

REPORT ON THE OFFICER INVOLVED SHOOTING OF  
NOTORIOUS DICKERSON ON OCTOBER 25, 2016



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INDEPENDENT INVESTIGATIONS BUREAU  
CITY AND COUNTY OF SAN FRANCISCO  
OCTOBER 24, 2017

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## **A. INTRODUCTION**

The San Francisco District Attorney's Office (SFDA) has completed its review of the officer-involved shooting of Notorious Dickerson (a.k.a. Ansa El Muhammed) by San Mateo County Vehicle Theft Taskforce (SMCVTTF) Agent Michael Sarabia, a California Highway Patrol (CHP) officer, Star No. 17812, and Agent Joshua Brown, a San Mateo Police Department (SMPD) officer, Star No. 23, on October 25, 2016, on the 200 block of Montana Street, San Francisco. As detailed below, the District Attorney declines to pursue criminal charges against the SMCVTTF agents relating to this incident because we cannot prove beyond a reasonable doubt that their actions were not reasonably taken in defense of themselves and others.

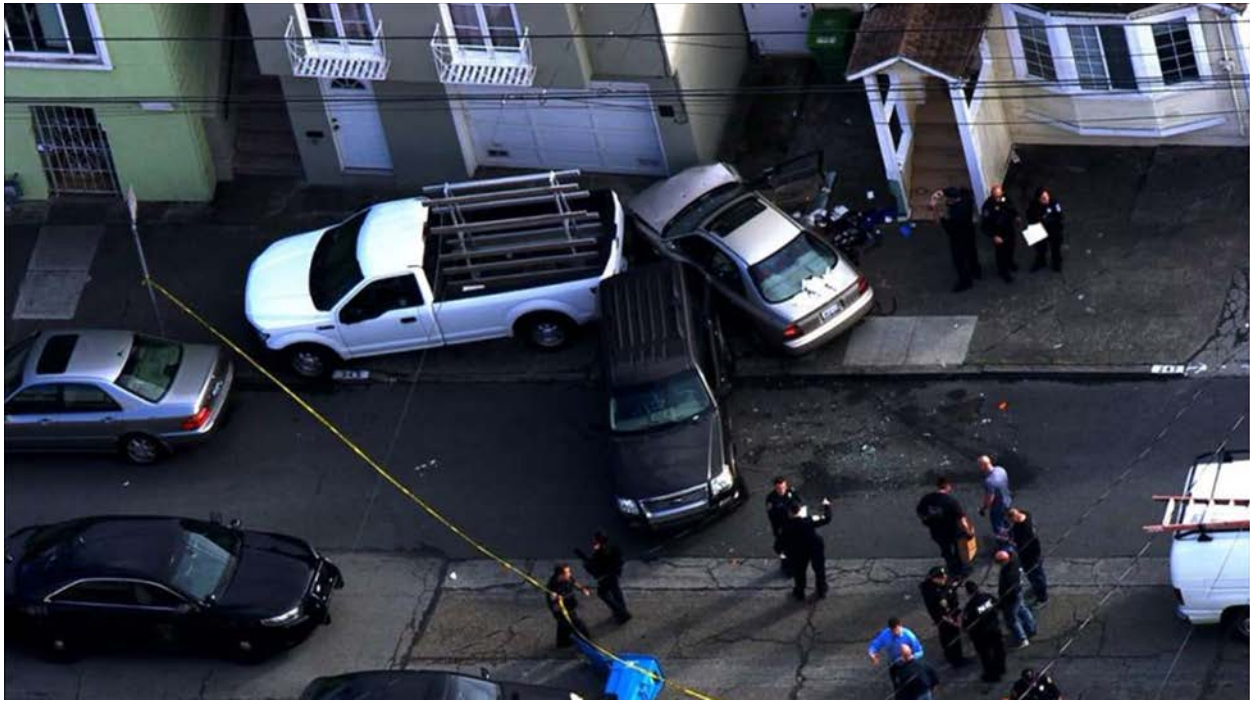
The SFDA's review was conducted by the office's Independent Investigations Bureau (IIB), which reviewed the evidence gathered and investigation conducted by the San Francisco Police Department (SFPD), the Daly City Police Department (DCPD), the medical examiner, audio and digital recordings of officer and witness interviews, along with interviews conducted by SFDA personnel. IIB's review focused exclusively on determining whether criminal charges relating to the officers' conduct are warranted. IIB's review did not examine issues such as the agents' compliance with their agencies' 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.

## **B. SCENE**

This incident occurred on the 200 block of Montana Street, San Francisco, between Orizaba and Faxon Avenues, at approximately 3:31 p.m. Montana Street is a single lane roadway, traversing east/west in direction, through the residential Ocean View District.



