



ADMINISTRATIVE REVIEW

Officer Involved Shooting – April 10, 2022

MAY 20, 2023
SAN DIEGO HARBOR POLICE

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Investigator's Report
Officer Involved Shooting: 2022-04
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SDPD Case #: 22040014497

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San Diego Harbor Police Investigator's Report

Date of Incident: April 10, 2022

Reporting Officer: Lieutenant. K. Helman #5372

Division: Internal Affairs

Approved By: Captain J. George #4439

Date of Report: May 20, 2023

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Time of Incident: 1333 Hours

Location of Incident: 3380 N. Harbor Drive, San Diego, CA

Subject: Officer Involved Shooting Investigation I.A. #2022-04

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SUBJECT OFFICERS: MACMASTER, JAMES - Police Officer, ID #5734

Date of Hire: 2/13/2015

HPD Patrol Division - 2nd Watch

[REDACTED]

[REDACTED]

WEAPON USED: Glock 22Gen4, 40 S&W – SN: [REDACTED]

FERRAIOLI, SCOTT - Police Sergeant, ID #4376

Date of Hire: 10/09/2000

[REDACTED]

[REDACTED]

[REDACTED]

WEAPON USED: Glock 35Gen4, 40 S&W – SN: [REDACTED]

BANUELOS, VICTOR - Police Lieutenant, ID #4131

Date of Hire: 11/23/1998

[REDACTED]

[REDACTED]

[REDACTED]

WEAPON USED: Glock 35Gen4, 40 S&W – SN: [REDACTED]

SUSPECT:

MEDINA, ERIC JESUS

[REDACTED]

[REDACTED]

WEAPON USED: “FMK” brand ‘9x19’ model Model, 9mm – SN:

[REDACTED]

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SUMMARY:

On April 19, 2022 at 1333 hours, Eric Jesus Medina parked his vehicle next to the front stairs of the San Diego Harbor Police Department on North Harbor Drive. Medina exited his vehicle and used the call box next to the front doors to request assistance. Medina walked away as the dispatcher tried to ask follow-up questions. Medina got into his vehicle, backed it out of the stall, and stopped in front of the stairs leading up to the front entrance. Medina positioned his vehicle facing westbound, the sole vehicle exit, with his door and window facing the front doors of the Harbor Police Headquarters building.

Officer MacMaster responded from inside the station to assist Medina. Officer MacMaster walked outside, stood at the top of the stairs and asked Medina if he wanted to speak with an officer. Officer MacMaster could not hear Medina's response, so he began to walk towards Medina's vehicle. Medina raised his right hand revealing a semi-automatic handgun.

Officer MacMaster ran back and took cover behind a large pillar in front of the exterior lobby doors. Officer MacMaster gave Medina verbal commands to drop the weapon. Medina pointed the firearm at Officer MacMaster. Believing Medina was going to shoot him, Officer MacMaster fired his weapon at Medina. Sergeant Ferraioli exited the station through the front lobby after hearing gun shots. He took cover behind another pillar and fired his weapon at Medina. From the lobby, Lieutenant Banuelos could see Medina pointing a handgun at the officers and believed they were actively engaged in a gun battle. Lieutenant Banuelos fired at Medina through the glass lobby windows. Medina eventually dropped the handgun and put his hands in the air. He was taken into custody and transported to UC San Diego Hospital for treatment.

Two civilians, [REDACTED] and [REDACTED], were traveling east on N. Harbor Drive at the time of the incident when their vehicle was likely struck by [REDACTED] round while the officers were defending themselves against the imminent deadly threat Medina presented.

Medina's "FMK" brand "9x19" model firearm was recovered at the scene.

There is surveillance video, and Body Worn Camera (BWC) footage of the event.

San Diego Police Department Homicide Team IV responded to the scene and conducted the homicide investigation.

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INVESTIGATION:

On April 10, 2021, I responded to an Officer Involved Shooting at 3380 N. Harbor Drive, San Diego. Members of SDPD Homicide Team IV arrived on scene and conducted an investigation. Harbor Police Sergeant Bland #5552 noted, in part, the following during the briefing (not verbatim).

