



**TORI VERBER SALAZAR**  
*District Attorney, San Joaquin County*

**SCOTT A. FICHTNER**  
Assistant District Attorney

**KRISTINE M. REED**  
Assistant District Attorney



**DAVID J. DERKSEN**  
Chief Investigator

October 17, 2019

Today, the San Joaquin County District Attorney's Office (SJCDA) released its findings in the February 2, 2019 officer-involved shooting that resulted in the death of Isaiah Howard. It is the decision of the SJCDA that the use of deadly force by a Stockton Police Officer was justified under the circumstances.

This decision was made after SJCDA Office's Officer-Involved Critical Incident Review Committee reviewed the investigations by the San Joaquin County District Attorney's Bureau of Investigations, the Stockton Police Department, the San Joaquin County Sheriff-Coroner's Office, and the California Department of Justice.

The findings and conclusion of this investigation was completed on October 7, 2019 and has been memorialized in a report. On that date, this Office notified the Stockton Police Department of the findings.

In addition, family members of Mr. Howard were also notified. This morning, members of the SJCDA Office met with family members of Mr. Howard to discuss this decision. A copy of the report has been provided to them.

The memorandum detailing the SJCDA's findings and conclusion follow below.

SAN JOAQUIN COUNTY DISTRICT ATTORNEY  
MEMORANDUM OF  
OFFICER-INVOLVED CRITICAL INCIDENT  
OF FEBRUARY 2, 2019  
AT 2900 BLK OF PLYMOUTH CIRCLE, STOCKTON



TORI VERBER SALAZAR, DISTRICT ATTORNEY  
OFFICER-INVOLVED CRITICAL INCIDENT UNIT

October 7, 2019



**TORI VERBER SALAZAR**  
*District Attorney, San Joaquin County*

**SCOTT A. FICHTNER**  
Assistant District Attorney

**KRISTINE M. REED**  
Assistant District Attorney



**DAVID J. DERKSEN**  
Chief Investigator

## MEMORANDUM

**TO:** ERIC JONES, CHIEF  
STOCKTON POLICE DEPARTMENT

**FROM:** SAN JOAQUIN COUNTY DEPUTY DISTRICT ATTORNEY

**DATE:** OCTOBER 7, 2019

**SUBJECT:** INVESTIGATION OF THE FATAL SHOOTING OF  
ISAIAH HOWARD, (SPD DR #19-4659).

---

Pursuant to the provisions of the San Joaquin County Officer-Involved Critical Incident Protocol, effective August 1, 1994, the responsibility of the Office of the District Attorney is to review the facts and determine what, if any, criminal charges should be filed whenever there is an officer-involved fatality or life-threatening incident.

This memorandum reviews the officer-involved shooting of Isaiah Howard on February 2, 2019. The investigation was jointly conducted by investigators from the San Joaquin County District Attorney's Investigation Unit, the Stockton Police Department, the San Joaquin County Sheriff-Coroner's Office, and the California Department of Justice.

### INVESTIGATION SUMMARY

On February 2, 2019 at approximately 3:21 p.m., Stockton Police Officers responded to the 2900 block of 2946 Plymouth Court in Stockton after Officer Vincent Faso requested assistance and reported shots fired. Officers arrived within in minutes and found Officer Faso on the front yard of a residence. Officers also saw a female suffering from cuts and laceration wounds, and a male, later identified Isaiah Howard (DOB 11/07/1978) suffering from at least one gunshot wound.

Officers, and soon after medical personnel, tended to the female and Mr. Howard. Both were transported to the hospital. The female was suffering non-life-

threatening wounds. Mr. Howard was taken to the San Joaquin County General Hospital trauma unit. There, at approximately 3:45 p.m., Mr. Howard succumbed to his injuries and was pronounced dead.

As provided by the Memorandum of Understanding for the San Joaquin County Officer-Involved Critical Incident Protocol (hereinafter referred to as “Protocol”), the Stockton Police Department invoked the Protocol. A multi-agency task force was created that consisted of the San Joaquin County District Attorney’s Office’s Bureau of Investigations (hereinafter “BOI”), the Stockton Police Department (hereinafter “SPD”), the San Joaquin County Sheriff-Coroner’s Office, and the California Department of Justice (hereinafter “DOJ”).

