including dispatch recordings, in-car camera video and cellphone video;
- Review of medical records;
- Review of toxicology results;
- Review of physical evidence;
- Review of Salinas Police Department report number 19-020036.

The officers who discharged their weapons were Eduardo Bejarano, Francisco Delon, Jeffery Ramsden, Evan Adams, Chayene Garcia, and Cameron Mitchell. Guadalupe Aguirre Espinoza was wounded by two rounds.

My finding is that there is insufficient evidence to prove beyond a reasonable doubt the officers unlawfully fired their weapons as Mr. Espinoza's withdrew a replica firearm from his waistband. The shooting officers stated they believed the weapon was a real firearm. They acted under a reasonable belief in the need to defend themselves, fellow officers, and members of the public from an imminent threat of deadly force. The body camera footage demonstrates significant efforts by the Spanish speaking officers to deescalate the situation by attempting to convince Mr. Espinoza to comply with reasonable directions. Mr. Espinoza was not compliant. Further evidence demonstrates the officers attempted to resolve the standoff using lesser levels of force by preparing to deploy a K-9 officer and ultimately using a 40 MM rubber bullet launcher (considered less lethal). Unfortunately, Mr. Espinoza's actions set off a chain of events resulting in the discharge of the police officers' weapons.

The role of the District Attorney is not to evaluate the efficacy of departmental tactics or training for effecting arrests, or to consider issues of civil liability. Such analyses may have the goal of identifying areas for improvement in future similar encounters; they may take advantage of the benefit of hindsight and information not known to the involved peace officers. The role of the District Attorney in deciding whether to charge officers with a crime requires judging their conduct and actions from the perspective of a reasonable officer on the scene at the time of the incident with the information available in a rapidly evolving high-stress encounter. Consequently, having found there is insufficient evidence to prove any crime beyond a reasonable doubt, no further action by my office is contemplated or warranted.

Sincerely,



JEANNINE M. PACIONI
District Attorney