On 4/10/22 at 1333 hours, Eric Medina drove his vehicle to the Harbor Police Headquarters Parking Lot, exited his vehicle and used the Harbor Police "House Phone" to contact Dispatch. Medina asked the dispatcher for assistance and then returned to his vehicle. Harbor Police Officer James MacMaster #5734 responded to the call for service and exited the front of Harbor Police Headquarters. Officer MacMaster made contact with Medina and observed he was in possession of a firearm. Officer MacMaster drew his service weapon and began firing at Medina. Harbor Police Sergeant Scott Ferraioli #4376 responded to the call and saw Officer MacMaster engaged in a gunfight. Sergeant Ferraioli drew his service weapon and began firing in the direction of Medina and his vehicle. Harbor Police Lieutenant Banuelos #4131 responded to the front of Harbor Police Headquarters and saw officers engaged in a gunfight. Lieutenant Banuelos drew his service weapon and began firing at Medina through the Harbor Police lobby window. An arrest team was assembled, exited the lobby and approached the rear of Medina's vehicle. They saw Medina was on the ground, unarmed and took Medina into custody. Officers immediately started life-saving measures due to Medina's injuries and maintained medical efforts until Medic Unit #1, and San Diego Fire Department Engine #3 arrived on scene. Medics stabilized Medina and transported him to UCSD Medical Center with Harbor Police Officers Faris #6055 and Patterson #6031 who stayed with Medina at the hospital.

No BWC or surveillance video had been viewed at the time of Sergeant Bland's briefing.

On approximately June 15, 2022, I received Homicide Team IV's investigation.

On November 16, 2022, I received a letter from the District Attorney's Office regarding this event.

This investigation was tolled per Government Code 3304(g) until November 16, 2022.

DISTRICT ATTORNEY LETTER:

The District Attorney letter, included the following analysis and conclusions of the event:

Officer MacMaster responded to Medina's call for assistance. As MacMaster approached to speak with him, Medina pointed a gun at MacMaster. Medina ignored multiple commands to drop the gun and instead pointed the loaded firearm at MacMaster. Believing his life was in danger, MacMaster fired his gun at Medina. MacMaster did not have an opportunity to deescalate as Medina produced the firearm almost immediately after the contact began.

Ferraioli and Banuelos heard the shooting and responded to assist MacMaster. Ferraioli and Banuelos saw Medina pointing the firearm at MacMaster and in their direction. Ferraioli believed

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Medina and MacMaster were engaged in a gun fight and believed Medina would continue firing at them. Ferraioli fired his weapon at Medina because he believed his life and the lives of the other officers were in danger. Banuelos also believed the three officers' lives were in danger from the threat Medina posed. Banuelos fired at Medina to stop the threat. The three officers fired believing they were defending themselves or the other officers from an imminent threat of serious bodily injury or death. They continued firing until Medina finally followed commands to drop his weapon and put his hands up.

In viewing the circumstances from the perspective of an objectively reasonable police officer, Medina's possession of a firearm and pointing the gun directly at MacMaster even after being told to drop his weapon, led MacMaster to believe Medina posed an imminent threat of serious bodily injury or death [to] the officer. Medina's actions of continuing to point the weapon at the officers even after he had been fired upon, again, led MacMaster, Ferraioli, and Banuelos to believe he continued to pose an imminent threat of death or serious bodily injury throughout this shooting incident. The officers did not have time to consider less lethal options as Medina produced a firearm as soon as MacMaster started to approach him. Less lethal options were not sufficient to address the deadly threat Medina's firearm presented.

CW3 [Civilian Witness 3] and CW4 [Civilian Witness 4] were unfortunately caught in the crossfire while the officers were defending themselves against the imminent deadly threat Medina presented. Medina did not give the officers an opportunity to deescalate. The officers also did not have time to consider their backdrop as Medina refused to drop his weapon or follow commands, leading the officers to believe he posed a deadly threat which they needed to instantly address. As soon as Medina dropped his weapon and started following commands, the officers recognized that the threat was over and deadly force was no longer necessary. They immediately stopped firing their weapons at Medina.

Given the totality of circumstances MacMaster, Ferraioli and Banuelos bear no state criminal liability. A copy of this letter, along with the materials submitted for our review, will be retained for our files.

The District Attorney's letter noted a letter handwritten in Spanish that was found in Medina's car. The writer names several people and wrote: "Well I don't have much to say. I love you I love you and I love you....Remember me happy like a worm." Additionally, the District Attorney letter also noted the following:

Medina was transported to UC San Diego Hospital for treatment following the shooting. He sustained gunshot wounds to the shoulder, chest, face, and lower extremities including his right and left legs. Medina suffered fractures to his left tibia and fibula, his right femur, one rib, and the manubrium (upper sternum).

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On April 11, 2022, I received the Firearm Proficiency Report for Officer MacMaster, Sergeant Ferraioli and Lieutenant Banuelos (Figure 1, 2 and 3). I confirmed Officer MacMaster, Sergeant Ferraioli and Lieutenant Banuelos were in compliance with the department's qualification and training requirements with the handguns each officer used in this event.

FIGURE 1

Port of San Diego Harbor Police Range Qualification March 2022.

