

REPORT ON THE OFFICER-INVOLVED SHOOTING DEATH OF  
GIOVANY CONTRERAS-SANDOVAL  
ON SEPTEMBER 25, 2014



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SEPTEMBER 12, 2017

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## **I. INTRODUCTION**

The San Francisco District Attorney's Office (SFDA) has completed its review of the officer-involved shooting that resulted in the death of Giovany Contreras-Sandoval.<sup>1</sup> The SFDA's review was conducted by the office's Independent Investigations Bureau (IIB) and focused exclusively on determining whether criminal charges relating to the officers' conduct are warranted. IIB's review did not examine issues such as officers' compliance with internal SFPD policies and procedures, their training or tactics, or any issues related to civil liability. This report should not be interpreted as expressing any opinions on such non-criminal matters.

In brief, on the morning of September 25, 2014, San Francisco Police Department (SFPD) officers responded to the scene of a vehicle collision at the intersection of California and Battery Streets. There, they encountered Contreras-Sandoval, who was armed and unwilling to exit the vehicle he had carjacked earlier that morning and subsequently crashed. Civilian witnesses notified the officers that Contreras-Sandoval had a gun and had fired at least one shot prior to the officers' arrival. SFPD officers spent several minutes asking Contreras-Sandoval to exit the vehicle and to put down his gun. Contreras-Sandoval instead began raising his gun up as if to aim towards at least one group of SFPD officers and in the direction of civilians. Six officers fired their weapons at Contreras-Sandoval, killing him. For the reasons detailed below, the District Attorney declines to pursue criminal charges against any of the SFPD officers relating to their conduct in this matter because the officers' actions were legally justified as they reasonably acted in self-defense and in defense of others.

## **II. FACTUAL SUMMARY**

At approximately 4:50 a.m., on Thursday, September 25, 2014, a woman called the Richmond Police Department (RPD) to report that she had been the victim of a carjacking. She said that while sitting in her white Cadillac Escalade, parked in the driveway of her Richmond home, she had been approached by an unknown Hispanic man who demanded that she drive him away. The man, later identified as Contreras-Sandoval, was holding a dark-colored handgun. Contreras-Sandoval opened the front passenger door and began to reach in, when the woman quickly exited the vehicle and ran to her front door. Contreras-Sandoval drove away in the Escalade.

Contreras-Sandoval then engaged officers from various law enforcement agencies in a high-speed car chase all over the San Francisco Bay Area. He led police vehicles from Richmond to Marin County and eventually south toward San Francisco. Contreras-Sandoval crossed into San Francisco with California Highway Patrol (CHP) and RPD vehicles close behind. Several SFPD vehicles soon joined the pursuit, which culminated at Bush and Mason Streets where police lost sight of the Escalade. All responding units ceased their pursuit at approximately 5:53 a.m.