### FACTUAL SUMMARY

On February 2, 2019, Stockton Police Officers Vincent Faso and Ashlyn Hulse responded to a residence on the 2900 block of 2944 Plymouth Court around 2:49 p.m. The reporting party, Witness #5, complained that her next-door neighbor, Mr. Howard, was acting erratically. Specifically, she complained that Mr. Howard knocked on her door asking about a remote control. Witness #5 did not know to what Mr. Howard was referring and became frightened. Mr. Howard left, angered, and smashed the window to his own residence. Witness #5 gathered her children to hide in a room, armed herself with a knife, and called police.

Since Mr. Howard had broken no laws, Officers Faso and Hulse only briefly contacted Mr. Howard and soon left.

Officer Hulse left the area to continue her calls. Officer Faso did likewise but as he began to drive away, the automated license plate reader mounted on his patrol vehicle alerted him to an unoccupied stolen car.<sup>1</sup> Officer Faso began to investigate and determined the vehicle had recently been stolen from Lodi.<sup>2</sup>

Still on Plymouth Court, Officer Faso was writing a report regarding the stolen car and had requested a tow truck to the location. At 3:20 p.m., Officer Faso heard a woman screaming for help – the screams came from the location where he and Officer Hulse had contacted Mr. Howard earlier. Officer Faso got out of his car and ran to the location of the screams.

---

<sup>1</sup> *Automated license plate readers (ALPRs) are high-speed, computer-controlled camera systems that are typically mounted on street poles, streetlights, highway overpasses, mobile trailers, or attached to police squad cars. ALPRs automatically capture all license plate numbers that come into view, along with the location, date, and time. The data, which includes photographs of the vehicle and sometimes its driver and passengers, is then uploaded to a central server.*

<sup>2</sup> *Report number DR 19-4655*

As Officer Faso came around a parked vehicle in the driveway, he saw Witness #1 on the ground with Mr. Howard, kneeling next to her with a knife over his head. Officer Faso had drawn his service weapon and yelled for Mr. Howard to drop the knife. Mr. Howard brought the knife down and stabbed Witness #1. Officer Faso then fired his service weapon three times. Mr. Howard was struck and fell over with the knife still in his hand. Witness #1, hysterical and bloodied, was suffering from lacerations and stab wounds to her face and back.



*DOJ scene model.  
Shells casings from Officer Faso's pistol at Markers 1-3.  
Mr. Howard's knife at Marker 5.*

Officer Faso used his radio to request assistance and report that shots had been fired. Officer Hulse, still nearby, arrived in minutes followed by other officers and medical personal.

Both Witness#1 and Mr. Howard were treated and transported by separate ambulances. Mr. Howard was declared dead at the San Joaquin County General Hospital trauma unit at approximately 3:45 p.m.

### WITNESS STATEMENTS

Investigators from the San Joaquin County District Attorney's Office and Stockton Police Department detectives jointly interviewed the involved officers, medical personnel, and civilian witnesses. Whenever possible, these interviews were recorded. The investigators also conducted an area canvas to locate witnesses. Not every witness interviewed is summarized here. The individual witness synopses below are to assist the reader in supplementing the above Factual Summary. Civilian

witnesses are identified in this memorandum as “Witness #” to protect their privacy rights. See, “Confidential Page APPENDIX A: Civilian Witness Information.”

### Stockton Police Officer Vincent Faso

Stockton Police Department Officer Vincent Faso was interviewed on February 2, 2019, at approximately 8:15 p.m, by investigators at the Stockton Police Department, and stated the following:

Officer Vincent Faso was a two and one-half year police officer with the Stockton Police Department. This day, Officer Faso was on duty and on patrol in a marked unit, wearing his department-issued uniform. Officer Faso was armed with his service weapon: a .40 caliber Sig Sauer P226 pistol.