Tuesday, March 8, 2022

Session 1: 0800 to 1200

Name	ID#	Duty Handgun		Handgun Serial#	Pass/Fail/ Marksman	Duty Rifle		Rifle Pass/Fail	Patrol Shotgun Pass/Fail	LL Shotgun Pass/Fail	Signature
		Make	Model				Rifle Serial#				
8	Ja. Macmaster	5734	Glock	22		P / F / M		P / F	P / F	P / F	
13						P / F / M		P / F	P / F	P / F	
14						P / F / M		P / F	P / F	P / F	
15						P / F / M		P / F	P / F	P / F	
16						P / F / M		P / F	P / F	P / F	

WTU Supervisor: [REDACTED]

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Date: 3-8-2022

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FIGURE 2

Port of San Diego Harbor Police Range Qualification March 2022.

Saturday, March 12, 2022

Session 1: 0800 to 1200

	Name	ID#	Duty Handgun		Handgun Serial#	Pass/Fail/ Marksman	Duty Rifle		Rifle Pass/Fail	Patrol Shotgun Pass/Fail	LL Shotgun Pass/Fail	Signature
			Make	Model				Rifle Serial#				
1	Sgt. Ferraioli	4376	Glock	35	████████	✓ P / F / M	████████	✓	P / F	P / F	P / F	████████

WTU Supervisor:

████████████████████

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FIGURE 3

Port of San Diego Harbor Police Range Qualification March 2022.

Wednesday, March 9, 2022

Session 1: 0800 to 1200

Name	ID#	Duty Handgun		Handgun Serial#	Pass/Fail/ Marksman	Duty Rifle Rifle Serial#	Rifle Pass/Fail	Patrol Shotgun Pass/Fail	LL Shotgun Pass/Fail	Signature
		Make	Model							

9	LT. BAÑUELOS	4131	GLOCK	35		P / F / M		P / F	P / F	P / F	
13						P / F / M		P / F	P / F	P / F	
14						P / F / M		P / F	P / F	P / F	
15						P / F / M		P / F	P / F	P / F	
16						P / F / M		P / F	P / F	P / F	

WTU Supervisor: [REDACTED] Date: 3-9-2022 Page 4 of 16

On May 13, 2023, I reviewed 6 audio files from dispatchers associated with this event. Most of the audio files were recordings of SDPD Officers calling their dispatch center for departmental resources. One of the calls was to 911 from [REDACTED] who stated his vehicle was struck by a bullet. The other files were radio transmissions of officers and dispatchers as they coordinated their actions during the call. These audio files were obtained from the Communication Centers from both the San Diego Police Department and the Port of San Diego Harbor Police Department.

I began reviewing Homicide Unit Case #22-015741 from Homicide Team IV. The investigation consisted of San Diego Police Department reports, Port of San Diego Harbor Police reports, interviews of SDPD and HPD

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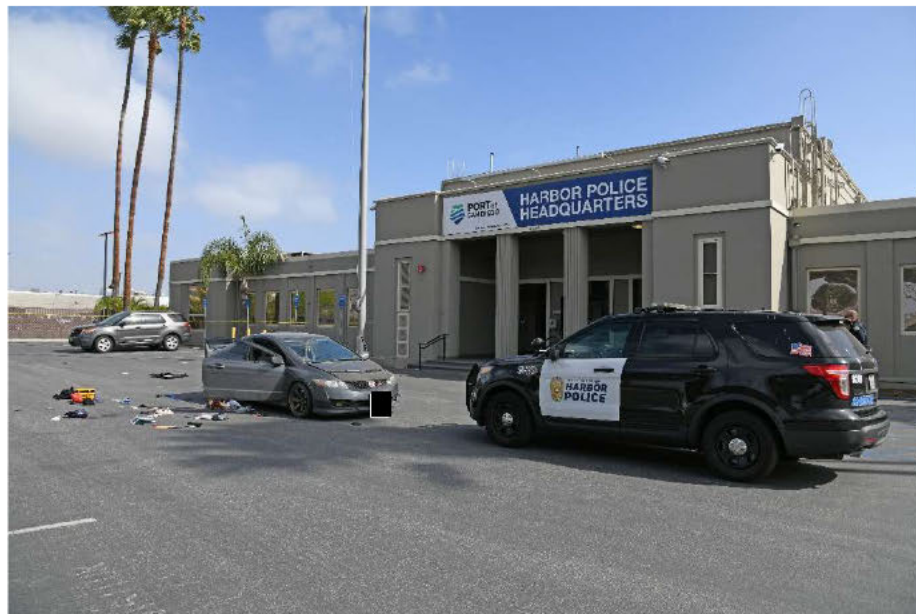
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personnel, interviews of lay witnesses, scene photographs, lab reports, communications printouts, audio recordings, video recordings made by witnesses, diagrams, and BWC footage.

