



**REPORT ON THE DECEMBER 5, 2018  
OFFICER-INVOLVED SHOOTING OF  
DAVID MOLINA**

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**December 10, 2019**

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## **I. ROLE OF THE DISTRICT ATTORNEY**

The role of the Napa County District Attorney's Office in an officer involved shooting is to review the circumstances of the incident for the sole purpose of determining if there is any criminal liability on behalf of a member of law enforcement. The District Attorney does not examine concurrent issues of law enforcement policy or procedure, compliance with police training, or civil liability. This report does not express an opinion on any of those attendant matters.

This report summarizes the events that took place on December 5, 2018 in the area of Soscol Avenue, Stonehouse Drive and Maplewood Avenue in the City and County of Napa that resulted in the shooting of David Molina and documents the legal conclusion drawn from the evidence. This summary does not include every aspect of those events. Rather, it is a composite of the material facts considered by the District Attorney in coming to her legal conclusion. This report draws from a thorough review of the police investigation, interviews of witnesses, physical evidence, case law, forensic science and testing.

The Napa Police Department (NPD) invoked the Napa County Major Crimes Investigation Team Protocol. This protocol sets forth the procedures and guidelines used by Napa County law enforcement agencies in the criminal investigation of specifically defined incidents involving law enforcement employees. Under this protocol, in order to eliminate the risk or appearance of conflicts of interest, an outside law enforcement agency is required to participate in the investigation of law enforcement employee-involved fatalities. Accordingly, investigators with the Napa County Sheriff's Office assumed responsibility for the investigation of this shooting, as a Napa Police Department officer was involved in the incident.

Napa County Sheriff's Office Detective Felipe Hernandez led the investigation. He presented a report to the Napa County District Attorney's Office on July 11, 2019 with notice that there exists an outstanding report from the California Department of Justice. This report continues to be outstanding. As a calendar year has lapsed since the time of the incident and this report, the Napa County District Attorney decided to issue her findings to provide clarity and finality to the involved parties and their families. In the event the Department of Justice provides a report that alters the opinion of the District Attorney, her analysis and conclusion will be updated as necessary.

## **II. STANDARD OF REVIEW**

The District Attorney, as the chief law enforcement official of Napa County, and as the person responsible for deciding what cases to prosecute within this jurisdiction, has the responsibility to review and approve the filing of all criminal cases. The discretion to exercise this function is not without limit.

The standard to apply by the District Attorney in filing criminal charges on this and any other matter is in the *Uniform Crime Charging Standards*. It provides:

The prosecutor should consider the probability of conviction by an objective fact-finder hearing the admissible evidence. The admissible evidence should be of such convincing force that it would warrant conviction of the crime charged by a reasonable and objective fact-finder after hearing all the evidence available to the prosecutor at the time of charging and after hearing the most plausible, reasonably foreseeable defense that could be raised under the evidence presented to the prosecutor.

In other words, criminal charges can be filed only if the prosecutor reasonably believes they are supported by probable cause, that admissible evidence will be sufficient to support a conviction beyond a reasonable doubt under the rules of evidence in a California courtroom and that the decision to charge is in the interests of justice. This precludes filing criminal charges against a subject without an analysis of what evidence would likely be presented at trial that both inculcates and exonerates a potential defendant. The prosecutor must believe that the evidence available at the time of filing would sustain a conviction by a unanimous vote of a neutral jury. If that evidence is insufficient in the prosecutor's estimation, charges cannot and must not be brought. It would be unethical to do otherwise.

The following is the analysis of the currently available evidence involving the officer involved shooting of David Molina.

### **III. SUMMARY OF INCIDENT**

#### **A. David Alexander Molina**

David Alexander Molina was a 6'3", 200 pound, 27-year-old male who lived in the City of Napa with his parents and his brother. Mr. Molina was unemployed. Mr. Molina had poor mental health, as well as ongoing challenges with substance and alcohol abuse. Mr. Molina had violent outbursts of anger and became physically violent, particularly when not taking his prescribed medication. Three days prior to the shooting, Mr. Molina communicated to relatives that he had stopped taking his medication. Friends described Mr. Molina as having suicidal and homicidal tendencies and bragged about his possession of firearms. Mr. Molina possessed firearms, including handguns, and handled them in a reckless manner. Notably, it was illegal for him to possess any firearm due to his criminal history.