Earlier that day, he and Officer Ashlyn Hulse responded to Plymouth Court on a report of a disturbance. Once there, they spoke to Witness #5 who complained about her neighbor, Mr. Howard, acting erratically, frightening her, and breaking the window to his residence. After speaking with Witness #5, the officers briefly spoke to Mr. Howard. After speaking with him and finding no crime had been committed, both officers prepared to leave.

As Officer Faso started to leave his patrol mounted license plate reader picked up a plate on Plymouth Court, of a vehicle stolen out of Lodi. Officer Faso attempted the call the registered owner but was unable to connect with him. Officer Faso then called for a tow truck, and was documenting the incident. While Officer Faso was sitting in his patrol car, he heard a woman screaming. When Officer Faso heard the woman scream for help, he immediately exited his patrol car and began running toward the screaming.

As Officer Faso ran towards the screams, there were some trees and a parked car obscuring his view. As Officer Faso made his way around the car, he could see Witness #1 on the ground. She had blood on her around the face and shoulder. Mr. Howard was kneeling next to her holding a knife over his head. It appeared to Officer Faso that Mr. Howard was stabbing Witness #1. Officer Faso immediately yelled for Mr. Howard to drop the knife, but instead, Mr. Howard appeared to stab the female one more time. Officer Faso, out of fear for Witness #1’s life, fired his service weapon three times. Officer Faso stopped firing his service weapon as Mr. Howard went to the ground.

Officer Faso immediately radioed that shots had been fired, and asked for paramedics to respond for a stabbing victim, and for Mr. Howard who had sustained gunshot wounds. Officer Faso asked for Witnesses #1 to try to crawl toward him because Mr. Howard still had the knife. Officer Faso continued to cover Mr. Howard

with his service weapon until other officers arrived and were able to secure the knife, and Mr. Howard. He said he never heard Mr. Howard say anything while he was on scene.

### Victim-Witness # 1

Witness #1 was identified as a victim-witness and spoken to at scene and in the ambulance by responding officers. Later, after she was released from the hospital, she was interviewed that same day by investigators at the Stockton Police Department, and stated the following:

Witness # 1 was on her way home from one of her two jobs, and as she drove onto Plymouth Court, she saw a police officer sitting in his patrol vehicle. She drove past and parked her car. Witness # 1 walked to her home and went inside. Once inside, Mr. Howard came suddenly around the corner with a knife - "just a grey butcher knife." Mr. Howard grabbed her and began choking her saying, "I loved you and you betrayed me." Mr. Howard let go of her, and began stabbing her with the knife.

Witness #1 opened the front door to escape Mr. Howard and began screaming "at the top of [her] lungs 'cause I wanted the cop to hear me." Witness # 1 ran outside and towards where she had seen the police officer. Mr. Howard caught up to her grabbed her and forced her to the ground. Witness # 1, still screaming for help, saw Officer Faso round the corner. Officer Faso yelled at Mr. Howard to drop the knife but he kept stabbing her. Officer Faso then fired his gun.

Witness # 1 added, "He would have killed me. He was trying to kill me." Earlier at the scene she exclaimed, "*Fuck him I hope he's dead.*"

Witness # 1 said she and Mr. Howard have been in a relationship for twenty years and have two children together. Mr. Howard has a drinking problem and smokes marijuana, but they have not had any physical problems between the two of them. She said when he drinks, he sometimes has emotional problems and can act paranoid. Mr. Howard began acting paranoid last night, and she did not believe he slept. Witness # 1 described her wounds as cuts or stab wounds to her back near her shoulder, and to her facial area.

## Witness #2

Witness #2 was identified as a witness and was interviewed shortly after the incident on February 2, 2019 at her residence, and later by investigators at the Stockton Police Department at 8:22 p.m., and stated the following:

Witness #2 was in the driveway at her residence Plymouth Court. She and three of her grandchildren were about to depart to go to a family party and were getting into her car. As she was putting her grandchildren into her car she heard a female screaming. Witness #2 went into the street and saw Witness #1 running towards the street. Witness #2 was approximately one to two houses away.