I reviewed Detective Murray's #6120 Investigative Follow Up. Detective Murray responded to the scene along with Homicide Unit Captain Freeman #4910, Lieutenant J. Campbell #6367, Detective Sergeant J. Dungan #6137, Detectives T. Demas #6479, S. Choy #6921, and K. Okeson #7150. Crime Scene Specialist D. Martinez #8696 also assisted Detective Murray in the investigation. In his report, Detective Murray noted he was assigned to be the crime scene investigator. In Detective Murray's report, he noted the following:

- A gray Honda Civic ([REDACTED]) with apparent bullet holes in the driver's side door, left rear passenger window, and left rear quarter panel. The vehicle was stopped facing westbound in the Harbor Police parking lot directly in front of the police facility's front lobby entrance.



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- Evidence was marked by yellow placards #1 through #52. [REDACTED] cartridge cases (placards # [REDACTED]) and [REDACTED] magazine (placards [REDACTED]). [REDACTED] bullet holes were located in a glass window directly left to the front lobby doors.



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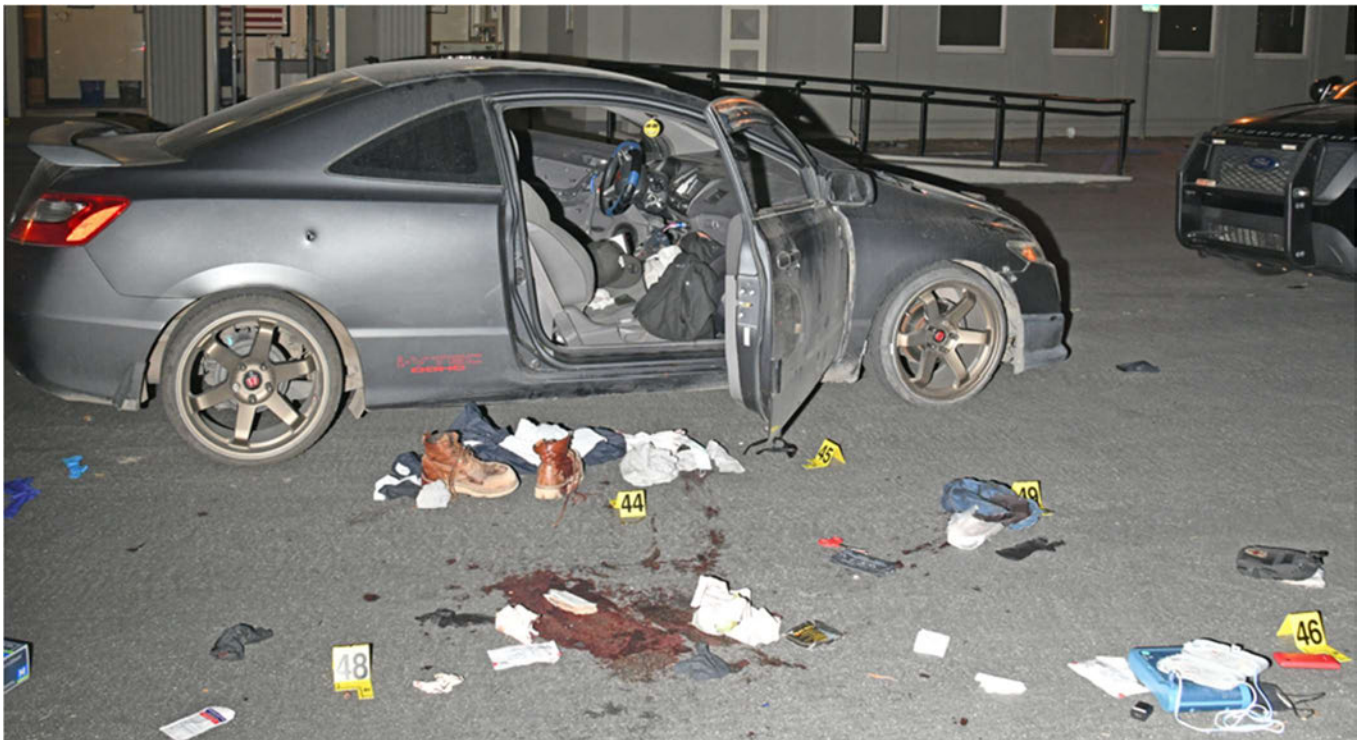
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- [REDACTED] additional cartridges cases were found in the hallway adjacent to the front lobby. These cartridges cases were marked and collected (placards [REDACTED]).



- Additional pieces of evidence were located in the parking lot on the passenger's side of the gray Honda Civic. Evidence included clothing saturated with apparent blood (placard #44 and #49), broken sunglasses (placard #45), cell phone (placard #46), a key (placard #47), and a fired bullet (placard [REDACTED]).



