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330 WEST BROADWAY
SAN DIEGO, CA 92101
(619) 531-4040
SanDiegoDA.com

OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO

DWAIN D. WOODLEY
ASSISTANT DISTRICT ATTORNEY

SUMMER STEPHAN
DISTRICT ATTORNEY

June 3, 2025

Chief Roxana Kennedy
Chula Vista Police Department
315 4th Avenue
Chula Vista, CA 91910

Chief Scott Wahl
San Diego Police Department
1401 Broadway
San Diego, CA 92101

Re: Fatal shooting of Mr. Moises Colunga Jr. by Chula Vista Police Sergeant Patrick Alvarez on July 10, 2024; Chula Vista Police Department Case No. 24-09304; San Diego Police Department Case No. 24-610636; DA Special Operations Case 24-088PS; Deputy District Attorney assigned: Kristi Gill

Dear Chief Kennedy and Chief Wahl,

We have reviewed the reports and materials compiled by the San Diego Police Department's Homicide Unit concerning the circumstances leading to the shooting of Moises Colunga Jr. by Chula Vista Police Department Sergeant Patrick Alvarez on July 10, 2024. A District Attorney Investigator responded to the scene and was briefed about the incident. This case was submitted to the District Attorney's Office for review on October 8, 2024. The final Medical Examiner's report was received by the District Attorney's Office on May 14, 2025.

Summary

On July 10, 2024, at approximately 1:08 a.m., Chula Vista Police Department (CVPD) officers responded to a radio call of a white sedan involved in a solo vehicle collision near Marina Parkway and Sandpiper Way. The 911 caller relayed that the vehicle that crashed tried to drive away and crashed again. A patrol sergeant (LE1) arrived first on scene. He activated his patrol vehicle's emergency lights as he parked behind a stopped white sedan. As LE1 exited his police vehicle, the driver of the white vehicle, later identified as Moises Colunga Jr., attempted to drive away. However, due to the damaged state of the white sedan, the car did not advance. LE1 ordered Colunga to exit the vehicle, but Colunga ignored those commands and remained in the vehicle.

LE1 approached the vehicle while ordering Colunga to exit the vehicle. LE1 observed Colunga moving near the center console. LE1 grew concerned Colunga was potentially armed, so he

backed away from the vehicle and requested additional officers respond to his location. Multiple officers arrived, including Sergeant Patrick Alvarez. The officers repeatedly ordered Colunga both in English and Spanish to get out of the vehicle. Instead of exiting the vehicle, Colunga began smoking cigarettes and throwing items from the inside of the vehicle out onto the ground.

Officers utilized less-than-lethal pepper ball rounds to try to force Colunga out of the vehicle, however the pepper ball rounds did not have the intended effect. Colunga opened the driver's side door but remained in the driver's seat. Colunga briefly pointed a silver metal object in the officers' direction. The officers believed the object to be a handgun. Alvarez fired less-than-lethal bean bag rounds towards Colunga in an attempt to gain his compliance. The bean bags were also ineffective. Alvarez then fired more pepper ball rounds into the vehicle, but Colunga remained non-compliant. Throughout the encounter, officers repeatedly ordered Colunga to exit the vehicle.

Colunga closed the driver's door of the vehicle and attempted to drive forward multiple times, but the vehicle would not move. Suddenly, Colunga re-opened the driver side door, pointed a silver handgun at the officers, and fired one round in the officers' direction. Alvarez returned fire, fatally wounding Colunga.

The Medical Examiner conducted an autopsy and determined Colunga's cause of death to be a gunshot wound and classified the manner of Colunga's death as homicide. Toxicological testing of blood taken from Colunga revealed the presence of cocaine at a level of 5.1 mg/L, alcohol at a level of 0.129%, and showed a presumptive positive for cannabinoids.

Persons Involved

At the time of the incident, Colunga was a 50-year-old resident of San Diego. Alvarez had been a police officer with the Chula Vista Police Department for 23 years.