Mr. Howard was chasing after Witness #1 and caught up to her, pushing her to the ground. Witness #2 began walking towards them and yelled, "Stop!" As she yelled for Mr. Howard to stop, she saw Mr. Howard with a silver kitchen knife in his hand. Mr. Howard held the knife at the handle with the blade pointing down. Witness #2 stopped when she saw the knife.

Mr. Howard made a downward stabbing motion at Witness #1 but Witness #2 was not sure if he had stabbed Witness #1. Officer Faso ran toward them yelling, "Drop the knife or I will shoot!" Mr. Howard raised the knife over Witness #1 but before he could stab her, Officer Faso fired two to three shots.

Witness #2 ran to her grandchildren and brought them into her house.

## Witness #3

Witness #3 was identified as a witness and was interviewed shortly after the incident on February 2, 2019 at her residence and later by investigators at the Stockton Police Department at 8:45 p.m., and stated the following:

Witness #3, a 12 year-old female, was getting ready to leave with her siblings and grandmother, Witness #2, for a birthday party. As Witness #3 was getting into the car she heard a woman screaming. Witness #3 went to the end of driveway, at the end of her drive way, she could see Mr. Howard with a knife and Officer Faso with a gun. Witness #3 could only see the legs and feet of Witness #1 who on the ground

Witness #3 heard Officer Faso say, "Put the knife down!" two to three times. Although Witness #3 could not see the knife at this time, the movements of Mr. Howard led her to believe that he was stabbing Witness #1. Witness #3 then saw the officer shoot at Mr. Howard three times.

Witness #3 then ran into her home.



#### Witness #4

Witness #4 was identified as a witness and was interviewed shortly after the incident on February 2, 2019 at her residence and stated the following:

Witness #4 was in her residence when her sister, Witness #3 ran inside the house and said "A cop just shot this guy! He was stabbing his girlfriend!"

Witness #4 went outside and saw Officer Faso with his gun pointed at Mr. Howard. Witness #4 then saw Witness #1 sitting on the curb with blood on her neck and chest. Witness #1 kept saying, "He stabbed me", over and over again.

### SUBSEQUENT INVESTIGATION

#### Video Documentation

##### Officer Vincent Faso's Body Worn Camera (BWC)

The body camera of Officer Faso was obtained and reviewed. When Officer Faso's BWC recording feature was activated, the BWC recorded the 30 seconds prior to the activation; there is no audio for that 30 second portion of the BWC recording. This is normal.

The recording shows the following:

Officer Faso is sitting in his patrol unit writing the stolen vehicle report. Officer Faso suddenly opens the door, exits the unit, and begins running.

Officer Faso has his service weapon drawn as he continues to run. Within 11 seconds, Officer Faso reaches the rear of a car parked in the driveway. As he runs around the end of the car, Witness # 1 is seen on the ground bloodied with Mr. Howard kneeling behind her with a knife. Mr. Howard then stands and is holding his hands and the knife over his head.

Officer Faso yells, "Put the knife down! Put it down! Put it down!" Mr. Howard brings the knife down with two hands into the torso of Witness #1. Mr. Howard then brings the knife back up and before he is able to thrust the knife back down into Witness #1, Officer Faso fires three shots in quick succession (within approximately 1.23 seconds) and Mr. Howard falls to the ground.

Officer Faso uses his radio to dispatch that shots have been fired and paramedics are needed for a stabbing victim, and a gunshot victim. Officer Faso then coaxes Witness #1 to crawl away from Mr. Howard and the knife towards him and then behind the car in the driveway.

Another officer arrives. Officer Faso, still pointing his weapon at Mr. Howard, informs the officer that Mr. Howard still has the knife and then covers the officer as the knife is secured.



*Screenshot from Officer's Faso's BWC*

#### Firearm Examination

DOJ criminalists arrived at the Stockton Police Department shortly after the incident. After a briefing was given, DOJ criminalists went to the scene. The scene was taped off and secured. Members of BOI, DOJ, and Field Evidence Technicians from SPD investigated the scene. Evidence found had placards placed next to the items and were photographed. In the course of their investigation, the criminalists inspected Officer Faso's service weapon.