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- The gray Honda was towed to SDPD Northwestern Division to be processed for evidentiary purposes. Prior to transporting the vehicle, CSS Martinez and Detective Murray recovered a handgun (placard #51) from the driver's seat and a cell phone (placard #52) from the front passenger seat.



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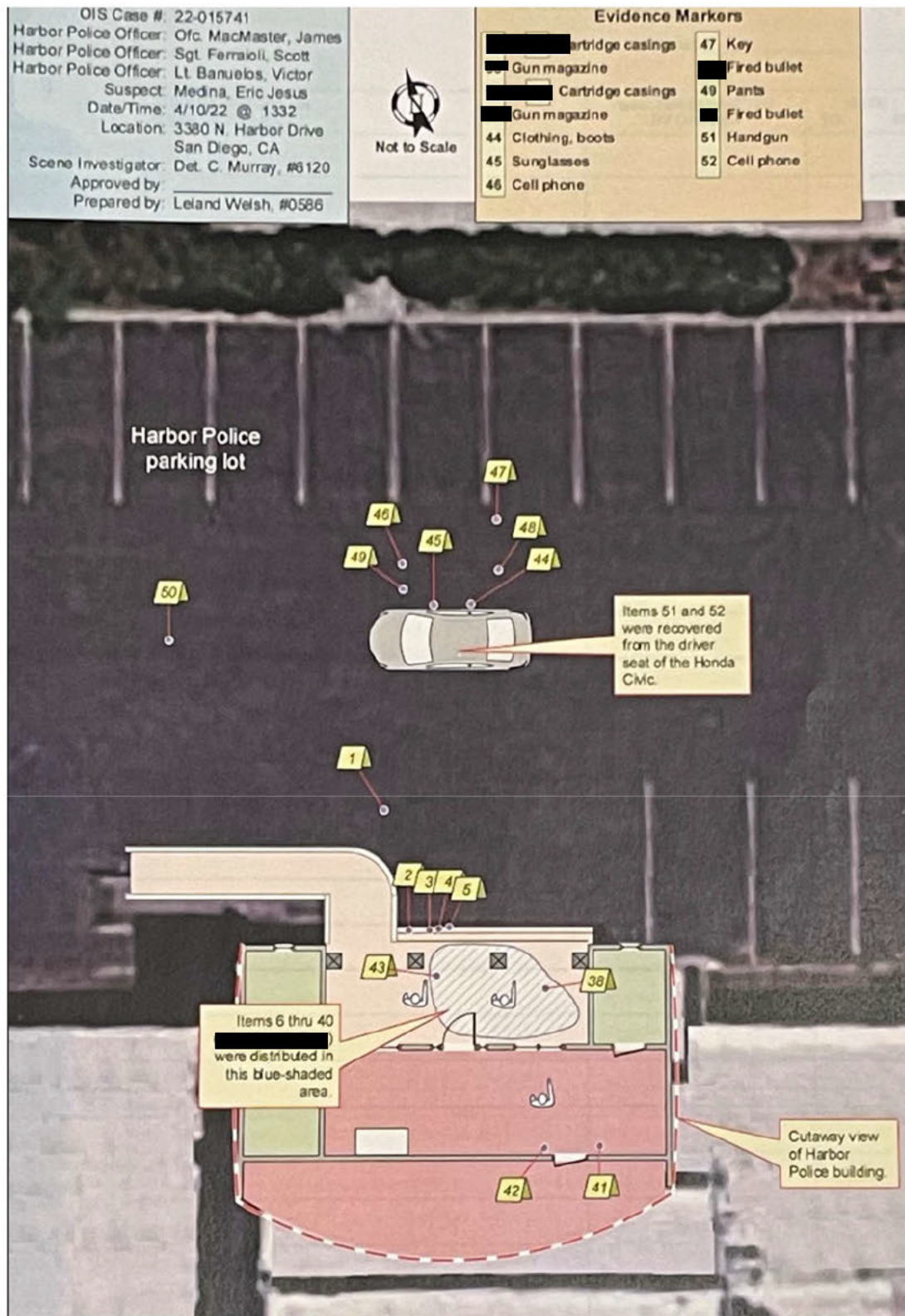
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- I reviewed Detective Murray's diagram of the overall scene:



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I reviewed Crime Scene Specialist report for Medina's firearm. I noted the following:

- Examination of Medina's "FMK" brand '9x19' model, chambered in 9mm Luger caliber, serial number: [REDACTED].
- [REDACTED] cartridge case was removed from the barrel of the handgun and was impounded under barcode 11363736. This cartridge was head stamped with "P M C 380 AUTO." [REDACTED] cartridge was removed from the chamber of the handgun and also impounded under barcode 11363736. This cartridge was head stamped with "W-W 380 AUTO."
- Seven (7) cartridges were removed from the firearm magazine. Each cartridge was head stamped "W-W 380 AUTO."