Statement of Civilian Witness One (CW1)

CW1 is the supervising security guard for the Chula Vista Marina District. At approximately 1:00 a.m., he was conducting a briefing with his employees in the southernmost portion of the marina parking lot. CW1 saw headlights from an oncoming vehicle heading southbound on Marina Parkway and then heard a crash. CW1 walked closer and saw that a white sedan had crashed. CW1 saw a male standing alone outside of the crashed vehicle at the driver's door, leaning on the hood of the vehicle, shaking his head, and mumbling to himself. CW1 decided to return to the camera room to review the surveillance video to see if he could see the moment the crash occurred.

CW1 reviewed the video footage and saw that the male had driven at a high rate of speed from the freeway area and then westbound on H Street. The driver continued to drive at a high rate of speed as he turned southbound onto Marina Parkway and then sped through two intersections without stopping at the stop signs. The driver hit the brakes just before striking the concrete island that divides the northbound and southbound lanes of traffic. The vehicle continued into the northbound lanes of Marina Parkway facing southbound. After reviewing the footage up to this point, CW1 called the police. As CW1 was speaking to the 911 operator, he was also watching

the live feed of the security cameras. CW1 saw the driver get back into his vehicle, reverse past the concrete median and turn the vehicle to face northbound. The driver proceeded very slowly northbound on Marina Parkway, and then crashed into the fence on the east curb line at the intersection of Sandpiper Way and Marina Parkway. The vehicle slowly backed up and then continued northbound out of view of the camera. When CW1 saw a police vehicle driving northbound on Marina Parkway with its red and blue lights flashing, he disconnected with dispatch.

CW1 walked to the intersection of Sandpiper Way and Marina Parkway. There were multiple police officers and police vehicles parked south of the white vehicle. Officers were giving commands to the driver, who was sitting inside the vehicle. CW1 saw the officers launch pepper ball rounds toward the vehicle. The driver refused to exit the vehicle. The officers used bean bag rounds and launched more pepper ball rounds, but the driver continued to ignore the officers' commands and did not respond. The driver unsuccessfully tried to drive the car forward.

CW1 retreated to the northeast corner of the marina parking lot and stood behind a truck with two other people, as directed by the officers. CW1 heard seven shots fired and ducked further behind the truck to take cover. After the shots were fired, it was quiet.

Statement of Civilian Witness Two (CW2)

CW2 is a construction worker who was working in the area when he saw a car driving recklessly. He heard the wheels screeching as if the car was drifting and the driver couldn't control it. As the vehicle drove down J Street, there was a big dust cloud as if the car had hit the curb or something. The vehicle was on the left side of Marina Parkway by the median. CW2 yelled at the driver of the car. The vehicle drove north and then stopped. CW2 told the driver to leave or he would call the cops. Then an officer pulled into the parking lot, immediately got out of his patrol car, and told the driver to get out of the car. The driver wasn't cooperating. The officer was patient and gave the driver a lot of chances, but the driver didn't respond. The driver kept trying to leave in his car even though the car didn't want to budge.

Additional officers arrived. Officers launched pepper balls at the driver. CW2 heard the gunfire, but didn't see the officer fire his gun. CW2 saw the driver's door was open, but the suspect never got out of the car. Officers removed the driver from the car and rendered aid.

Statement of Law Enforcement Officer One (LE1)

LE1 is a patrol sergeant with CVPD. He responded to a call for service of a vehicle collision at Marina Parkway and Sandpiper Way. Dispatch gave an update that the vehicle was disabled, the driver was trying to drive off, and the tires appeared to be flat. LE1 requested another unit respond with him.

LE1 was the first to arrive at the scene and advised dispatch that he was with the vehicle. LE1 stepped out of his patrol vehicle and stayed by the door. His overhead lights and spotlights were on. LE1 gave the driver, later identified as Colunga, directions to exit the vehicle, but Colunga did not respond. LE1 advised dispatch that Colunga was non-compliant and asked for the next unit to respond to the scene with lights and sirens activated. LE1 moved closer to get a better

angle on Colunga while continuing to give him verbal commands to turn off the vehicle and exit. Colunga did not acknowledge him. LE1 gave the commands in both English and Spanish. From 20 to 30 feet away, LE1 could see Colunga moving around inside the car.