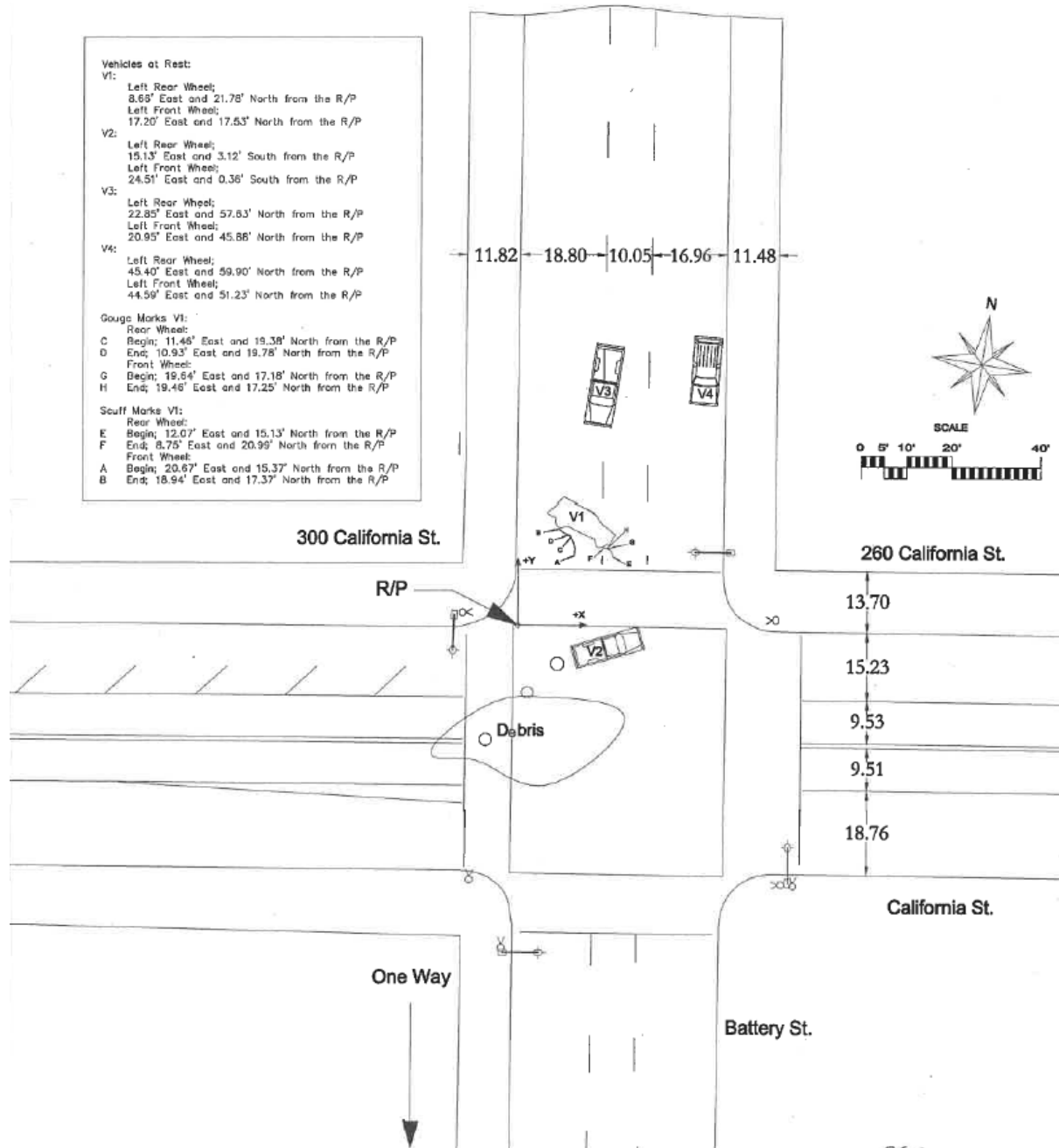
Minutes later, at 5:55 a.m., SFPD dispatch broadcast that a 911 caller had reported an accident at the intersection of California and Battery Streets, nine blocks from where the carjacked Escalade had last been seen. Three vehicles were reportedly involved in the accident. Dispatch soon added that the accident may have involved the carjacked vehicle from earlier.

The intersection of California and Battery Streets is within San Francisco's Financial District. It was before sunrise, but it was a business day, so there were many civilian witnesses in the area making their way to work. In interviews conducted later that morning, several civilian witnesses described the accident as follows: A white Cadillac Escalade was driving very fast northbound, in the wrong direction on Battery Street. Battery Street is a one-way street with traffic traveling

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<sup>1</sup> Contreras-Sandoval was also known by the following names (and variations thereof): Jeovany Palma Sandoval, Giovani Sandoval Palma, Edgar Geavani, Edgar Cotton, Edgar Cotton-Lopez, and Jovani Palma.

southbound only. No police units were in pursuit of the vehicle. One pedestrian crossing Battery Street at Pine Street said the Escalade almost hit her in the crosswalk. As the Escalade entered the intersection of Battery and California Streets, a blue Nissan Frontier pick-up truck traveling westbound on California Street entered the intersection on a green light. It clipped the rear of the Escalade, which was, again, traveling in the wrong direction on Battery Street. The impact caused the Escalade to flip on to its driver's side, careen northbound, and collide with a red Toyota Tacoma pick-up truck that had been waiting at a red light on Battery Street at California Street facing southbound. The Escalade came to rest on its driver's side at the northern edge of the intersection with the roof facing north and the front grille facing east.



**Figure 1:** V1 represents the Cadillac Escalade driven by Contreras-Sandoval; V2 represents the Nissan Frontier pick-up truck; V3 represents the Toyota Tacoma pick-up truck; and V4 represents a Honda Pilot that was parked on the street. (Source: CHP Traffic Collision Report).