*Image 1: Aerial view of 200 block of Montana St. Source: Google Earth*



*Image 2: Aerial view of area in front of 245 Montana Street on the day of the incident*

### **C. FACTUAL SUMMARY**

On October 25, 2016, at approximately 3:05 p.m., DCPD Officers William Tone, Star No. 159, and Tyrell Clinkscales, Star No. 245, were on uniformed patrol in a fully marked police vehicle. They were traveling near the Ocean View District, San Francisco, when Officer Tone's attention was drawn to a gold-colored Honda Accord driven by a lone adult female. Officer Tone conducted a license plate check, which indicated that the vehicle was stolen. By the time Officer Tone received the registration information, the vehicle was no longer in sight.

While checking the neighboring streets, Officers Tone and Clinkscales located the vehicle in the 200 block of Montana Street, San Francisco. They drove past the vehicle and noticed the driver attempting to park while a man, later identified as Notorious Dickerson, was standing outside the vehicle assisting her.

As they drove away from the area, Officer Tone contacted SMCVTTF and reported his observations to Agent Sapien, a CHP officer, Star No. 19434. Agent Sapien along with three other taskforce agents, Agent Sarabia, Agent Brown, and Agent Donald McCarthy, a DCPD officer, Star No. 190, responded to the area of the 200 block of Montana Street, in separate unmarked police vehicles, which were all equipped with a siren and emergency lights consisting of a red and blue interior visor light-bar, white flashing headlights, and oscillating red and blue taillights.

Within moments of the agents arriving on scene and establishing perimeter surveillance points, Dickerson, entered the stolen Honda alone and drove eastbound on Montana Street. In an effort to block Dickerson's escape routes, Agents Sarabia, Brown and McCarthy headed west on

Montana Street, while Agent Sapien approached from the east and trailed behind an unrelated vehicle driven by witness Warren B.

Agent Sarabia initiated an enforcement stop and pulled his vehicle directly in front of Dickerson. He activated his emergency lights and got out of his vehicle with his handgun pointed at Dickerson. Agent Sarabia stood by the right front fender of the Honda and ordered Dickerson to put his hands up. Agent McCarthy, who did not activate his emergency lights, positioned his vehicle to the right and partially ahead of Agent Sarabia's vehicle. Agent Brown, who had initially followed Agent McCarthy, noticed a possible escape route on the opposite side of the street and backed his vehicle up with the emergency lights activated. Agent Sapien, who had activated his emergency lights, drove around and pulled along the left side of Warren B.'s vehicle, blocking Dickerson's rear egress.

According to Agent Sarabia, Dickerson looked directly at him, raised his hands while still inside the vehicle, but lowered them moments later. Dickerson then turned the wheels and accelerated the Honda in Agent Sarabia's direction, knocking Agent Sarabia to the ground. Next, seeing the Honda continue to drive at him, fearing for his life, Agent Sarabia shot at Dickerson through the windshield.

Agent Brown was in the process of getting out of his vehicle with his gun drawn when he saw Dickerson drive at and strike Agent Sarabia with the Honda, while attempting to escape. After witnessing Dickerson's actions and fearing Dickerson was now driving towards him in an effort to escape, Agent Brown fired multiple rounds from his 9 mm handgun at Dickerson, before Dickerson struck Agent Brown's vehicle and collided into the residence at 245 Montana Street.

Dickerson suffered multiple gunshot wounds to his upper torso area and laid wounded in the driver's seat before he was extricated by DCPD officers and provided with emergency medical care. He was transported to San Francisco General Hospital (SFGH) for medical treatment. Agent Sarabia suffered injuries to his head and left elbow.

Dickerson was subsequently arrested and refused to provide a statement after invoking his *Miranda* rights.

#### **D. LAW ENFORCEMENT OFFICER STATEMENTS**

- **SMCVTTF Agent Michael Sarabia, CHP Star No. 17812**

Agent Sarabia had been a taskforce member since July 2015. On the day of the incident, he was wearing blue jeans, a blue striped Ben Davis ¼ zip shirt, a gray Mizuno tee-shirt, and a black and white Tracker Supply hat. He had his badge on a chain around his neck under his shirt.

Agent Sarabia stated one of his three fellow taskforce agents received a phone call from a DCPD officer, who reported seeing the stolen Honda occupied in the Oceanside or Lakeview district. The taskforce agents responded to the area in their respective unmarked vehicles and upon arriving, Agent Sarabia, who was driving a white Econoline van, drove through Montana Street, followed by Agent McCarthy. Upon arriving at the 200 block of Montana, they saw the Honda unoccupied and parked in a residential driveway. Agent Sarabia then moved to a perimeter



position and parked on Capitol Avenue near Montana Street, while they discussed plans for a vehicle takedown over the radio.

Approximately two minutes after Agent Sarabia took a perimeter position, one of the other agents reported seeing the Honda backing out of the driveway. He and the others converged onto the area and saw the Honda, driven by Dickerson, approaching him from the opposite direction. Because Montana Street was a narrow roadway and cars were parked on both sides of the street, they decided to approach Dickerson at a slow pace.