Colunga attempted to drive away, but the right front wheel was badly damaged, and the car would not drive. LE1 requested a K9 officer respond and also requested medics respond and stage nearby in case the officers had to use force to gain Colunga's compliance.

When additional officers arrived, LE1 briefed them about Colunga's non-compliance and his moving around inside the car. The officers discussed the steps they could take to take Colunga into custody, including the use of a pepper ball launcher. They then moved a patrol vehicle closer to the white sedan to get a better view of Colunga.

Throughout the encounter, officers continued to give Colunga verbal commands in both English and Spanish. LE1 told Colunga the officers wanted to find a peaceful resolution. Colunga never responded to any of the commands.

Officers deployed pepper ball rounds into the open driver-side door of Colunga's vehicle. The pepper ball created a thick cloud of pepper ball dust, and the wind blew the dust at officers, causing them to cough. Colunga made a quick motion with his right hand around his waist, and it appeared he was holding something silver that appeared to be a firearm. LE1 backed up and another officer confirmed they saw a gun. LE1 advised the other officers and dispatch that Colunga had a gun. LE1 believed Colunga pointed the gun at officers for three to five seconds.

At this point, LE1 felt threatened by Colunga and requested air support to respond, but they were unavailable. LE1 directed officers to prepare spike strips in case Colunga drove off. Because the pepper ball seemed to be ineffective, the officers discussed other non-lethal options, including bringing a BearCat to the scene. Alvarez fired two bean bag rounds at Colunga. Colunga did not react, so Alvarez fired two more bean bag rounds.

LE1 then heard a single shot, and then heard a few more shots. The first shot did not sound like an officer's weapon but sounded like it came from a smaller caliber gun. The subsequent shots sounded like they were fired from one of the officer's guns, but LE1 did not see which officer fired a gun. LE1 advised dispatch shots were fired and confirmed that the officers were okay.

A team of officers used a shield and moved up toward Colunga. LE1 could see blood coming from Colunga, who was in the driver's seat and not moving. Colunga's hands were empty. Alvarez advised he saw the gun on the ground on the driver's side of the vehicle. LE1 also saw the gun on the ground. Officers removed Colunga from vehicle and provided medical aid until paramedics arrived. LE1 estimated about 25 minutes passed from when he arrived on scene until the shooting occurred.

Statement of Law Enforcement Officer Two (LE2)

LE2 heard over the radio that officers had responded to a call of an erratic driver who had been involved in multiple collisions. LE1, who was the first to arrive on scene, reported that the driver

was not compliant. LE2 began heading to the scene, in part because he is a member of CVPD SWAT team and drives a vehicle with extra equipment, such as a shield, and pepper ball launcher. While en route, LE2 heard LE1 request a unit with pepper ball launcher. Upon arrival, LE2 armed himself with the pepper ball launcher. Other officers arrived, including Alvarez.

Colunga was inside the vehicle, reaching around and not responding to LE1's commands. Throughout the incident, officers were ordering Colunga to exit the vehicle with nothing in his hands. Colunga did not respond to any of the commands.

The officers on scene decided to move Alvarez's vehicle forward to provide cover while getting a better angle at the driver. LE2 deployed two volleys of pepper ball into the vehicle through the open driver's window. Colunga did not seem to react. Colunga then opened the door and put his leg out, but he was still not complying with the order to exit the vehicle. LE2 believes an additional volley of pepper ball was then fired into the vehicle. Throughout the events, LE2 could hear Colunga's vehicle's engine revving as Colunga tried to drive forward. At one point, the tires spun, and the rear of the vehicle slid a bit to the left.

LE2 saw the muzzle of a gun pointed out of the driver's door. He could not see Colunga's hand and it happened quickly. LE2 believed Colunga was armed, so LE2 armed himself with his rifle.