With no police present, witnesses said concerned civilians went to offer assistance to the occupants of the vehicles. The occupants of the Nissan and Toyota pick-up trucks all escaped serious injury and were helped out of their vehicles. There were many toys and children's items strewn near the Escalade and the civilians were concerned that there were children in the vehicle. Also, smoke emanating from the Escalade caused concern that the vehicle might explode. The smoke prevented the civilians from being able to see into the windshield, so they instead approached via the Escalade's sunroof.

The sunroof glass had been shattered and the civilians kicked open the sunroof's shade to contact the occupants. They saw that the driver, later identified as Contreras-Sandoval, was alive and relatively uninjured, but was speaking unintelligibly. Some of the concerned civilians devised a plan to break the windshield with a hammer to extract Contreras-Sandoval from the Escalade. One of the civilians said he stepped into the Escalade through the sunroof to try and help Contreras-Sandoval get out. As he stepped in, he said Contreras-Sandoval's right hand moved out of view and he then saw "a circle . . . the tip of a gun . . . and [a] flash." He also said he heard what he believed to be the "whistle" of a bullet as it traveled past his left ear, and tasted gunpowder in his mouth. Other witnesses said they heard a loud "pop" or "bang." All the civilians immediately retreated from the area around the Escalade.

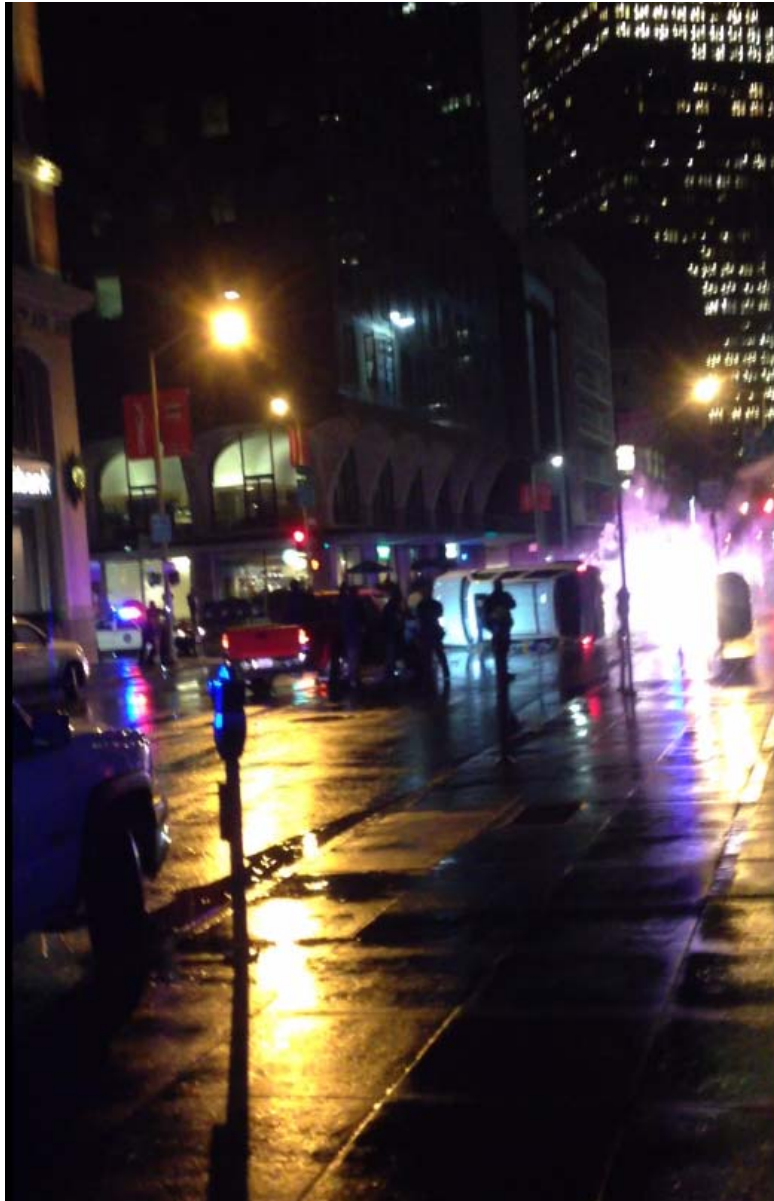
The civilian said he believed he had been shot at by Contreras-Sandoval but had no visible wounds or injuries. (This civilian was later determined to have been hit by small shrapnel fragments but was otherwise uninjured.) He began warning the other civilians who were all scrambling to run away: "He's got a gun; he shot at me." Responding SFPD officers then began to arrive on scene. The civilians, including the one who believed he had been shot, warned police that Contreras-Sandoval had a gun and that he had fired at least one shot.