Agent Sarabia was leading the caravan and as he neared the Honda, he advised the other agents he was initiating an enforcement stop. At that point, Agent Sarabia stopped his vehicle approximately two to three feet from the Honda's bumper, reached over and pulled down and activated the visor emergency light bar, and exited his vehicle with his handgun drawn. Agent Sarabia believed he pulled his badge out by reaching through the top of his shirt collar, as he normally did, while exiting his vehicle.<sup>1</sup> He also reported hearing a siren in the background, which he thought might have possibly been activated by one of the other agents.

Once outside his vehicle, Agent Sarabia pointed his handgun at Dickerson and said, "Police! Put your fucking hands in the air!" Sarabia heard other agents also yell verbal commands out loud. Dickerson immediately raised his hands and looked directly at Agent Sarabia, who was standing in front of the Honda on the passenger side. Agent Sarabia saw Dickerson slowly lowering his hands and at the same time observed the Honda rolling backwards. As Dickerson was slowly backing up, Agent Sarabia started moving to his left to avoid being directly in front of the Honda. Within a few seconds, Agent Sarabia saw the Honda moving forward and the wheels turning towards his direction. At that moment, Agent Sarabia yelled out, "No! Don't do this!"

According to Agent Sarabia, he recalled looking around and realizing there was no clear path for the Honda to escape. He remembered seeing a vehicle parked along the south curb near his van and houses behind him. While Agent Sarabia was still trying to move out of the way, he heard the engine revving and then the Honda "bolted forward" and struck him in the process. Agent Sarabia explained, "I'm trying to like go further away to the right, but it's coming towards me. Like he's trying to run-like oh my God he's going to drive over me."

Agent Sarabia did not know what part of the Honda hit him. He said, "I was trying to scramble and get on my feet and I got on my feet and still the car is-like I said I don't know-I don't know what hit me. I don't know if the front or the A pillar hit."

Agent Sarabia said after he was hit, he went airborne and fired his first shot, but could not remember exactly what happened next. He explained:

He [Dickerson] was looking at me and the car is still moving. And I could feel the car on me and then I—I think I shot one more time at that point. And at that point I saw [Agent Brown], um, on the other side of the car. He was kind of at the we call it the B pillar, it

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<sup>1</sup> Agent Sarabia's statement about his badge being physically displayed at the time of the enforcement stop was inconsistent with the video footage recovered from 245 Montana Street. The footage showed Agent Sarabia at a later point in the incident reaching through the top of his shirt and pulling out his badge, which was attached to the chain around his neck.

would be behind the door and he was kind of behind the door and the guy was looking at me and he was still driving like I mean I felt like I was getting sucked—sucked into the car. I mean like it was—it was, you know, and then [Agent Brown] shot and, um, the next thing I know the car—the car crashed into a house.

Agent Sarabia stated the incident unfolded very quickly and he believed he shot three times at Dickerson. He described shooting when he was first struck by the Honda and shooting two more times after a short pause. Agent Sarabia believed one of his shots was through the passenger side window as he recalled seeing the glass break. In addition, Agent Sarabia stated he remembered Agent Brown shooting at Dickerson prior to the Honda crashing into the house. Agent Sarabia could not recall the number of times Agent Brown shot.

After the crash, Agent Sarabia recalled hearing Agent Brown yelling, “I can’t see Mike, I can’t see Mike!” At that moment, Agent Sarabia got up from the ground and realized his badge was no longer visible. He said, “I didn’t see my badge on my chest and so I thought it fell off when I got hit or something and then I could see it like-like right there so I just grabbed it and put it back out and then they were yelling at me at that point, you know, sit down, you need to sit down, you need to sit down.”

Agent Sarabia felt his head getting “tingly” and feeling really “weird” after he stood up. His ear got wet inside and his arm was bleeding profusely. He was seen by paramedics and eventually transported to the hospital for medical care.

In explaining what was going through his mind as the incident unfolded and the shooting occurred, Agent Sarabia said, “I felt like I was going to get killed. I’ve never-I mean I was in awe that this guy is going to run me over and I was like holy, you know. It was-I thought I was going to die.” Agent Sarabia believed Dickerson recognized him as a police officer and felt that Dickerson had intended to run him over.

Agent Sarabia suffered moderate abrasions after being hit by the Honda. At the scene, Agent Sarabia complained to officers that his “head does not feel right” and “like I’m bleeding from my ears.” He was transported to SFGH where he received additional medical care.

- **SMCVTTF Agent Joshua Brown, SMPD Star No. 23**

Agent Brown had been a taskforce member since September 2015. On the day of the incident, Agent Brown was wearing black tennis shoes, blue Levis jeans, black Carhartt tee-shirt, and an A’s baseball hat. He had his badge displayed on his right hip, next to his handgun.