Mr. Molina was a felon and had a record of adult criminal convictions including commercial burglary, petty theft, assault with a deadly weapon, battery of a peace officer (x2), resisting, delaying or obstructing a peace officer and carrying a concealed weapon. Mr. Molina served lengthy county jail sentences on the above criminal convictions, as well as receiving jail sentences for numerous violations of probation and county jail rules violations.

#### B. Napa Police Department Officer Christopher Simas

Christopher Simas was a 6'0", 200 pound, 28-year-old patrol officer with the Napa Police Department. He had been employed as a peace officer with the Napa Police Department for approximately two (2) years at the time of this shooting. Officer Simas is a graduate of the Napa Valley College Administration of Justice program and received a Bachelor of Science degree from California State University-Sacramento. He successfully completed the police academy.

On December 5, 2019, Officer Simas was working street patrol on the graveyard shift, was wearing a Napa Police Department (NPD) standard marked blue uniform and was driving a marked NPD patrol car.

#### C. Pre-Incident

On December 4, 2018, at approximately 4:30 p.m., Mr. Molina went to the apartment of Jessica in Napa and met with Jessica, Matt and Dustin. When Mr. Molina arrived at the apartment, he was intoxicated. The group went to dinner and then to buy cigarettes for Mr. Molina on the way to his house. Mr. Molina was sitting in the back of the car with Jessica. Mr. Molina engaged in a heated argument with Jessica and became extremely angry, to the point he was yelling that he was going to "cut her fucking head off." Matt, who was driving the car, pulled over and ordered Mr. Molina out. Once Mr. Molina was out of the car, he tried to get Matt to exit the car so he could fight him. Mr. Molina was left on Silverado Trail near El Guadalajara restaurant.

Mr. Molina had left his cell phone and a sweatshirt at Jessica's apartment. Mr. Molina walked home and was extremely angry and upset when he arrived. Mr. Molina repeatedly called Jessica and Matt regarding his cell phone, but they refused to answer which heightened his anger. Later that night, Mr. Molina left his home on his skateboard, still angry and upset regarding his dealings with Jessica and Matt. When he left his house, he was carrying a .38 special revolver in his waistband.

Mr. Molina returned to Jessica's apartment at approximately 1:00 a.m. on December 5, 2018. Upon arrival, Mr. Molina was drunk, angry, belligerent and threatening. Mr. Molina once again got into an intense argument with Matt and Jessica on the front porch of their apartment. During this argument, he frequently exposed a revolver that he was carrying in the front waistband of his pants

to threaten and intimidate the others present. Mr. Molina pushed Jessica so violently that she fell back against Matt and almost knocked him down. Dustin, who was also present, alleged that Jessica slapped Mr. Molina in the face prior to him leaving. Mr. Molina then left towards Soscol Avenue riding his skateboard.

Matt and Jessica called 911 at 1:48 a.m. to report the incident with David Molina. The information provided was relayed to Napa Police Department officers, including Officer Christopher Simas, by dispatch. Dispatch was told that David Molina had assaulted a woman and that he was carrying a gun. Further, David Molina lifted up his shirt to display a revolver at his waist and the callers were very scared. Dispatch was further told that David Molina was on a long skateboard likely traveling on Soscol towards Walmart and Mr. Molina was described as tall (approx. 6'3") skinny, Hispanic, wearing a black hoodie and dark blue jeans.

#### D. Law Enforcement Response to the 911 Call

Officer Simas arrived on scene and made contact with Mr. Molina within 1-2 minutes of the initial dispatch. While traveling to the scene, Officer Simas listened to dispatch's broadcasts of information regarding the incident, as well as reviewed information displayed on the computer screen in his patrol car. Along with the physical description of the suspect, Officer Simas learned the suspect was armed with a firearm, specifically, a revolver, in his waistband and had violently assaulted a woman just moments before. Prior to getting out of his car, Officer Simas removed his AR-15 patrol rifle, chambered a round and put the rifle on safe. He did this because he knew the suspect was armed and his hope was to stay at a distance from Mr. Molina and order him to put his hands up, get on the ground, and safely put him in handcuffs.

As Officer Simas approached Stonehouse Drive, he quickly located Mr. Molina. Officer Simas stopped his patrol car on Soscol Avenue south of Stonehouse Drive and got out of his car with his rifle. Officer Simas alerted dispatch at 1:51 a.m. that he was out with the suspect on Soscol Avenue at Stonehouse Drive.