### Officer Faso's Firearm

Officer Faso's pistol was a .40 S&W Sig Sauer P226 semi-automatic pistol. There was one cartridge in the chamber and ten cartridges in the magazine. The examination of the pistol and the spare magazines indicated Officer Faso fired three times if the pistol had been loaded with a fully loaded magazine and a round in the chamber. This is consistent with the three .40 caliber shell casing located at the scene; all head stamped "Federal 40 S&W."

### Scene Analysis

The scene was taped off and secured. Members of BOI, DOJ, and Field Evidence Technicians from SPD then investigated it. Evidence found had placards placed next to the items and were photographed.

Items of significance found were three .40 caliber casings, and the knife that Mr. Howard had been armed with.

The knife Mr. Howard used is an Oster brand Santoku-style knife that has a curved end rather than a traditional pointed end of a typical chef's knife.



*SPD FET photograph of knife*

### Pathologist's Report

On February 4, 2019, Pathologist Doctor Arnold Josselson, on contract with the Sheriff-Coroner, conducted the autopsy of Mr. Howard. Dr. Josselson's autopsy

revealed that Mr. Howard suffered three gunshot wounds:<sup>3</sup> 1) Fatal penetrating gunshot wound of right and left chest with passage through each lung and aorta; 2) Non-fatal gunshot wound through right upper arm grazing left arm; and, 3) Non-fatal gunshot wound of right thigh also impacting left groin.

Toxicology results showed Mr. Howard had THC, the principal psychoactive constituent of cannabis, in his system.

Dr. Josselson determined the cause of death to be “Gunshot Wound of Chest.”

On Monday, February 11, 2019, Task Force investigators met with Dr. Bennet Omalu. Dr. Omalu had been contacted by the family of Mr. Howard and was requested to conduct an independent autopsy. Dr. Omalu had a CT scan performed and conducted an autopsy on Mr. Howard on February 5, 2019, at the Zapata Funeral Home.

Dr. Omalu’s autopsy revealed that Mr. Howard suffered three gunshots wounds: 1) a penetrating gunshot wound to the trunk - right superior and posterior shoulder; 2) a perforating gunshot wound to the right posterolateral mid-arm with an associated graze laceration of the left anterior arm; and, 3) a perforating gunshot wound to the right anterior and lateral mid-thigh.

Gunshot wound number one perforated both lungs and the aorta. During this examination, Dr. Omalu recovered three small bullet fragments and bullet that caused this gunshot wound. After autopsy, Dr, Omalu informed Task Force members of this discovery. Task Force members retrieved the bullet and fragments from Dr. Omalu and they were placed into evidence.

Dr. Omalu determined the cause of death to be as a result of a “Gunshot Wound of the Trunk.”

### Legal Analysis

Under Penal Code sections 197 and 198, homicide is justifiable and not unlawful when committed by a person who reasonably believed that he, or someone else, is in imminent danger of being killed, suffering great bodily injury, or to prevent a forcible and atrocious crime (*People v. Ceballos* (1974) 12 Cal.3d 470, 478). For a homicide to be in self-defense, the person must actually and reasonably believe in the need to defend with deadly force (*People v. Flannel* (1979) 25 Cal.3d 668, 674). If the belief both subjectively exists and is objectively reasonable, it constitutes “perfect self-

---

<sup>3</sup> *The order of the wounds here or in the autopsy report do not reflect the order in which Mr. Howard was shot or struck. This normally is not possible to do and it was not done in this case.*

defense” and the homicide is considered legally justified. (*In re Christian S.* (1994) 7 Cal.4<sup>th</sup> 768, 783).

Penal Code Section 197 states:

Homicide is also justifiable when committed by any person in any of the following cases:

1. When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person; or,

2. When committed in defense of habitation, property, or person against one manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in violent, riotous or tumultuous manner. To enter the habitation of another for the purpose of offering violence to any person therein; or

3. When committed in the lawful defense of such person, or of a wife or husband, parent, child, master, mistress, or servant of such person, when there is reasonable ground to apprehend a design to commit a felony or to do some great bodily injury, and imminent danger of such design being accomplished; but such person, or the person in whose behalf the defense was made, if he was the assailant or engaged in mutual combat, must really and in good faith have endeavored to decline in further struggle before the homicide was committed.