Agent Brown parked his unmarked vehicle on Montana Street near Capitol Avenue to establish a security perimeter around the stolen Honda. Agent Sapien had driven past the Honda and saw it parked and unoccupied in a residential driveway. The Honda was parked facing in and was blocked by a dark-colored SUV. Agent Brown did not have a direct view of the Honda.

Within five minutes of setting a perimeter, the Honda exited the driveway, occupied by Dickerson, and headed eastbound on Montana Street. The Honda was followed by a dark-colored Ford Expedition (driven by unrelated witness Warren B.,) and Agent Sapien’s vehicle. At that point, Agents Sarabia, McCarthy, and Brown left their perimeter locations and proceeded

westbound on Montana Street to intercept the Honda. Agent Sarabia, who was leading the caravan, initiated an enforcement stop in the middle of the street.

Agent Sarabia stopped his vehicle and blocked the front-end of the Honda, while Agent McCarthy drove to the right of Agent Sarabia's vehicle and blocked the north part of the street. Agent Sapien positioned his vehicle to block the rear egress, on the west side of Montana Street. Initially, Agent Brown had followed behind Agent McCarthy, but because the street was narrow and the south sidewalk was still unsecured, he decided to back up and attempt to drive over to the other side.

Agent Brown explained that just prior to backing up, he saw Dickerson frantically reaching around and trying to manipulate the gearshift. As Agent Brown proceeded backwards, he realized he was unable to maneuver to the opposite side of the street, because his path was blocked by another vehicle. Agent Brown believed he had activated his emergency lights while he was backing up.

As Agent Brown stopped his vehicle and was opening his door, he heard his partners repeatedly screaming, "Stop, Police!" Moments later, Agent Brown observed the Honda heading downhill towards him with Agent Sarabia screaming and "sprawled across the hood," near the right front headlight. Agent Brown explained, "I immediately looked at him [Agent Sarabia] and I saw the look on his face was—I've never—it was terror. He had his gun out and he was being pushed by the car and I hear what I think was one to two rounds go off. It was really muffled. I know they were, they were gunshots."

Agent Brown, who was still getting out of his vehicle, stated the Honda continued heading in his direction and at some point, he lost sight of Agent Sarabia. At that moment, Agent Brown did not know if Agent Sarabia was run over or pushed off the Honda. He explained,

I was afraid for him without, you know, knowing where exactly he was at the time and yeah I believe he had fired, I wasn't sure if the suspect had fired at him. Um, I was not sure if the suspect was armed and based on not seeing Mike [Agent Sarabia] and the fact that he might be able to escape to the sidewalk I felt you know at the time that I needed to fire at the suspect driving the vehicle because I was afraid that he would be able to either run over Mike or back up and like I said I wasn't sure where the gunshots came from so I didn't know if he had a gun or not and I was afraid that he'd be able to start shooting other people if in fact he was armed so the—I fired four to five rounds—excuse me—at the driver's seat of the vehicle which would be like the center mass as the vehicle was coming towards me.

In describing the circumstances of the shooting, Agent Brown stated,

Once I saw Mike [Agent Sarabia] on the hood that—that frightened me because I knew at that point that the person driving the vehicle was apparently going to do anything they could to get away, um, and whether that was hurting or killing my partner or me, I mean the vehicle was coming straight at my car, um, I was terrified. I was terrified for me and I was terrified for Mike and then beyond that if the guy is to get away he's going to be driving like a maniac and I mean I know that when we drove up I saw that there was like



a park or a school or something there and I just, I don't know, beyond that I mean I was worried about everything if the guy got away.

Agent Brown believed he was approximately fifteen feet away from the Honda when he fired his shots. He was aiming at the driver's seat, towards the middle and lower part of the windshield, and did not give any verbal commands prior to shooting. Once the vehicle passed him and the threat was no longer present, Agent Brown ceased firing. Agent Brown explained, "The vehicle was beyond me. I didn't want to continue firing into the rear of the vehicle. It didn't appear that the car was going to be able to go anywhere else."

Following the shooting, Agent Brown's vehicle was struck by the Honda and the impact to the left side of his vehicle "jolted" him, causing his driver's door to swing inward and force him back into his vehicle. As he recovered, he looked for Agent Sarabia, but did not see him. He then saw Agent Sapien running towards the Honda, after it collided with a white pickup truck and a residential home. Agent Brown described the incident as being "high stressed and quickly evolving."

Approximately five to ten seconds after the collision, Agent Brown saw Agent Sarabia, who appeared in shock, standing up from behind the passenger side of the Honda with his gun in hand. Agent Sarabia had a blank stare and was bleeding profusely from his arm. Agents Brown and Sapien, who at that point had Dickerson at gunpoint and were verbally checking Dickerson's welfare, told Agent Sarabia to sit down; however, Agent Sarabia kept walking aimlessly around the area. Agent Brown believed Agent Sarabia might have suffered a head injury because he was not following directions.

