PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

April 15, 2026
AGENDA
9:00 AM

Meeting Location: CA Commission on POST Headquarters, 860 Stillwater Road - Training Rooms A/B, West Sacramento, CA 95605.

The Peace Officer Standards Accountability Advisory Board (Board) operates under the requirements set forth by the Bagley-Keene Open Meeting Act (Bagley-Keene) under Government Code sections 11120 through 11132. Bagley-Keene generally requires that the Board publicly notice meetings, prepare agendas, allow public participation, and conduct meetings in a location accessible to public members unless specifically authorized by Bagley-Keene to meet in closed session.

Public comment will be limited in time at the discretion of the Board Chair. The public comment period preceding items on the agenda will allow members of the public to comment on items not on the agenda but that are within the Board's jurisdiction. The Board cannot act on or deliberate on items not on the agenda and can discuss the matter only to the extent necessary to determine whether it should be made an agenda item at a future meeting, to respond briefly to statements or questions posed during public comment or to request clarification, or to refer the item to staff. Agenda items may be taken out of order and action (e.g., voting) may be taken on any agenda item. Public comment relating to each item on the agenda will be allowed at the time each matter is heard. Members of the public who wish to participate during public comment may do so in person by attending the meeting, or, as stated hereafter, by telephonic means or by submitting written public comment.

Written public comment is intended to allow members of the public, if unable to attend in person, an opportunity to participate to the same degree as if they attended in person; as such, written comments should be limited to no more than three pages in length and longer written comment will not be accepted or distributed to Board members. To be considered for inclusion in the meeting record, written comments by no later than 10 a.m. on the fourth business day before the scheduled meeting. Accepted written public comments will be published on POST's website under the Public Comment section under the corresponding meeting date. Written public comments can be submitted via email to posadpc@post.ca.gov. Telephonic public comment can be made by dialing (916) 866-9583 and following the prompts provided.

Persons requesting disability-related accommodations or modifications may do so by contacting the Board assistant at (916) 227-3909 (voice), posadpc@post.ca.gov (email), or Speech-to-Speech users may dial 7-1-1 for the California Relay Service to request special accommodations. Please note: This meeting and all public meetings will be recorded.

No weapons are allowed on the premises during public meetings. Upon entering POST's

facility, you are subject to a weapons screening and will be denied entry if you possess any weapon. POST's Executive Director retains the discretion to grant exceptions for duly-authorized individuals, such as on or off-duty law enforcement officers who are not the subject of a POST administrative investigation, suspension, or decertification action.

I. **CALL TO ORDER**

II. **ROLL CALL OF POSAAB MEMBERS**

Dr. Nicole Clavo Psy.D - Governor Appointee - Public Member
Regina Hatcher-Crawford - Governor Appointee - Public Member
Robert Doyle - Governor Appointee - Former Command Rank Peace Officer
Joyce E. Dudley - Chair - Governor Appointee - Attorney
Cephus Johnson - Governor Appointee - Public Member
Captain Charles Lara - Governor Appointee - Management Rank Peace Officer
Margaret Pena - Speaker of Assembly Appointee - Public Member
Vacant - Senate Rules Appointee - Public Member
Vacant - Governor Appointee - Public Member

III. **PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA**

The Board Chair will advise the audience of the following:

This time is set aside for members of the public who wish to comment on items not on the agenda but within the board's jurisdiction. Public comment on matters on the agenda will be heard at the time each item is called. Public comment on specific peace officer revocation cases to be heard today will be heard at the time of the hearing of each such matter. Members of the public who wish to speak during the public comment period may be asked to limit their remarks in time at the discretion of the Board Chair.

IV. **APPROVAL OF MEETING TRANSCRIPTS**

Approval of meeting transcripts from the previous Peace Officer Standards Accountability Advisory Board Meeting held on February 05, 2026.

a. Approval of Meeting Transcript from the February 05, 2026 Hearing

If the Board concurs, the appropriate action would be a **MOTION** to approve the meeting transcripts from the last Board meetings.

V. **ASSISTANT EXECUTIVE DIRECTOR COMMENTS**

VI. **NEW BUSINESS**

a. Report on Data for Serious Misconduct Reporting, Investigations, and Disciplinary Action Outcomes

This item is presented for information only. No action is required.

VII. **NEW CASES - REVIEW, DISCUSSION AND RECOMMENDATIONS TO COMMISSION**

a. POST2311370 - Jose Zavala (POST ID: C28-A48) Last Employing Agency: Los Angeles Police Department (Current)

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

b. POST2311373 - Julio Quintanilla (POST ID: C58-G04) Last Employing Agency: Los Angeles Police Department (Current)

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

c. POST2507337 - Matt White (POST ID: A68-U16) Last Employing Agency: Sacramento County Sheriff's Department (Current)

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

d. POST2322062 - Hector Victorio (POST ID: C87-Q51) Last Employing Agency: San Bernadino Police Department (Current)

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

e. POST2302397 - Armando Avena (POST ID: C63-K48) Last Employing Agency: Los Angeles Police Department

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

VIII. CLOSED SESSION

At this time the meeting will adjourn into closed session for for deliberations on the cases presented today.