Several of the initial SFPD responding officers, including Officers Gordon Wong (Star No. 1478), Ryan McEachern (Star No. 1431), James Johnson (Star No. 2430), and Kurt Macauley (Star No. 2440), who were the first to arrive, reported hearing various warnings from the civilians: that they had heard gunshots, that Contreras-Sandoval had a gun, and that Contreras-Sandoval had pointed a gun at them. Many officers, including Officers Omar Alvarenga (Star No. 1630), Zachary McAuliffe (Star No. 1752), Aaron Cowhig (Star No. 2084), and Patrick Macchi (Star No. 1598), said that although they did not directly hear from the civilians about a gun or gunshots, they surmised that the occupant of the Escalade was armed because they believed that he was the same armed carjacker from the earlier incident. Responding to either the civilians' warnings and/or in light of their belief that the occupant of the Escalade was the same armed carjacking suspect from the earlier event, arriving SFPD officers drew their weapons and approached the Escalade with caution.

Approximately 20 officers, all of whom were in uniform and in marked vehicles, ultimately arrived at the scene and fanned out around the Escalade. It was still dark outside, but the scene was illuminated by streetlights, vehicle lights, as well as a few officers' flashlights. According to officers' accounts as well as civilian witnesses' accounts, the officers continuously instructed Contreras-Sandoval for several minutes, in both English and Spanish, to exit the vehicle, to show his hands, and to put his hands up. Contreras-Sandoval did not comply. Officers also instructed civilians to protect themselves and run away from the accident site.

At various points, Contreras-Sandoval stood in the opening of the Escalade's sunroof with the left side of his body partially exposed and his left leg outside of the vehicle, but the right side of his body still within the vehicle. Officers Macauley, Alvarenga, Wong, and McEachern as well as Officers Christopher Cotter (Star No. 1364), Kevin Lyons (Star No. 4048), and Taira De Bernardi (Star No. 2285), all reported being able to see Contreras-Sandoval's left hand, but not his right hand.

Contreras-Sandoval retreated into the vehicle several times before returning to the position with his left-side out of the sunroof. On one of these occasions, as Contreras-Sandoval was returning to the sunroof, Officers Cotter and Johnson said they saw Contreras-Sandoval pull a gun from either his waistband or pocket using his right hand. Officer Cotter reported the gun over the radio. He also yelled out “gun, gun, gun” to warn other officers. Contreras-Sandoval then held the gun in his right hand with the barrel at his right thigh, pointed downward, according to Officers Cotter, Johnson, Alvarenga, McEachern, and Wong. Many officers, including Officers Cotter, Johnson, Alvarenga, McEachern, Wong, and Macauley, also reported yelling at Contreras-Sandoval to “drop the gun.”



**Figure 2:** *Depicts scene from Battery Street looking south toward the intersection of California and Battery Streets just prior to the shooting. (Source: Civilian witness’s cell phone).*



**Figure 3:** Scene of incident from Battery Street looking south toward intersection of California and Battery Streets, as shown during daylight, several hours after the incident. (Source: SFPD Photographic Unit).