Because the pepper balls had been ineffective, the decision was made to switch to a bean bag shotgun. Alvarez obtained a bean bag shotgun and aimed it at Colunga's exposed leg. Alvarez fired approximately four rounds. At least some of the bean bags appeared to strike Colunga. LE2 recalls announcements were being made for Colunga to exit because officers believed he was armed and dangerous. After the bean bag rounds had been depleted, Alvarez returned to the pepper balls and launched pepper balls into Colunga's vehicle.

Within 60 seconds, LE2 saw Colunga turn toward the officers and point a silver gun at them. Colunga turned back into the vehicle. Seconds later, Colunga turned his body toward the officers and fired at the officers. Something hit LE2 in the face and he ducked into his patrol vehicle. LE2 believes Colunga fired two or three rounds. As LE2 ducked, he heard shots coming from his left, where Alvarez was standing. Alvarez fired approximately five or six rounds. LE2 stood up, but he did not see any more movement inside Colunga's vehicle, nor did he see Colunga's weapon.

LE2 requested a shield for cover so the officers could safely move towards Colunga. As they neared Colunga, LE2 saw a silver handgun on the ground just outside the driver's door. Officers pulled Colunga out of the vehicle and began rendering aid until medics arrived.

Statement of Sergeant Patrick Alvarez

Alvarez heard LE1 put out over the radio that he was involved in a call where the person LE1 had contacted was not complying with commands and was trying to flee the scene. Alvarez responded to assist. When he arrived at the scene, Alvarez saw that several other officers, including a K9 officer, had arrived before him. He spoke to LE1, who told him that Colunga was not complying with commands to shut off the vehicle and come out with his hands up. Colunga

was reaching around in the center console causing the officers to be concerned that he might be armed. Alvarez saw the front passenger tire of Colunga's vehicle was badly damaged and the back tire was flat.

Alvarez knew from his experience that they could not utilize a police dog, given the circumstances of the situation. Alvarez and LE1 agreed that Alvarez would lead a team to deal with Colunga while LE1 would make announcements. LE1 continued ordering Colunga to exit the vehicle, but Colunga did not respond. Instead Colunga continued making very animated movements. Officers continued to be concerned that Colunga was armed.

Alvarez directed another officer to move a patrol vehicle closer to Colunga so that LE2 could use the vehicle as cover while deploying pepper balls into Colunga's vehicle. LE2 launched a volley of pepper balls, but they did not reach the inside of the vehicle. LE2 fired more pepper ball rounds. The second round was effective and Colunga appeared irritated as he opened the driver's side door, presumably to ventilate the vehicle. However, Colunga did not respond to the commands to exit the vehicle and continued to actively move around inside the vehicle.

Alvarez saw Colunga briefly point what he believed was a gun at the officers. Officers called out, "Gun, gun, gun." After the pepper ball rounds were launched and Colunga remained non-compliant, Alvarez utilized a bean bag launcher. Alvarez launched four bean bag rounds at Colunga's left leg, which was exposed due to the door being open. Colunga recoiled from the impact and rubbed his leg where the bean bag round had struck him. Colunga moved further into the vehicle.

Alvarez deployed more pepper ball rounds into Colunga's vehicle because the pepper smoke from the original rounds had dissipated. This round appeared to have no effect. Colunga closed the door and continued to rev the vehicle's engine, but the car did not move.

As Alvarez and LE2 discussed additional options, Colunga quickly opened his door and pointed a gun at the officers a second time. Alvarez took cover, and someone announced, "Gun, gun, gun." Colunga fired a shot from what sounded like a smaller caliber firearm, and Alvarez returned fire. Alvarez believed he fired nine shots. He stopped when Colunga was no longer a threat. Alvarez saw a heavy stream of blood coming from the bottom of the driver's side door and announced that Colunga was down.

Alvarez and the officers used a shield for cover and approached Colunga. Alvarez saw a pistol on the ground just outside the door of the vehicle and alerted his fellow officers. Colunga was slumped over in a seated position. Officers pulled him out of the vehicle to render aid until paramedics could enter the scene. Alvarez estimated that the entire incident lasted approximately 15 to 20 minutes. He believed Colunga would have kept firing at the officers had Alvarez not fired in return.