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I reviewed Criminalist Kate Todd's (#8762) Firearms Unit Report for Medina's firearm. I noted the following:

- Examination of Medina's "FMK" brand '9x19' model, chambered in 9mm Luger caliber, serial number [REDACTED].
- The firearm was operable but failed to reset after each shot requiring manual, forward manipulation in order to recommence the cycle of operations.
- When test fired with 380 Auto caliber ammunition, the firearm was capable of performing four of the eight steps, within the cycle of operations, per its design. Due to the undersized and underpowered cartridge, the firearm was incapable of unlocking the action, extracting/ejecting the fired cartridge case, and/or resetting the firing mechanism. These steps required manual manipulation in order to recommence the cycle of operations.

On May 13, 2023, I reviewed the five surveillance videos from the Harbor Police Headquarters building. One of the camera views was not functioning properly and did not capture the event. Another angle shows officers running to the scene, but the incident is out of view.

Another video shows the Harbor Police Lobby. In this video, Medina can be seen approaching the front of Harbor Police Headquarters. Medina is on a cell phone when he can be seen using the call box to notify Harbor Police Dispatch he needs assistance.



Later in the same video, Officer MacMaster can be seen responding to the call for assistance. Officer MacMaster leaves the camera's view for a moment then appears to seek cover behind a pillar while drawing his firearm.

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A few moments later, Sergeant Ferraioli and Lieutenant Banuelos can be seen entering the lobby. Lieutenant Banuelos appears to fire [REDACTED] rounds through the front lobby window while Sergeant Ferraioli is at the front door of the lobby.



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Additional officers are seen later as they form an arrest team and take Medina into custody.

The final surveillance camera angle is from the front of the Harbor Police Station facing toward the parking lot. In this angle, Medina can be seen driving up to the front of the Harbor Police station. Medina exits his vehicle and approaches the call box while appearing to talk on a cell phone in his left hand.



After using the call box, Medina walked back to his vehicle and stood near the trunk of his vehicle while still talking on the phone. He then enters his vehicle and moves it slowly off camera. A few moments later, Officer MacMaster can be seen exiting the front door of the Harbor Police Headquarters. Officer MacMaster waves at Medina and then quickly retreats to a pillar.

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Officer MacMaster appears to be talking with Medina while pointing his firearm at him for several moments. Officer MacMaster can then be seen firing his weapon towards Medina.



Officer MacMaster continues to engage Medina with his firearm stopping briefly to clear an apparent weapon jam and a second time to talk on the radio. A few moments later, [REDACTED] rounds appear to have been fired through the lobby's front glass. Sergeant Ferraioli can then be seen exiting the front door and taking cover behind another pillar. Sergeant Ferraioli then also engages Medina with his service weapon.

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Additional officers arrive on scene shortly thereafter and point their weapons toward Medina. An arrest team is formed and the team approaches Medina with a shield. Medina cannot be seen taken into custody on the camera. However, after he is taken into custody, the remainder of the video shows various officers on scene performing a variety of tasks.

On May 15, 2023, I contacted Detective Murray regarding the outstanding Gunshot Residue report, the toxicology report for Medina and the firearms report for Officer MacMaster, Sergeant Ferraioli and Lieutenant Banuelos. Detective Murray informed me there was no Gunshot Residue report because Medina was transported to the hospital before a sample could be collected. Detective Murray also informed me the toxicology report returned with “inconclusive results” due to the hospital’s treatment when Medina arrived. Officer MacMaster, Sergeant Ferraioli and Lieutenant Banuelos’ firearms were not examined per SDPD’s policy since no malfunction was reported.

On May 17, 2023, I began my review of the body worn camera (BWC) footage related to the incident. Although there were many BWC videos associated with this event, most were of officers on perimeter posts or peripheral duties and did not capture the shooting or the circumstances leading up to the shooting. The only BWCs that captured footage of the shooting was from Officer MacMaster. Sergeant Ferraioli and Lieutenant Banuelos were not wearing a BWC at the time of the shooting.

According to the Homicide Team IV’s interview of Sergeant Ferraioli, he did not have his BWC on his person because he had just finished lineup (briefing) and was talking to other dayshift supervisors when the call came out. Sergeant Ferraioli’s shift began at 1300 hours.

According to the Homicide Team IV’s interview of Lieutenant Banuelos, he did not have his BWC on his person because he was preparing to go home for the day and was taking care of administrative duties in his office. Lieutenant Banuelos was working dayshift hours and was scheduled to leave at 1500 hours. Lieutenant Banuelos told investigators he had taken off his BWC and placed it on his desk. Lieutenant Banuelos indicated he was getting ready to put the BWC on the charger just prior to ending his shift.