Officer Simas called out to David Molina, asked him his name and ordered Mr. Molina to keep his hands up. Mr. Molina ignored him and continued to ride his skateboard. Mr. Molina then veered toward the right and the southbound lanes of Soscol Avenue. Officer Simas tried to cut off Mr. Molina's path to the right and ordered him to stop. Mr. Molina was hostile, confrontational and noncompliant with Officer Simas. Officer Simas informed Mr. Molina that someone had reported that he had a gun and ordered him repeatedly to show him his hands. Mr. Molina continued to be hostile and belligerent, reached toward his waistband with his left hand telling Officer Simas, "don't point that shit at me" and "fuck you, bro."

Officer Simas continued to give Mr. Molina orders as Mr. Molina walked southbound on Soscol Avenue. Officer Simas requested officers respond "Code 3" (with lights and sirens). Mr. Molina sprinted away from Officer Simas, running southeast towards the Vineyard Terrace Apartments. Officer Simas pursued him and repeatedly ordered Mr. Molina to stop and show his hands, which

Mr. Molina continuously disobeyed. Mr. Molina fled southbound through the apartment complex, continued through the dog park and climbed over a fence. Once over the dog park fence, Mr. Molina fell off the levee and went out of sight, ending up at the bottom of a ditch. This levee and ditch formed the southern boundary that separated the apartment complex from the residences on Maplewood Avenue.

Mr. Molina walked eastbound in the ditch and when Officer Simas radioed dispatch his updated position, Mr. Molina ran eastbound further into the apartment complex, both on the levee and the apartment complex's cement walking path. Officer Simas followed and attempted to keep Mr. Molina under observation; however, several times during the pursuit, Officer Simas lost sight of Mr. Molina behind trees, bushes and other obstacles, heightening the danger of the situation. Further, when Officer Simas could not see Mr. Molina, he turned his flashlight off so he would not be an illuminated target for Mr. Molina whom he believed to be armed. Mr. Molina traveled further east and went back to the levee and down into a dark and heavily wooded area of the ditch.



Densely wooded area at the bottom of ditch. Located immediately south of Vineyard Terrace Apartments



Path separating Vineyard Terrace Apartments to the north and levee to the south

Officer Simas heard what sounded like Mr. Molina crashing into a fence. Immediately thereafter, Mr. Molina complied with the repeated orders to put his hands in the air. Officer Simas contacted Mr. Molina from the top of the levee while Mr. Molina crouched down in the bottom of the ditch. Officer Simas approached and got into a kneeling position behind Mr. Molina and attempted to handcuff him. Officer Simas's AR-15 rifle was slung in front of Officer Simas's body, with the buttstock near his right shoulder and with the barrel pointed downward on his left. Officer Simas then grabbed Mr. Molina's left wrist and was able to handcuff it and move it to the small of his back. At the same time, Mr. Molina began to reach his right hand downwards towards the front of his waistband. Officer Simas, believing Mr. Molina was armed with a handgun, immediately let go of Mr. Molina's left wrist and attempted to control Mr. Molina's right hand to prevent him from producing a pistol from his waistband. Simultaneously, Officer Simas sprawled against Mr. Molina in an attempt to control his movements, with Officer Simas's chest/shoulder pressed against Mr. Molina's back.

At this point, Mr. Molina's voice changed in tone and he threatened Officer Simas, "you don't want to scuffle, homie." Officer Simas told Mr. Molina to place his hands behind his back. Mr.

Molina responded by telling Officer Simas to “shut his fuckin mouth and let me go.” Officer Simas continued to struggle with Mr. Molina and gave him orders to put his hands behind his back, with Mr. Molina continuing to struggle and saying, “Or what?” multiple times. Officer Simas informed Mr. Molina he was being detained. At that moment, Officer Simas heard multiple muffled shots. Officer Simas looked around to determine their source. Officer Simas felt his rifle moving next to his left leg and observed the rifle barrel lifting up and down multiple times. Since the AR-15 was pinned between their two bodies and the barrel was close to and pointed into the muddy ground, these shots were heavily muffled. Officer Simas realized that Mr. Molina had his left hand on the trigger of his rifle and had shot it approximately seven to ten (7-10) times in an attempt to assault or kill him. Officer Simas tried to pull David Molina’s hand off the trigger, but failed. When the AR-15 stopped firing, Mr. Molina still had his hand wrapped completely around the trigger mechanism of his rifle, prompting Officer Simas to believe the rifle had a malfunction and jammed.