Body Worn Camera Evidence

All officers on scene were equipped with body worn cameras. The footage from Alvarez and

LE1's cameras best capture the most critical moments. The encounter lasted approximately 25 minutes.

LE1's footage captures the sound of screeching tires as LE1 exits his patrol vehicle. LE1 immediately commands Colunga to get out of the car. Colunga does not respond to this or any of the additional commands LE1 gives throughout the incident. LE1 requests another unit to respond "Code 3," meaning with lights and sirens activated, due to Colunga's non-compliance.

Throughout the encounter, LE1 and other officers use the patrol vehicle's public address system to repeatedly notify Colunga they are from the Chula Vista Police Department. They order Colunga to turn off the vehicle and to exit with nothing in his hands. The commands are given in English and Spanish. The sound of the engine revving is heard intermittently, but the tires do not appear to move. About three minutes after arriving, LE1 requests dispatch send an officer with a pepper ball launcher. LE1 also makes the request to have medics stage nearby. LE1 explains to other officers who arrive on scene that Colunga is moving around inside the vehicle and ignoring all commands while still trying to drive the vehicle.

Alvarez's footage shows him arrive. He, LE1, and the other officers develop a plan to contact and detain Colunga. They decide to move Alvarez's patrol vehicle closer to the white vehicle and utilize the pepper ball launcher. Once the patrol vehicle is positioned closer, LE2 deploys rounds of pepper ball into the driver's compartment of the white vehicle. Within seconds, Colunga opens the driver's side front door and looks back toward Alvarez and the officers. LE2 deploys several more rounds into the vehicle. Alvarez quickly steps backward and announces, "He's got a gun," and advises officers to get back. At the same time, LE1 ducks down. The officers agree it appears Colunga pointed a firearm in their direction. LE1 advises dispatch that Colunga "possibly has a firearm."

Colunga continues moving around inside of the white sedan while his leg is visible from outside of the vehicle. Alvarez states he could use the bean bag shotgun to strike Colunga's leg. He then fires bean bag rounds at Colunga. Alvarez then changes to the pepper ball launcher and fires several pepper ball rounds at Colunga.

Alvarez's camera footage then shows the driver's door of the white vehicle opening. A pop is heard and a puff of smoke drifts upward from the area of the driver's door. Alvarez steps backward. LE2 yells, "Gun, gun gun." Alvarez fires his handgun multiple times toward the white car. LE1 then reports over the radio, "Shots fired, shots fired."

Blood can be seen on the driver's door of the white vehicle. LE2 yells for someone to take the shield and states, "He fired at us, Sargé." The officers approach the white vehicle from behind a tactical shield. Alvarez advises that Colunga's hands are visible and that he sees the firearm on the ground outside of the vehicle. Colunga is slumped over in the driver's seat. Colunga is visibly wounded. LE1 and the other officers pull Colunga from the vehicle while Alvarez provides cover. Officers provide medical aid to Colunga until medics arrive on scene.

Investigation

The incident took place in city of Chula Vista. The scene was secured, photographed, and investigated by the San Diego Police Department's (SDPD) Homicide Unit. All detectives' reports, crime scene investigators' reports, and audio-recorded witness interviews, body worn camera footage, and audio recordings were reviewed. These items were found to provide evidence that corroborates the officers' statements.

During this incident, Alvarez was armed with a Sig Sauer model P320 9mm handgun. The firearm was loaded with a 21-round magazine and one additional live round in the chamber, according to a statement provided by Alvarez. Alvarez carried two additional loaded magazines on his duty belt, one containing 21 rounds and the other containing 20 rounds. A Crime Scene Specialist from SDPD collected Alvarez's firearm and magazines for processing. There was one live round of 9mm ammunition in the chamber, and 12 live rounds of 9mm ammunition in the seated magazine. The remaining two magazines from Alvarez's duty belt contained 20 and 21 rounds, respectively, of unexpended 9mm ammunition.