Officer MacMaster’s BWC footage is titled " Axon Body 3 Video 2022-04-10 1335 X6032723H." It is

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12 minutes and 04 seconds in length. The first 30 seconds does not include audio as it was captured before Officer MacMaster activated the recording. The video starts as Officer MacMaster retrieves a disposable face mask just prior to walking outside to speak with Medina.

- At approximately 31 seconds, Officer MacMaster tells Medina, “Hey, how’s it going? You wanted to talk with an officer?” Medina replies, “Uh yeah” to which Officer MacMaster says, “What’s going on?”
- At approximately 38 seconds, Medina appears to use his right hand to point a gun at Officer MacMaster. Officer MacMaster retreats and advises dispatch, “He’s got a gun...He’s got a gun.”



- At approximately 45 seconds, Officer MacMaster orders Medina with the following commands: “Put your hands up! Put your fucking hands up now! Put your hands up, drop the gun. Drop the gun now! Drop it on the ground! Drop it on the ground!” While Officer MacMaster is giving commands, Medina’s firearm can be seen in his right hand while he puts his empty left hand out of the vehicle’s window.



- At approximately 57 seconds, Medina can be seen moving the firearm to point towards Officer MacMaster while moving his left hand across the top of the firearm.

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- A gunshot can be heard on the video and Officer MacMaster advises, “Shots fired!” A volley of gunfire can be heard. Officer MacMaster periodically stopped firing briefly to give further commands to Medina to “Drop the gun!” Officer MacMaster moved closer to the concrete pillar for cover, so Medina is not visible on his BWC for the rest of the shooting.
- At approximately 1 minute and 12 seconds, Sergeant Ferraioli can be seen entering the scene. The officers continue to fire towards Medina while giving him commands to drop the gun and get his hands up.
- For the next several minutes, Officer MacMaster and Sergeant Ferraioli can be heard coordinating units to safely take Medina into custody. Medina complies with commands and is eventually taken into custody. Officers can then be seen providing medical treatment to Medina before paramedics take over his care.

I examined the BWC for attempts to deescalate the situation. Up until the moment the suspect presented a handgun, Officer MacMaster was polite and professional as he dealt with the suspect. The suspect was within several feet of Officer MacMaster when he presented the handgun immediately creating a potential deadly-force situation. Within 19 seconds of Officer MacMaster perceiving Medina’s handgun, Medina pointed his firearm at Officer MacMaster and appeared to rack the slide. Fearing for his own safety, Officer MacMaster engaged Medina with his firearm. Officer MacMaster attempted to de-escalate the situation for 19 seconds by giving verbal commands to Medina while he held a firearm. There were no further opportunities to deescalate the situation once Medina pointed the firearm at Officer MacMaster. At the time of this incident, Officer MacMaster, Sergeant Ferraioli and Lieutenant Banuelos had their Taser, OC, and baton on their person, however the use of a less lethal option in this situation was not reasonably safe or feasible.

On May 17, 2023, I reviewed the officers' reports associated with this event. The reports are consistent with BWC footage and the CAD information. I also reviewed the Homicide Unit's interviews related to this event. The interviews were conducted the same day of the incident. None of the interviews indicated any violations of Department Policy or Procedures.

Shortly after the incident, [REDACTED] called 911 to report his vehicle had been struck by a bullet. SDPD Homicide Detectives Okeson and Choy made contact with [REDACTED] and his wife [REDACTED]. According to their report, the [REDACTED] were driving home from the Island Prime Restaurant on Harbor Island. Shortly after they turned right from Harbor Island Drive to N. Harbor Drive, they heard “three or four pops” in rapid succession. On the third or fourth “pop” sound, they felt an impact on the car. [REDACTED] told his wife, “We have been hit!” [REDACTED] was driving at the time and quickly left the area. The [REDACTED] continued to the Coast Guard Building (2710 N. Harbor Drive) and then called 911.

The detectives also took several photos of the [REDACTED] vehicle.

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The photos depict an apparent bullet hole in the front passenger door just above the door handle. I also reviewed Officer MacMaster's BWC. At approximately 1 minute, a similar gold SUV can be seen driving east on N. Harbor Drive.



The video does not show the vehicle being struck by a bullet as Officer MacMaster's BWC was partially obscured by the pillar he was taking cover behind. Additionally, due to the distance between Officer MacMaster and the gold vehicle, I was unable to see a bullet hole in the vehicle as it drove by. Based on the evidence and reports, it is apparent the [REDACTED]'s vehicle was likely struck by one of the initial rounds while Officer MacMaster was actively defending himself from an imminent deadly threat Medina presented.

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CONCLUSIONS:

Officer MacMaster, Sergeant Ferraioli and Lieutenant Banuelos' actions were **WITHIN THE GUIDELINES** of San Diego Harbor Police Department Policies.