After the rifle stopped firing, Mr. Molina continued to hold on to the rifle and a violent struggle occurred over control of the rifle. To break Mr. Molina’s grip on the rifle, Officer Simas leaned forward with his left shoulder, stepped back and then kned Mr. Molina in the back with his right knee. Officer Simas stepped back again with the rifle while Mr. Molina was on the ground. Officer Simas then racked his rifle, clearing the jammed round, while Mr. Molina turned around towards Officer Simas and braced himself to get up and move towards Officer Simas. Officer Simas believed Mr. Molina was armed with a revolver and was going to get up and shoot him with his pistol or was going to physically attack Officer Simas again, take his rifle and shoot him. At this point, Officer Simas feared for his life and shot at Mr. Molina with his rifle.

Mr. Molina was hit and fatally wounded.

At 1:57 a.m., immediately after shooting, Officer Simas radioed dispatch “shots fired, subject down.” At this time, Officer Simas was still alone with no backup officers in view. Officer Simas directed responding officers to his location and then performed CPR on Mr. Molina. When additional officers arrived, NPD Officer Tyler Olson took over CPR duties.

In total, Officer Simas ordered Mr. Molina to show him his hands and “stop!” a total of 44 times during the approximately six minute encounter in an effort to safely take Mr. Molina into custody.

#### E. Post-Incident

It took approximately two (2) minutes after the shooting for the first police officers to locate Officer Simas. Napa Fire Department vehicles and an AMR ambulance were directed to Maplewood Avenue, directly south of the scene of the shooting. Bolt cutters were used to cut through a fence to gain access to the area to provide immediate medical attention. AMR paramedics evaluated Mr. Molina and found no signs of life, terminated CPR and pronounced him deceased at 2:05 a.m.

#### F. Witness Interviews

Law enforcement interviewed over 55 witnesses living in the area. Because the shooting occurred at 2:00 a.m. in an isolated area, no witnesses actually saw the shooting. Several witnesses heard parts of the verbal interchange between Mr. Molina and Officer Simas that morning. Multiple witnesses heard Officer Simas ordering Mr. Molina to “stop” and “put your hands up” and likewise heard Mr. Molina’s response of “fuck you.” One witness stated that around 1:50 a.m. she heard someone yell, “Put your fucking hands where I can see them,” followed by the sound of “tussling” for about 30 seconds to one minute, then the sound of three “pops.” Other nearby residents made similar statements. Witnesses corroborated the rapid timing of events, the darkness and inability to see either Mr. Molina or Officer Simas, the officer’s repeated verbal commands to “stop, police” and “put your hands up” and “show me your hands”, and Mr. Molina’s noncompliant responses to the orders of the Officer Simas.

#### G. Crime Scene and Physical Evidence

Crime scene specialists from several law enforcement agencies secured and processed the scene over the course of two days.

Due to the rain at the time of the shooting, and the intermittent rain that fell afterwards, collection of fired AR-15 rounds at the crime scene was extremely difficult. On December 5<sup>th</sup>, seven (7) fired .223 caliber AR-15 rounds along with one (1) unfired cartridge case were recovered. This unfired cartridge had two indentations on the shoulder of the casing, indicating to a firearms expert that it was consistent with jamming the rifle’s feeding mechanism and interrupting the cycle of operation. This is consistent with the recitation of facts provided by Officer Simas.

On December 6<sup>th</sup>, more extensive crime scene processing occurred, and the top layers of brush, leaves, branches, grass and dirt were removed in order to locate the missing AR-15 cartridges. Five (5) more cartridge cases were found, most buried in dirt and mud. One cartridge remains outstanding.

These items were found at the crime scene discarded along the route of the foot pursuit by Mr. Molina: (1) skateboard discarded on Soscol Ave; (2) baseball hat worn by Mr. Molina, inches from a fully loaded .38 caliber revolver; and (3) two (2) rounds of live ammunition, found next to the eastern pathway of the apartment complex.



Skateboard left on east side of Soscol Avenue by Mr. Molina as he ran eastbound into the apartment complex



Hat worn by Mr. Molina marked by Evidence Tag #3. Fully loaded .38 revolver found and marked by Evidence Tag #2.