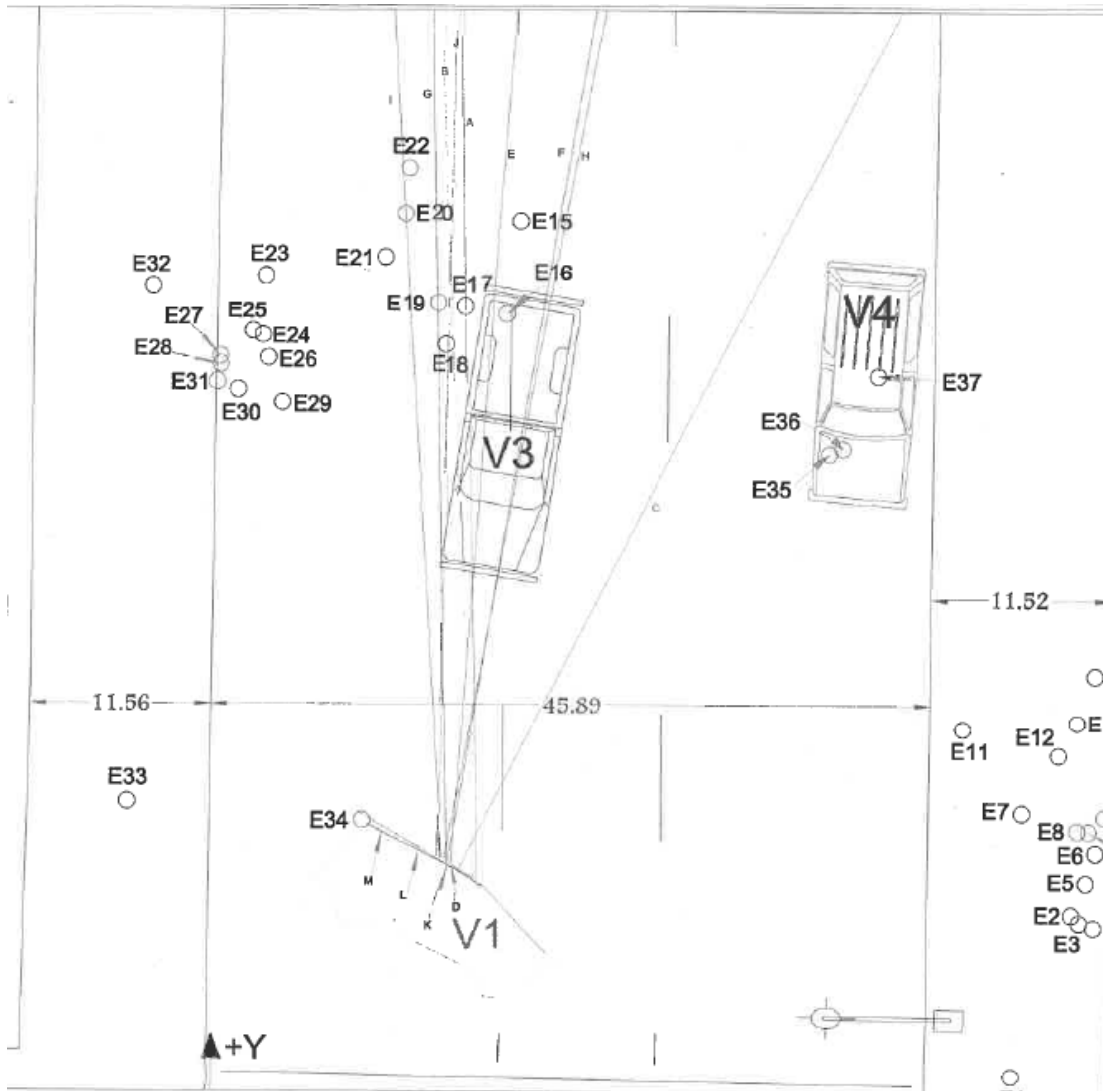
Officers Alvarenga, Wong, McEachern, Cotter, and Cowhig said that at one point, Contreras-Sandoval responded in English, “Is this a movie?” or “Is this a movie set.” Officer Alvarenga reported yelling back, “This is your life. This is not a game. This is not a movie. This is your life. We will shoot you if you don’t drop the gun.” At another point, Contreras-Sandoval asked, “Is this San Francisco?” Officer McEachern reported responding, “This is San Francisco Police, let me see your hands!”

The officers continued to plead with Contreras-Sandoval to show his hands and to put the gun down. Officer Wong said that he could hear Contreras-Sandoval mumbling in English, but could not understand him. Contreras-Sandoval then shifted more of his body back into the vehicle. When he re-emerged at the sunroof, he continued to conceal the right side of his body inside the vehicle. Contreras-Sandoval then appeared to come further out of the vehicle through the sunroof and Officers Cotter, Johnson, Alvarenga, McEachern, Wong, and Macauley described seeing Contreras-Sandoval’s right hand down by his right side before seeing his right arm come up, with a gun in hand, and with his elbow bent as if to aim the gun toward the officers located at or around the red Toyota Tacoma truck, which included Officers Cotter, Johnson, and McEachern. At that point, at approximately 6:02 a.m., six SFPD officers fired a total of 35 rounds at Contreras-Sandoval in approximately three to four seconds:

- Officers Cotter, McEachern, and Johnson had taken cover in and around the red Toyota Tacoma truck, which was located north of the intersection, on Battery Street. From that position, Officer Cotter fired six (6) .40 caliber rounds from his duty-issued Sig Sauer

handgun, Officer Johnson fired two (2) .40 caliber rounds from his duty-issued Sig Sauer handgun, and Officer McEachern fired ten (10) .40 caliber rounds from his duty-issued Sig Sauer handgun.