San Diego Harbor Police Department Policy 300.4 (Deadly Force Applications) states, in part:

- (a) *An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person.*

The policy goes on to define imminent threat as:

An "imminent" threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer's subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention (Penal Code § 835a).

San Diego Harbor Police Department Policy 300.4.3 (Displaying of Firearms) states, in part:

- (b) *If the officer reasonably believes that a threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such threat until the officer no longer perceives such threat.*

It's clear from the statements obtained in this case, and the evidence at the scene, Officer MacMaster, Sergeant Ferraioli and Lieutenant Banuelos fired their weapons in response to the suspect, Eric Medina, pointing a gun at them. Officers perceived Medina to be an imminent threat as Medina had the ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to them. One of the rounds likely struck an uninvolved vehicle that was passing by on N. Harbor Drive at the time of the shooting. Officer MacMaster, Sergeant Ferraioli and Lieutenant Banuelos's actions were legal, justified, and reasonable considering the circumstances. The decision by the officers to shoot at Eric Medina was **WITHIN THE GUIDELINES** of San Diego Harbor Police Department Policy.

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OTHER FINDINGS:

1. PROCEDURE-EXONERATED

Sergeant Ferraioli and Lieutenant Banuelos violated Department Policy section 450.5 when they failed to possess their BWC prior to contact with Medina.

On 04/10/2022, Sergeant Ferraioli and Lieutenant Banuelos were assigned to patrol. Both were on duty in full police uniform when Officer MacMaster made contact with Medina.

From Department Policy 450.5 Portable Audio/Video Recorders - EMPLOYEE RESPONSIBILITIES:

Prior to going into service, each uniformed employee will be responsible for making sure that he/ she is equipped with a portable recorder if one has been issued to them by the Department, and that the recorder is in good working order. If the recorder is not in working order or the employee becomes aware of a malfunction at any time, the employee shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed employees should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

According to the Homicide Team IV's interview of Sergeant Ferraioli, he did not have his BWC on his person because he had just finished lineup (briefing) and was talking to other dayshift supervisors when the call came out. Sergeant Ferraioli's shift began at 1300 hours.

According to the Homicide Team IV's interview of Lieutenant Banuelos, he did not have his BWC on his person because he was preparing to go home for the day and was taking care of administrative duties in his office. Lieutenant Banuelos was working dayshift hours and was scheduled to leave at 1500 hours. Lieutenant Banuelos told investigators he had taken off his BWC and placed it on his desk. Lieutenant Banuelos indicated he was getting ready to put the BWC on the charger just prior to ending his shift.

Both Sergeant Ferraioli and Lieutenant Banuelos were required to wear their BWCs while on duty and in uniform. However, since these officers were at the Harbor Police Headquarters and at the start/end of their shift, there was a reasonable expectation they would not need to possess their BWCs prior to this incident. Therefore, this allegation is **EXONERATED**.

2. PROCEDURE- EXONERATED

Officer MacMaster violated Department Policy section 340.5.9(g) when he used profane language while on duty and in uniform.

On 04/10/2022, Officer MacMaster was assigned to patrol. He was on duty and wearing a full police uniform when he made contact with Medina.

From Department Policy 340.5.9(g) Standards of Conduct – CONDUCT:

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Use of obscene, indecent, profane or derogatory language while on duty or in uniform [is prohibited].

At approximately 45 seconds into Officer MacMaster's BWC video, Officer MacMaster ordered Medina with the following commands: "Put your hands up! Put your fucking hands up now! Put your hands up, drop the gun. Drop the gun now! Drop it on the ground! Drop it on the ground!" While Officer MacMaster was giving commands, Medina's firearm can be seen in his right hand while he puts his empty left hand out of the vehicle's window. At approximately 1 minute and 13 seconds into the video, Officer MacMaster ordered Medina to, "Drop the gun. Drop the fucking gun."

While Officer MacMaster's profanity was in violation of Department Policy, due to the extremely stressful situations involving an armed and non-compliant assailant, the language used was reasonable. Therefore, this allegation is **EXONERATED**.

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DOCUMENTATION:

The results of this investigation are based on the following items:

1. Homicide Unit Investigation.
2. San Diego County District Attorney's Office Finding Letter.
3. Officer MacMaster, Sergeant Ferraioli and Lieutenant Banuelos' Firearms Qualification records.
4. Harbor Police Department Policy 300 – Use of Force
5. Officer MacMaster's BWC video.

CONFIDENTIAL: ~~OBJ~~ THIS REPORT IS FOR THE EXCLUSIVE USE OF THE CHIEF OF POLICE AND/OR DISTRICT ATTORNEY.

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