Two (2) rounds of live ammunition marked by orange flags found next to the eastern pathway of the apartment complex

NPD Officer Simas was wearing an Axon Body Worn Camera (BWC) attached to his chest area during the entire incident. The audio is intact for the vast majority of the incident. The video picture was obscured at times by the rifle carried by Officer Simas and almost entirely from the point when Officer Simas attempted to handcuff Mr. Molina until after the shooting ended due to their close proximity. Further, the incident took place on a rainy night in an extremely wooded and brushy area at the bottom of a levee, with very little ambient light.

The BWC video of Officer Simas was downloaded, preserved, reviewed and was consistent with and corroborated the statements of Officer Simas and other witnesses. The entire crime scene was canvassed and no surveillance cameras were located that captured any of the incident.

Multiple swabs from Officer Simas' rifle, the discarded hat and the discarded revolver were taken along with a DNA sample from Mr. Molina for comparison purposes. There was no "match" or "hit" to Mr. Molina on either firearm; rather the results indicate that DNA mixtures were found from multiple individuals and unsuitable for comparison. The results neither included nor excluded Mr. Molina's DNA. Swabs from the hat "matched" the sample taken from Mr. Molina.

#### H. Rounds Fired and Recovered Guns

The following firearms were located at the scene:

1. Colt AR-15, .223 caliber assault rifle, possessed by Officer Simas, containing thirteen (13) unexpended rounds in the 30-round magazine and one (1) unexpended round in the chamber; and
2. Rohm GMBH Sontheim/BRZ, 38 Special .38 caliber 6 round revolver, found on levee near dog park, containing six (6) live cartridge cases.

The evidence suggests Mr. Molina discharged at least seven (7) rounds from the AR-15 during his struggle with Officer Simas and that Officer Simas fired five (5) rounds at Mr. Molina at the conclusion of their struggle. This is consistent with the evidence collected at the scene, observations of witnesses and the BWC video of Officer Simas. Officer Simas indicated he carried 28 rounds in his AR-15.

#### I. Autopsy

The Napa County Forensic Pathologist performed the autopsy on Mr. Molina on December 6, 2018. The cause of death was determined to be gunshot wounds. Two (2) gunshot wounds showed evidence of slight stippling. This suggests that the shots were at a somewhat close range when fired and are consistent with the statement of Officer Simas and the BWC footage.

Both Officer Simas and Mr. Molina had superficial scratches and cuts to their hands and face consistent with being in a violent struggle.

A sample of Mr. Molina's blood was analyzed and it was determined that he was acutely intoxicated (blood alcohol content of 0.14%) and that he had recently used marijuana.

### **IV. STATEMENT OF THE LAW**

The sole issue to be resolved in this report is whether the shooting of David Molina by NPD Officer Christopher Simas was lawful: specifically, was the use of force by this officer reasonably necessary under the circumstances to accomplish a lawful law enforcement purpose.

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right of self-defense or the defense of others actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code Section 197; *People v. Randle* (2005) 35 Cal.4<sup>th</sup> 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4<sup>th</sup> 1073, 1082; *see also*, CALCRIM No. 505.

In protecting himself or another, a person may use all the force that he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury that appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." *People v. Mehserle* (2012) 206 Cal.App.4<sup>th</sup> 1125, 1146. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the defendant had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one, which threatens death or serious bodily harm. *Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333.

An officer has "probable cause" in this context when he knows facts, which would "persuade someone of reasonable caution that the other person is going to cause serious physical harm to another." CALCRIM No. 507. When acting under Penal Code section 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. *People v. Mehserle* (2012) 206 Cal.App.4<sup>th</sup> 1125, 1147. And he may only resort to deadly force when the resistance of the person being taken into custody "appears to the officer likely to inflict great bodily injury on himself or those acting with him." *Id.* At 1146; quoting *People v. Bond* (1910) 13 Cal.App. 175, 189-190. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

## V. LEGAL ANALYSIS

On December 5, 2018, all evidence suggests that Mr. Molina was strongly under the influence of alcohol and was very angry with Jessica and Matt. He threatened several people during an argument by displaying the pistol in his waistband in a threatening manner and actually physically attacked Jessica in front of her home. Matt and Jessica then called 911 to report this incident. They reported that Mr. Molina had just committed an assault on Jessica, that he had a concealed firearm in his waistband and had left on a skateboard, presumably down Soscol Avenue towards Walmart. This information was provided to NPD Officer Simas prior to contacting Mr. Molina.