Agent Brown was asked if there was anything he wanted to clarify after seeing the video and he clarified the sequence of his shooting saying,

I mean it does look like the vehicle backed up after Agent Sarabia was—was thrown from the car. Um, and when the vehicle came back the second time I believe that may have been the time that I fired just because I know the vehicle was coming at me you know and the—and the stress of the situation I would say that probably the second time that—that it advanced and Agent Sarabia jumped out of the way would probably be when I—when I fired at the car.

Agent Brown added that he ran away from his vehicle after it was struck by the Honda.

J. **SMCVTTF Agents Aaron Sapien, CHP Star No. 19434, and Donald McCarthy, DCPD Star No. 190**

Agent Sapien and Agent McCarthy, who were interviewed separately, were working a plainclothes assignment as part of the same regional taskforce as Agents Brown and Sarabia. Agent Sapien had his taskforce badge displayed on his right hip and was driving a white Ford Econoline van, equipped with emergency lights and siren. Agent McCarthy had his police badge displayed on his left hip and was driving a white Ford Expedition, equipped with emergency lights and siren. Like Agents Brown and Sarabia they had established surveillance around Montana Street where the Honda was parked prior to the shooting.

After seeing the Honda leave its parked location, Agent Sapien traveled eastbound on Montana, behind a green SUV being driven by Warren B., who was traveling behind the stolen Honda being driven by Dickerson. Agent McCarthy was traveling westbound toward the Honda and he was directly behind the van being driving by Agent Sarabia.

Agents Sapien and McCarthy were both notified by Agent Sarabia that he was initiating an enforcement stop of the Honda. They both saw the emergency lights of Agent Sarabia's vehicle activate when Agent Sarabia stopped his vehicle in front of the Honda. According to Agent McCarthy, he saw Agent Sarabia exit his vehicle and yell "Police, stop! Put your hands up!" and saw Dickerson look at them, and then slowly roll the Honda in reverse for a distance of about two to four feet. Then, Agents McCarthy and Sarabia yelled at Dickerson, "Police, stop! Police, stop!" Suddenly, in an apparent effort to escape, the Honda slowly moved forward before accelerating and making a sharp right turn towards an opening behind Agent Sarabia.

Agents McCarthy and Sapien saw Agent Sarabia standing near the Honda's front passenger side before the Honda's engine revved and the vehicle accelerated forward towards Agent Sarabia. Agents McCarthy and Sapien both thought they heard a single shot fired by Agent Sarabia just prior to him being hit by the Honda and accelerate towards him. They saw the Honda strike Agent Sarabia. Agent McCarthy lost sight of Agent Sarabia after he was hit by the Honda and feared that he was dead. After Agent Sarabia was hit and before the Honda collided with Agent Brown's vehicle, Agent McCarthy saw Agent Brown standing outside his vehicle with his gun drawn and Agent Sarabia standing up with blood running down his arm and on his pants. Agents McCarthy both noted that they heard a second set of gun shots, but they did not see the actual shots being fired.

During a follow-up interview, Agent McCarthy reiterated that he saw Agent Sarabia's emergency lights activated prior to the shooting. He saw the red and blue visor light bar wigwag, along with the headlights. In explaining the sequence of gunfire, Agent McCarthy said, "There was like a heartbeat difference. Sarabia got hit, up, fired shot, out of view, fired another shot, and then crash and two more like shots at least I think I believe I heard two, two more real quick and then I came around the car and it was over."

#### **E. CIVILIAN WITNESS STATEMENTS**

- **Warren B.**

Warren B., a civilian unrelated to the SMCVTTF operation, was traveling eastbound on Montana Street when he saw a Honda back out of a residential driveway and proceed ahead of him. He followed the vehicle at a distance of approximately half a car length. As they neared the middle of the block, Warren B. noticed a white-colored van approaching from the opposite direction, stop in the middle of the street and block the roadway. A similar colored van, which had been traveling behind Warren B., drove past him, with the taillights flashing, and stopped behind the Honda. At that point, Warren B. saw three men with their guns drawn and pointed at Dickerson. Warren B. said, "After I looked at it, it had to be a sting because they were trying to you know, hide who they were." When asked if the men he saw had on any police clothing, Warren B. replied, "You know who they looked like, they were trying to look like contractors."

Warren B. explained the armed men surrounded the Honda and told Dickerson to “Get out of the car!” Seeing he was in the line of fire, Warren B. got out of his vehicle through the front passenger door and sought cover behind the wall of a nearby home. The Honda was blocked in all directions and there was nowhere for Dickerson to go. He said, “It would have to be suicide on his part to try to do anything.” When the Honda initially stopped, it was facing the southern sidewalk at an angle. At some point, Warren B. heard the tires screech and saw the men shooting at the vehicle. Warren B. recalled hearing nine to ten gunshots. Moments later, Warren B. saw the vehicle crash into a house and heard the men tell Dickerson once again to get out of the car. Warren B. did not see the Honda back up and stated, “It was almost like he left off the clutch.”