Based on the number of rounds in Alvarez's handgun after the shooting, it was determined Alvarez fired a maximum of nine rounds. Consistent with that determination, nine expended 9mm casings that matched the ammunition in Alvarez's firearm were found at the scene. Body worn camera footage also confirms Alvarez fired a total of nine rounds.

A SDPD Firearms Criminalist examined Alvarez's firearm for condition and functionality. The Sig Sauer 9mm handgun was found to function as expected per its design.

At the time of this incident, Colunga was armed with a Ruger .357 caliber revolver. The revolver's cylinder contained four rounds and one cartridge case. A SDPD Crime Scene Specialist collected Colunga's revolver for analysis. Colunga's firearm has a maximum capacity of five rounds. Four rounds were recovered with the firearm. It was determined Colunga fired a maximum of one round.

An SDPD Firearms Criminalist examined Colunga's firearm for condition and functionality. It was determined Colunga's Ruger .357 caliber revolver functioned as expected, per its design.

Autopsy and Toxicology

The Medical Examiner's Office conducted an autopsy on July 11, 2024. The Deputy Medical Examiner found Colunga suffered a gunshot wound to the forehead, just above the left eyebrow, and had abrasions to his left thigh and left knee. A bullet projectile and bullet fragment were recovered during the autopsy and were collected as evidence by the Crime Scene Specialist who attended the autopsy. The cause of death was classified as a gunshot wound to the head, and the manner of death was classified as homicide.

Toxicological testing was conducted on a sample of Colunga's blood. The testing detected the presence of cocaine at a level of 5.1 mg/L, alcohol at a level of 0.129%, and showed a presumptive positive for cannabinoids.

Legal Standard of Criminal Liability

Penal Code section 835a(c) sets forth the circumstances in which a peace officer may use deadly force and the standard to evaluate the use of such force. The law provides that “a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person.” Penal Code section 835a(c)(1)(A).

The statute defines “deadly force” as any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm.” Penal Code section 835a(e)(1).

An imminent threat of death or serious bodily injury is one where “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 peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.” Penal Code section 835a(e)(2).

The statute defines totality of the circumstances as “all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.” Penal Code section 835a(e)(3).

The statute further states, “In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques, if reasonably safe and feasible to an objectively reasonable officer.” Penal Code section 835a(2).

“[T]he decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight. The totality of circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” Penal Code section 835a(4).

Conclusion


Sergeant Alvarez and his fellow officers implemented less-than-lethal tactics to deescalate a dangerous and volatile encounter with Colunga. Colunga had been driving erratically when he crashed and then refused to exit the vehicle. Officers gave him numerous commands to exit with empty hands and he ignored them. He revved the engine of the badly damaged vehicle in an apparent attempt to flee. The officers observed him moving about the interior of the vehicle and reaching toward the center console. They grew concerned Colunga could be armed. Their concern heightened when Colunga briefly pointed a silver-colored object at them that they believed was a gun. Over the course of more than 20 minutes, officers took several different approaches in seeking compliance from Colunga. When giving him commands, officers spoke in

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English and Spanish and utilized the public address system. A pepper ball launcher was used to try to compel Colunga to exit his vehicle. Bean bag rounds were fired as a less-than-lethal use of force to gain compliance. A further deployment of pepper balls was used. None of these efforts was effective.

When Colunga suddenly pointed and fired a gun toward the officers, Alvarez immediately recognized and responded to the imminent threat. Alvarez discharged his firearm under the reasonable belief that Colunga had the present ability, opportunity, and apparent intent to inflict serious bodily injury or death upon him or his fellow officers. A reasonable officer in the same situation would come to the same conclusion. Therefore, Alvarez bears no state criminal liability for his actions. A copy of this letter, along with the materials submitted for our review will be retained in our files.

Sincerely,


SUMMER STEPHAN
District Attorney

cc: Captain Henry Martin, Chula Vista Police Department
Captain Manuel Del Toro, San Diego Police Department