At all points in his interactions with Mr. Molina, Officer Simas believed him to be in possession of a loaded handgun.

When Officer Simas observed Mr. Molina skateboarding down Soscol Avenue, he was legally entitled, and obligated, to detain Mr. Molina to investigate the allegations of violent crime, including assault with a deadly weapon, battery and criminal threats with the use of a firearm and felon in possession of a firearm.

During the initial contact with Officer Simas on Soscol Avenue, Mr. Molina refused to follow the lawful orders of the officer and eventually began running away. At this point, there was probable cause to place Mr. Molina under arrest for violation of Penal Code section 148(a)(1), Obstructing/Resisting/Delaying a Peace Officer. Mr. Molina was belligerent and angry throughout the contact with Officer Simas, refused to follow his orders, ran and attempted to evade Officer Simas on numerous occasions.

Officer Simas was aware of the allegation of a violent crime occurring moments before, believed the suspect to be armed and had first-hand knowledge of his belligerence. Furious and armed with a pistol, Mr. Molina ran into a densely populated apartment complex area filled with Napa residents, families and children. Officer Simas was legally permitted to give chase.



Fully loaded .38 revolver found in the path taken by Mr. Molina

This contact between Officer Simas and Mr. Molina escalated dramatically at the point when Officer Simas attempted to handcuff Mr. Molina. Mr. Molina immediately began violently resisting handcuffing and Officer Simas was only able to handcuff Mr. Molina's left hand. At this point, Officer Simas still assumed Mr. Molina was armed with a loaded pistol. During the violent struggle over Officer Simas' rifle, Mr. Molina got control over the rifle's trigger mechanism and shot the rifle approximately seven times. Officer Simas reasonably believed Mr. Molina was trying to shoot to injure or kill him. Even after the rifle jammed, Mr. Molina attempted to violently overpower Officer Simas and take control of his rifle by keeping his hand wrapped around the trigger and refusing to surrender to the officer. Officer Simas was able to break himself and the rifle away from Mr. Molina and take one step back. Instead of putting up his hands and surrendering, Mr. Molina again turned toward Officer Simas. It is a reasonable inference from his actions that Mr. Molina intended to move forward to attack Officer Simas.

Officer Simas reasonably believed Mr. Molina was a significant threat and intended to shoot and kill him, either with Mr. Molina's pistol or by overpowering him and shooting him with his own rifle. Mr. Molina was so close to Officer Simas, only a single step away, that Officer Simas had

no time to hesitate or take a different course of action. Officer Simas reasonably and justifiably used deadly force to protect his own life.

During the crime scene investigation, a loaded handgun was located along the dark path under Mr. Molina's hat, consistent with the witness statements that Mr. Molina was armed. Officer Simas did not know that Mr. Molina had abandoned the weapon during the chase. Mr. Molina was found to be acutely intoxicated. Mr. Molina violently resisted arrest from the moment of the initial encounter that night. As a convicted felon, Mr. Molina was forbidden to possess either firearms or ammunition. During the course of the pursuit that early morning, Mr. Molina attempted to discard both the firearm and separate ammunition he was carrying in an effort to conceal them from law enforcement. He likely violently resisted for the same reasons: to avoid criminal prosecution and punishment. Mr. Molina had a demonstrated escalating history of erratic and troubling behavior, including criminal conduct involving weapons and assaulting law enforcement officers, culminating in assaulting Officer Simas and attempting to shoot him, or at a minimum, to overpower him and take his firearm, before being shot on December 5, 2018.

## **VI. CONCLUSION**

Lethal force encounters are often brief, violent and stressful. They demand the utmost from law enforcement officers in response, performance and decision-making. The encounters often become wildly unpredictable and rapidly evolving, requiring officers to make split second decisions while in fear for their own lives, the lives of their fellow officers and the citizenry they have sworn to protect.

The use of deadly force on December 5, 2018 by NPD Officer Christopher Simas was a reasonable and lawful response under the totality of the circumstances. Therefore, his actions were legally justified and criminal charges against him are neither warranted nor supported by the evidence.

This review conducted within the scope and jurisdiction of the District Attorney is complete and final. The public deserves full transparency as to how and why our office reaches a decision in an officer-involved shooting and, as a result, we are now releasing our conclusions in their entirety.

Allison Haley, Napa County District Attorney

### Napa Police Department Officer Involved Shooting

Exhibit A: Map of Involved Area, City of Napa