Warren B. stated he did not see any of the men getting hit by the Honda; but recalled seeing one of them getting up from the ground with a bloody elbow. Prior to the shooting, Warren B. reported seeing an officer standing on the side of the Honda, approximately one foot away, and “if that car moved at all he was going to get-it was going to hit him because he was right on the car like this on the guy so if the car-he would fall.” Warren B. was standing approximately twenty to twenty-five feet away when the shooting occurred. He went on to say that an officer was initially in front of the Honda and then moved to the front passenger side as the incident unfolded. Warren B. described Agent Sarabia and Agent Brown as the shooters, though not by name.

Warren B. did not see any of the men displaying any police badges or other identifying markings. He said, “You wouldn’t know who the hell they were. . . . [T]hey look like contractors.”

On November 1, 2016, Warren B. was re-interviewed over the telephone and was asked to clarify if the men he saw had displayed any police identifications or markings during the traffic stop. Warren B. reiterated, “Man, I didn’t know what the hell they was, that’s why I jumped the hell out of the car...I don’t know if it was a drug hit or what.” Later in that same interview, Warren B. reported seeing red, blue and white taillights flashing on the van that passed by his vehicle and stopped behind the Honda.

- **Gerald Elarms<sup>2</sup>**

Gerald Elarms. was interviewed by law enforcement after he provided a statement to the local news media.

Gerald Elarms. said Dickerson had visited him prior to the incident and they were on the porch talking. About five minutes after Dickerson left, Gerald Elarms. heard a series of gunshots outside his kitchen window, which faces Montana Street. He initially reported hearing four shots but later described hearing ten to fifteen shots. Gerald Elarms. looked outside his kitchen

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<sup>2</sup> IIB does not typically identify civilian witnesses by their full names unless that witness has been identified by reputable media outlets and/or has otherwise self-identified in connection with the incident under investigation. In such instances, that person’s full name will be used to minimize confusion and to allow meaningful comparison of publicly available accounts with SFDA’s investigative findings. Here, Gerald Elarms is identified by his full name because he provided a statement to the media regarding this incident.

window and saw undercover officers and unmarked police cars surrounding a Honda, which was on the sidewalk. He believed at least two officers were involved in the shooting. Gerald Elarms did not actually witness the shooting.

Gerald Elarms stated after the initial shooting, he looked outside his kitchen window with his mobile phone in his hand. He claimed to have recorded part of the incident on Snapchat, but the footage was no longer available on Snapchat because it was automatically deleted after 24 hours. Gerald Elarms stated he just wanted to show others that he saw the incident and was there. (To date, no copy of Gerald Elarms's video has been made available to IIB.)

Gerald Elarms. went outside after he heard a woman, who turned out to be Dickerson's girlfriend and whom he did not know, yelling that Dickerson was shot. At that time, Gerald Elarms discovered Dickerson was driving the Honda, which was not Dickerson's normal vehicle. As Gerald Elarms walked towards the scene, he was stopped by two officers who made him drop to his knees and lift his shirt to make sure he had no weapons. He had been vocal and upset with the officers as he was approaching the scene.

- **Jiahna C.**

Jiahna C. heard a commotion, looked outside from her upstairs window, and saw an Econoline van "blocked in" and the driver of that van exit the vehicle. The van driver pointed a pistol at the Honda and said, "Stop, don't move." Jiahna C. stated the Honda made contact with and dragged the van driver. She observed the Honda travelling in an eastbound direction. J.C. did not witness the shooting but heard at least eight shots being fired.

## **F. NOTORIOUS DICKERSON'S STATEMENT**

Law enforcement officers attempted to interview Dickerson about the shooting. Dickerson who was under arrest, was being treated for his injuries and was lucid at the time. He was advised of the *Miranda* rights and subsequently declined to provide a statement.

## **G. SFPD Department Operations Center (DOC)- Radio Broadcasts**

A review of the Computer Aided Dispatch (CAD) report revealed that on the date of the incident, at approximately 3:23 p.m., the DOC received a courtesy notification from SMCVTTF that a "suspect" was followed into San Francisco (Capitol and Montana Street) and four plainclothes officers, in two SUVs, were going to be on scene and did not require assistance because no resistance was anticipated.

At approximately 3:36 p.m., a call was broadcasted advising that shots had been fired and an officer had been run down by a stolen vehicle. An ambulance was dispatched immediately, arriving on scene at approximately 3:43 p.m.