4. When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed, or in lawfully suppressing any riot, or in lawfully keeping and preserving the peace.

Homicide committed by a law enforcement officer is governed by Penal Code section 196 (*Kortum v. Alkire* (1977) 69 Cal.App.3d 325, 333). Penal Code section 196 states:<sup>4</sup>

Homicide is justifiable when committed by public officers and those acting by their command in their aid and assistance, either-

1. In obedience to any judgment of a competent Court; or,

2. When necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty; or,

---

<sup>4</sup> See also, jury instruction CalCrim 507.

3. When necessarily committed in retaking felons who have been rescued or escaped, or when necessarily committed in arresting persons charged with felony, and who are fleeing from justice or resisting such arrest.

The test whether a police officer may use deadly force to apprehend a fleeing felon was announced in *Tennessee v. Garner* (1985) 471 U.S. 1, 11-12: “Where the officer has probable cause to believe the suspect poses a threat of serious physical harm, either to the officer or to others, it is not constitutionally unreasonable to prevent escape by using deadly force. Thus, if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.”

The test of reasonableness is judged by an objective standard 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. Conner* (1989) 490 U.S. 386, 396-397, see also, *Jeffers v. Gomez* (9<sup>th</sup> Cir. 2001) F.3d 895, 909, “broad discretion...must be afforded to police officers who face tense situations.”)

Penal Code section 835a also states that, “[a] peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such an officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or prevent escape or to overcome resistance.” As stated above, “if the suspect threatens the officer with a weapon or there is probable cause to believe that he has committed a crime involving the infliction or threatened infliction of serious physical harm, deadly force may be used if necessary.” (*Garner, supra*, 471 U.S. at 11-12.)

The test for determining whether a homicide was justifiable under Penal Code section 196 is whether the circumstances “reasonably created a fear of death or serious bodily harm to the officer or to another.” (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4<sup>th</sup> 334). Reasonableness must be considered in the context of the “dangerous and complex world” police officers face every day, because “what constitutes ‘reasonable’ action might seem quite different to someone facing a possible assailant than to analyzing the question at leisure.” (*Martinez, supra*, 47 Cal.App.4<sup>th</sup> at 343, quoting *Smith v. Freeland* (6<sup>th</sup> Cir. 1992) 954 F.2d 343, 347).

Penal Code sections 196 and 835a, supra, have recently been amended by Assembly Bill (A.B.) 392. Passed by the legislature this year, Governor Gavin Newsom signed the bill into law on August 19, 2019. A.B. 392 incorporates the language of section 196, relevant United States Supreme Court case law - discussed in this memorandum - and placed it within section 835a. Additionally, in the new language of the amended statute, emphasis is placed on “imminent” threats and “necessary” use of force. While the law will not be in effect until January 1, 2020, the standard set forth by A.B. 392 is consistent with the standard in current use by the District Attorney’s Office and is applied in this case.

### Application of Law

In analyzing the reasonableness of the decision by Officer Faso to use deadly force, the totality of the circumstances, including the information that the individual officer possessed at the time of his decision, is examined. 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." (*Graham*, supra, 490 U.S. at 396.)

In the instant case, the following set of facts have been sufficiently established:

1) Officer Faso use of deadly force was reasonable and necessary to prevent the attempted murder or great bodily injury of Witness #1 by Mr. Howard. (Penal Code sections 197 (1); 196 (2).)

### CONCLUSION

In applying the prevailing legal standards, and based upon the totality of the circumstances, and in light of all the evidence obtained from the multi-task force investigation, it is the opinion of the District Attorney that the lethal use of force by Officer Vincent Faso on February 2, 2019, was justified, and no criminal charges are warranted.

Confidential Page  
*[Intentionally Left Blank]*