- Officers Wong and Macauley had taken cover behind a utility pole located on the northeast corner of the intersection. From that position, Officer Macauley fired nine (9) .40 caliber rounds from his duty-issued Sig Sauer handgun, and Officer Wong fired five (5) .40 caliber rounds from his duty-issued Sig Sauer handgun.
- Officer Alvarenga had taken cover on the east sidewalk of Battery Street behind a silver Honda Pilot parked to the north of the northeast corner of the intersection. From that position, Officer Alvarenga fired three (3) .223 caliber rounds from his duty-issued Rock River Arms rifle.



**Figure 4:** The markers represent recovered shell casings, bullet jackets and fragments. The quantity and location of recovered bullet components indicate that there was one cluster of officers around the Toyota Tacoma (V3), another cluster of officers just east of the Cadillac Escalade (V1), and at least one officer near the Honda Pilot (V4). (Source: SFPD Crime Scene Investigations Unit Trajectory Report).



The gunfire caused Contreras-Sandoval to fall backwards into the vehicle through the sunroof. As the officers approached him, they located an antique Russian revolver just outside the sunroof, near Contreras-Sandoval's left leg. The weapon was photographed in place and later secured by officers in the presence of supervisors. Officers confirmed that there were no other passengers in the Escalade and secured the area for paramedics. San Francisco Fire Department (SFFD) paramedic personnel arrived and pronounced Contreras-Sandoval dead at the scene at 6:12 a.m.

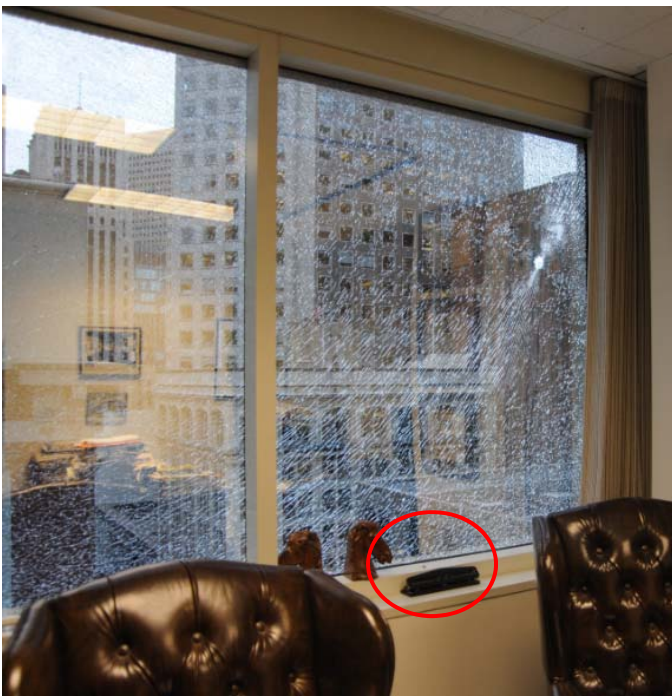


**Figure 5:** Photograph of revolver recovered at scene. (Source: SFPD Photographic Unit).

SFPD Crime Scene Investigations (CSI) later determined based on one “exit defect” in the Escalade’s cabin that at least one shot was fired from within the cabin of the Escalade. Additionally, an attorney working in a law office during the early morning hours observed a bullet come through his eleventh-floor office window at 353 Sacramento Street and alerted police to it. SFPD recovered a bullet fragment from the attorney’s office and observed a bullet hole in his shattered south-facing window. Using mapping technology, CSI’s Major Accident Investigation Team (MAIT) determined that the same bullet that exited the Escalade and caused the “exit defect” was likely the same one that was recovered from the attorney’s office. SFPD’s Criminalistics Laboratory further tested Contreras-Sandoval’s recovered revolver and determined that it was operable and that the bullet fragment recovered in the office building was fired from the revolver.



**Figures 6 and 7:** Red outlines indicate the eleventh-floor window of 353 Sacramento Street shattered by a bullet fired from Contreras-Sandoval's revolver. (Source: SFPD).



**Figures 8 and 9:** Interior view of the shattered window at 353 Sacramento St. Red outline highlights the recovered bullet fragment. Larger view of fragment on right. (Source: SFPD).