## H. Video Footage

Video footage was recovered from the exterior surveillance camera located at 245 Montana Street. The camera was positioned in a northwesterly direction and provided a limited perspective of how the incident unfolded as Dickerson attempted to escape. The following images are stills from that recording:



*Image 3 – Agent Sarabia (in circle) airborne after being hit by the Honda.*



*Image 4 – Agent Sarabia falling on his back, with the Honda crashing into Agent Brown's vehicle and forcing the white pickup truck onto the sidewalk.*



*Image 5 – Agent Sarabia standing and front wheels of Honda turned in his direction.*



*Image 6 – Honda continues forcing its way onto the sidewalk as Agent Sarabia moves out of its path. Note bullet perforations in the windshield.*



*Image 7 – Honda crashes into 245 Montana Street and comes to rest*



The following two images, from the same camera, show Agent Sarabia reaching through the top of his shirt to pull out his badge, potentially contradicting his statement that his badge was visible at the time of the enforcement stop.



*Image 8 - Agent Sarabia reaching in his shirt to pull out his badge and display it over his clothing.*



*Image 9 - Agent Sarabia continuing to place his badge outside of his outer clothing.*

An additional image was also recovered from Agent Brown's Automated License Plate Reader system, which was mounted on his vehicle. The following image depicts Agent Sarabia being struck by the stolen Honda as it drives by 247 Montana Street.



*Image 10 - Agent Sarabia being hit by the Honda.*

### **I. SFPD Crime Scene Investigation (CSI)**

SFPD CSI responded to the scene. Eight cartridge casings were located and booked into evidence. *See* Image 11, below, for scene orientation.

SFPD Sergeant Patrice Scanlan, Star No. 4209, who processed the crime scene, noted that the Honda driver's side window was shattered and seven bullet perforations were found in the windshield. Sergeant Scanlan also noted that the blue and red emergency lights on Agent Brown's vehicle were still activated.

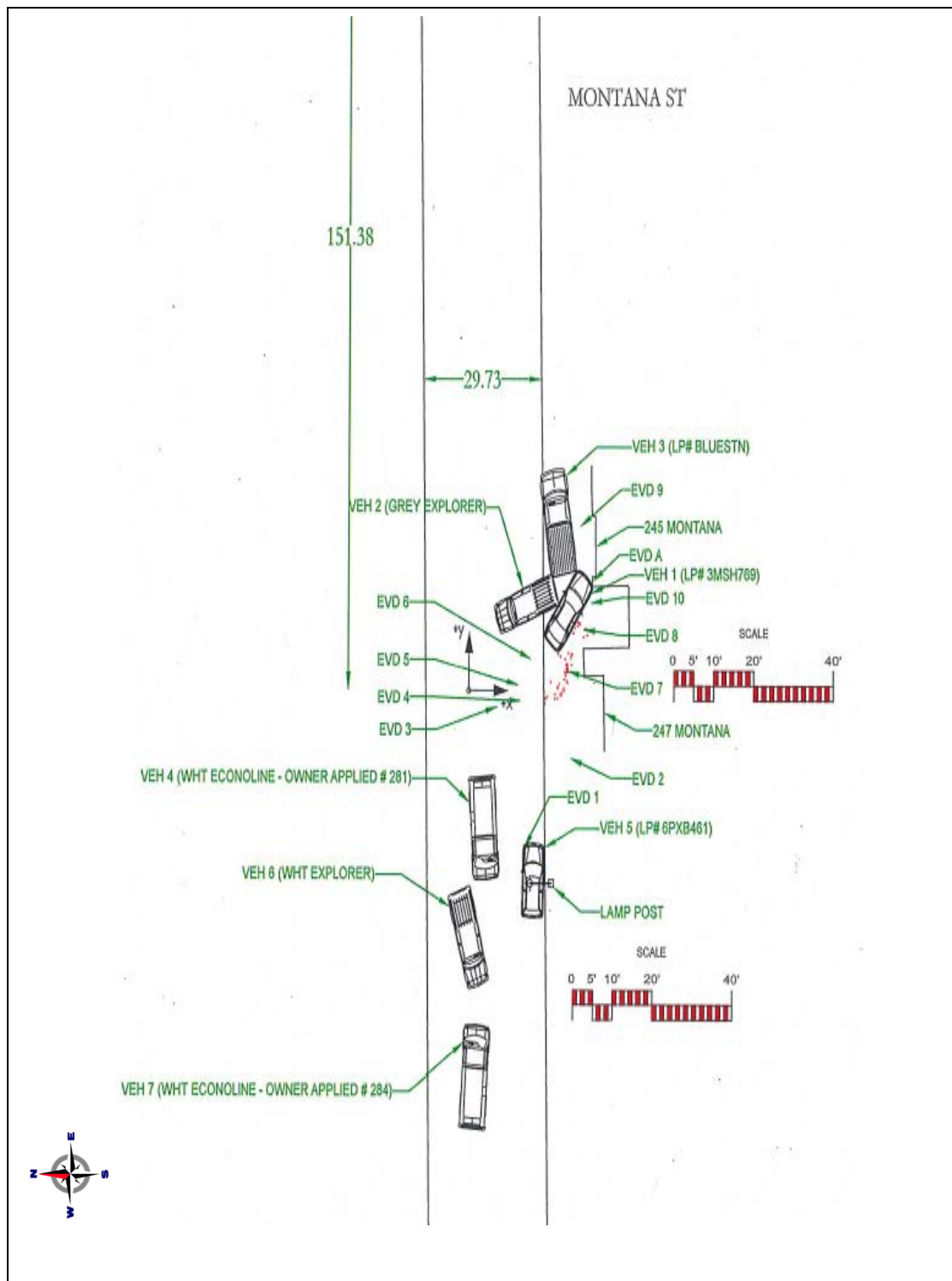


Image 11: CSI Diagram of the incident scene.