The San Francisco Office of the Chief Medical Examiner (OCME) identified the decedent as Giovany Contreras-Sandoval. OCME determined his cause of death to be “Multiple Gunshot Wounds.” Specifically, he suffered 10 gunshot wounds that were either penetrating or perforating, as well as several additional graze wounds. OCME also detected methamphetamine, hydrocodone, and cocaine in Contreras-Sandoval’s system. Specifically, Contreras-Sandoval’s blood had a methamphetamine content of 2.07 mg/L, a value at the high end of recreational drug abuse (0.01 to 2.5 mg/L) and just below acute toxicity (>2.5 mg/L).<sup>2</sup>

### **III. LEGAL STANDARD**

The question presented is whether the officers violated any criminal laws in shooting and killing Contreras-Sandoval. Possible criminal charges against an officer involved in a fatal shooting include murder and voluntary manslaughter. In order to charge an officer with any of these crimes, the prosecutor must be satisfied that the evidence will show beyond a reasonable doubt that no legal justifications existed for the officers’ actions. Here, the relevant legal inquiry is whether the officers acted in self-defense or in defense of others, thereby legally justifying their conduct.

California law permits any individual to use deadly force “[w]hen resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person.” Cal. Pen. Code, § 197; *see also Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333. Specifically, self-defense or defense of others serves as a complete defense to murder and to voluntary manslaughter so long as the person (1) subjectively believed in the need to resort to force in order to avert a threat of imminent and great bodily injury, and (2) the person’s perceptions and actions were objectively reasonable under the circumstances. *See People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *People v. Viramontes* (2001) 93 Cal. App. 4th 1256, 1262.

The subjective prong of the self-defense standard examines the person’s belief in the need to use force. The objective component of self-defense asks what a reasonable person would have done in their position. *People v. Humphrey* (1996) 13 Cal.4th at 1082-83. The reasonable person is an abstract individual of ordinary mental and physical capacity who is as prudent and careful as any situation would require him or her to be. *People v. Jefferson* (2004) 119 Cal.App.4th 508, 519. In making the determination as to whether an officer’s conduct was objectively reasonable, one must consider all the “facts and circumstances . . . in determining whether the defendant acted in a manner in which a reasonable man would act in protecting his own life or bodily safety.” *People v. Humphrey* (1996) 13 Cal.4th at 1083. Self-defense law “grants a reasonable margin within which one may err on the side of his own safety, and so long as he is found to have done so reasonably, no abuse of the right of self-defense should be found to have occurred.” *People v. Ross* (2007) 155 Cal.App.4th 1033, 1057.

### **IV. LEGAL ANALYSIS**

Beginning with the subjective component, each of the six officers described an imminent fear for their own safety and/or the safety of other officers and citizens on-scene when they saw Contreras-Sandoval begin to raise his firearm.

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<sup>2</sup> *See Drugs and Human Performance Fact Sheet: Methamphetamine (And Amphetamine)*, National Highway Traffic Safety Administration (August 8, 2017), <https://one.nhtsa.gov/people/injury/research/job185drugs/methamphetamine.htm>

- Officer McEachern was in the bed of the Toyota Tacoma pick-up truck and believed he was about 15 feet from Contreras-Sandoval. He described his train of thought when he saw Contreras-Sandoval raise his gun, just prior to discharging his own firearm: “I’m thinking this guy—there’s a chance this guy’s gonna shoot and kill me. I’m thinking, you know, I have a daughter who has a birthday. She’s gonna be one years old next weekend. And I’m thinking there’s a chance that I might not be making it home to see my daughter turn one years old.”
- Officer Cotter, who was near the Toyota Tacoma pick-up truck, said that from the moment he saw Contreras-Sandoval’s gun, the situation further escalated in his mind. As he saw Contreras-Sandoval raise his gun, he said he did not think he himself was likely to get shot, but described his thoughts as follows: “I thought that he was gonna shoot another officer . . . I know Officer McEachern was standing there . . . there was other officers to the left of the pick-up truck . . . he could have hit another officer or shot a citizen.”
- Officer Johnson, who was also located near the Toyota Tacoma pick-up truck, recounted that when he saw Contreras-Sandoval raise his gun-holding arm, he “feared for [his] safety and the safety of everyone else around [him],” including fellow officers and civilians.
- Officer Macauley, who was near a utility pole on the northeast corner of the intersection, explained that he didn’t think Contreras-Sandoval was aiming at him personally when he raised his gun but that he “was worried that [Contreras-Sandoval] was going to start shooting at officers.” He said, “I remember a bunch of witnesses weren’t listening to our commands either. They were kind of running around the scene, so I was worried for everyone’s safety—that [Contreras-Sandoval] was gonna start shooting.”
- Officer Wong was also near the utility pole and said he had poor cover in the situation as did his partner, Officer McEachern, who was in the bed of the Toyota Tacoma pick-up truck, toward which Contreras-Sandoval pointed his firearm. When Officer Wong saw Contreras-Sandoval raise his gun, he described his thoughts as follows: “I was in fear that he was going to shoot either me or Ryan [McEachern] . . . and other officers who were on scene . . . and that’s when I opened fire.” He said he believed that Contreras-Sandoval wanted to kill the officers.
- Officer Alvarenga was near a parked Honda Pilot and estimated that he was about 20 to 30 yards from Contreras-Sandoval when he fired his weapon. He stated that based on the fact that Contreras-Sandoval raised his gun, he and other officers could potentially be harmed. He fired because he believed it was necessary for “the safety of the other officers.”

To evaluate whether it was objectively reasonable for the officers to believe that they needed to resort to force to avert the threat of imminent harm, we consider all the pertinent facts and circumstances. Beginning from the moment SFPD officers arrived, they continuously requested that Contreras-Sandoval show them his hands, put his hands up, and get out of the car, in an effort to de-escalate the situation. Instead, the situation worsened after the officers—including each of the officers who later discharged their weapons—directly observed a gun in Contreras-Sandoval’s right hand. At that point, the officers—again, including all six officers who discharged their weapons—once more attempted to de-escalate the situation by asking him to put down the gun. Despite numerous commands to put down the gun, lasting approximately one full

minute, Contreras-Sandoval instead began to raise his gun up, as if to aim towards the officers centered around the Toyota Tacoma pick-up truck.<sup>3</sup>

All six officers were within the range of where Contreras-Sandoval could quickly shoot at and seriously injure them. They were approximately 20 to 35 feet away from him. Officers Macauley and Wong had only limited cover from a light pole. Officer McEachern was in the bed of the Toyota Tacoma pickup truck with only two windshields between him and Contreras-Sandoval. Other officers, for example Officers Johnson and Alvarenga, had only partial cover from doors of vehicles. Other officers had no cover whatsoever and were even more directly in harm's way. For example, Officer Cotter said, "There was at least me and another officer and . . . maybe a third one . . . just out in the middle of the street . . . so if [Contreras-Sandoval] started shooting . . . it could have . . . killed any one of us."

In addition to the officers, numerous civilians were also within shooting distance. As demonstrated by the vantage point of a cell phone video taken by a civilian, see Figure 2, civilian witnesses were within firing distance when Contreras-Sandoval raised his gun. Also, a witness officer, Officer Kevin Lyons (Star No. 4048), who was standing near the northeast corner of the intersection in close proximity to Officers Macauley and Wong at the time of the shooting, described repeatedly leaving his position of cover to ensure the welfare of citizen onlookers, in one case having to immediately evacuate a pedestrian who was "running towards [the scene]" with "his cell phone out." Officer Cotter was also aware there were citizens to his rear at whom other officers had been yelling, "Get back, get back."

Not only were many officers and civilians within Contreras-Sandoval's shooting range, at least Officers Johnson and Macauley were also aware that just prior to their arrival on scene, civilians had reportedly heard gunshots. This suggested that Contreras-Sandoval was capable and willing to shoot his gun and, in fact, may already have done so.

Based on the position of the officers and civilians and the imminent threat Contreras-Sandoval posed when he raised his gun, all six officers reasonably believed that Contreras-Sandoval posed a threat of death or serious bodily injury to them or others.

## **V. CONCLUSION**

For the reasons discussed above, we conclude that the officers' conduct in discharging their weapons on September 25, 2014, was legally justified as it was done in self-defense or defense of others. Therefore, the District Attorney declines to file any criminal charges in this matter.

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<sup>3</sup> At least one officer requested a "less-than-lethal gun" or Extended Range Impact Weapon (ERIW), also known as a bean bag gun. Officer David Gilman (Star No. 483), said he went to his police vehicle to retrieve an ERIW but put it back when he heard broadcasts that officers had seen that Contreras-Sandoval had a gun, concluding that the ERIW would not be helpful against a gun.