Four .40 caliber casings, believed to have been fired from Agent Sarabia's handgun, were found at the following locations, as marked on Image 11:

- In front of the driver side tire of a blue Honda Fit parked along the south sidewalk, close to where Agent Sarabia was initially standing at the time he interacted with Dickerson - (*Evidence Marker – 1*).
- Sidewalk in front of driveway at 247 Montana Street - (*Evidence Marker – 2*).
- Sidewalk in front of garage at 245 Montana Street – (*Evidence Marker – 9*).
- Ground on the east side of 247 Montana Street – (*Evidence Marker – 10*).

In addition, four 9 mm casings (*Evidence Markers 3-6*), which are consistent in caliber with Agent Brown’s handgun, were located on the street in front of 247 Montana Street. Two additional cartridge casings of the same type were located underneath the stolen Honda, while it was being towed.

## **J. LEGAL STANDARD**

The question presented is whether Agents Sarabia and Brown committed any criminal acts in shooting Dickerson. To pursue criminal charges, a prosecutor must be satisfied that the evidence will show beyond a reasonable doubt that no legal justifications existed for the agents’ actions. Here, the relevant legal inquiry is whether the officers acted reasonably in self-defense and/or in defense of others.

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. 4<sup>th</sup> 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 the self-defense inquiry 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.

## **K. LEGAL ANALYSIS**

First, as to the subjective component, both agents gave accounts that sufficiently articulated their respective beliefs that potentially deadly force was necessary. Agent Sarabia described his belief that Dickerson was defying his commands and driving at him and that he (Sarabia) was going to be run over. In fact, his initial shot occurred while or shortly after the Honda first struck him. Agent Sarabia further explained that he fired again when the Honda continued again towards him. He stated that he believed he was “going to get killed,” “this guy is going to run me over,” and “I thought I was going to die.”

Likewise, Agent Brown described his rationale for shooting as, in part, based on the belief that Dickerson would “run over Mike.” He had just seen Dickerson defy police commands to stop, Sarabia “sprawled across the hood” of the Honda, and “terror” on Sarabia’s face. Agent Brown also believed, given Dickerson’s actions, that Dickerson would “do anything they could to get away . . . whether that was hurting or killing my partner or me, I mean the vehicle was coming straight at my car, um, I was terrified. I was terrified for me and I was terrified for Mike.”

Next, the inquiry turns to whether the agents’ perceptions and actions were objectively reasonable under the circumstances. As summarized above, Agents Sarabia’s and Brown’s accounts of the circumstances surrounding their shooting of Dickerson are largely corroborated by civilian and law enforcement witness accounts, as well as the physical evidence. Notwithstanding any questions as to whether Agent Sarabia had his badge fully displayed, other evidence, including other taskforce agents’ displays of their badges, their verbal identification as “police,” and emergency lights on their vehicles, indicated that a law enforcement action was under way.

Moreover, ample evidence supports the agents’ perceptions that Dickerson drove the Honda in a manner that threatened Agent Sarabia, Agent Brown, and possibly others. Most tellingly, Dickerson reversed the Honda after the initial stop and, defying police commands, proceeded to strike Agent Sarabia with the car. As the video footage depicted in Image 5 shows, the Honda’s wheels were canted towards Agent Sarabia after the initial strike and the Honda drove towards Sarabia again. Given the evidence of Dickerson’s conduct, both Agent Sarabia and Agent Brown had reasonable bases for believing that the Dickerson presented an imminent deadly threat to Agent Sarabia.

Additionally, Dickerson presented a threat of harm to Agent Brown, too. Not only was Dickerson driving towards Agent Sarabia, the Honda was also on course towards Agent Brown. His belief that he could be hit was borne out by the fact that Agent Brown was actually knocked back into the interior of his vehicle due to the force of the impact hitting his vehicle. Given the evidence of Dickerson’s conduct during this incident, it cannot be proven beyond a reasonable doubt that Agents Sarabia and Brown unreasonably believed that deadly force was necessary to defend themselves and others.

## **L. CONCLUSION**

For the reasons stated above, the District Attorney, declines to pursue criminal charges against Agent Sarabia and Agent Brown relating to their conduct in this matter because it cannot be proven beyond a reasonable doubt that the agents' actions were not reasonably taken in defense of themselves and/or others.