IX. FUTURE BOARD MEETING DATES

Upcoming Board meetings will be held:

- July 15-16, 2026 - POST HQ, West Sacramento
- October 14-15, 2026 - POST HQ, West Sacramento

X. **ADJOURNMENT**

AGENDA ITEM REPORT

Title: APPROVAL OF MEETING TRANSCRIPT FROM THE FEBRUARY 05, 2026 HEARING

REPORT PROFILE

MEETING DATE 04/15/2026	**BUREAU SUBMITTING THE REPORT** Executive Office	
RESEARCHED BY	**REVIEWED BY**	
REPORT DATE	**APPROVED BY**	**DATE APPROVED**
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

BACKGROUND:

ANALYSIS:

RECOMMENDATION: If the Board concurs, the appropriate action would be a **MOTION** to approve the meeting transcripts from the last Board meetings.

ATTACHMENT(S):
2026 02-05 KS POSAAB open session final.pdf

STATE OF CALIFORNIA

COMMISSION ON

PEACE OFFICER STANDARDS AND TRAINING

PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

(POSAAB) MEETING

THURSDAY, FEBRUARY 5, 2025

10:00 A.M.

MEETING HELD

AT THE OFFICES OF

COMMISSION ON POST

860 STILLWATER ROAD, SUITE 100

WEST SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Stenographically Reported By:
Kathryn S. Swank
California Certified Shorthand Reporter #13061, RPR

A P P E A R A N C E S

POSAAB MEMBERS PRESENT

JOYCE DUDLEY
Governor Appointee
Attorney
(Chairperson)

NICOLE CLAVO, Psy.D.
Governor Appointee
Public Member

REGINA HATCHER-CRAWFORD
Governor Appointee
Public Member

CEPHUS JOHNSON
Governor Appointee
Public Member

CHARLES LARA
Governor Appointee
Management Rank Peace Officer

MARGARET PENA
Speaker of Assembly Appointee
Public Member

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PEACE OFFICER STANDARDS ACCOUNTABILITY
ADVISORY BOARD LEGAL COUNSEL

CHRISTOPHER BEATTY
Deputy Attorney General
Department of Justice
Office of the Attorney General

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A P P E A R A N C E S C O N T I N U E D

POST STAFF

ANNEMARIE DEL MUGNAIO
Assistant Executive Director
Peace Officer Standards
Accountability Division
Executive Office

RAYMOND BECHLER
Law Enforcement Consultant
Professional Conduct Northern Bureau

BRYANT HENLEY
Attorney IV
Legal Affairs Bureau

BRIAN HOFFMAN
Attorney IV
Legal Affairs Bureau

CHANDLER KNAPP
Associate Governmental Program Analyst
Executive Office

BRIAN SOUTH
Bureau Chief
Professional Conduct Central Bureau

ROBERT TRIPP
Law Enforcement Consultant
Professional Conduct Central Bureau

SARAH WALLACE
Bureau Chief
Intake and Disposition Bureau

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A P P E A R A N C E S C O N T I N U E D

ALSO PRESENT

BEATRICE JOHNSON
Public Speaker

ELLIOTT LOPEZ
POST ID: C15-H32

APPEARING REMOTELY:

OLIVIA KRUEGER
Public speaker

RICHARD ADAMS
POST ID: C56-Q43

JASON EWERT
Counsel for Richard Adams,
POST ID: C56-Q43

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I N D E X

PROCEEDINGS	PAGE
I. CALL TO ORDER	7
II. ROLL CALL OF POSAAB MEMBERS	90
III. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA	--
IV. ASSISTANT EXECUTIVE DIRECTOR COMMENTS	12
V. NEW BUSINESS	
a. Election of Vice Chair (Incumbent: Doyle)	12
b. Report on Data for Serious Misconduct Reporting, Investigations, and Disciplinary Action Outcomes	14
VI. APPROVAL OF MEETING TRANSCRIPTS	11
a. Approval of Meeting Transcript from the October 09, 2025 and November 06, 2025 Meetings	
VII. NEW CASES - REVIEW, DISCUSSION AND RECOMMENDATIONS TO COMMISSION	
a. POST2316280 - Khammouane Kevin Thakham (POST ID: A45-Q53) Last Employing Agency: Fresno Police Department (Current)	70
b. POST2402838 - Elliott Lopez (POST ID: C15-H32) Last Employing Agency: California Highway Patrol	91
c. POST2403212 - Richard Adams (POST ID: C56-Q43) Last Employing Agency: California Highway Patrol	153
VIII. CLOSED SESSION	
(Transcripts prepared and bound under separate cover)	
a. POST2316280 - Khammouane Kevin Thakham (POST ID: A45-Q53) Last Employing Agency: Fresno Police Department (Current)	90

I N D E X C O N T I N U E D

PROCEEDINGS	PAGE
b. POST2402838 - Elliott Lopez (POST ID: C15-H32) Last Employing Agency: California Highway Patrol	149
IX. FUTURE BOARD MEETING DATES	--
April 15-16, 2026 - POST, West Sacramento July 15-16, 2026 - POST, West Sacramento October 14-15, 2026 - POST, West Sacramento	
ADJOURNMENT	195
CERTIFICATE OF REPORTER	196
ERRATA SHEET	197

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Thursday, February 5, 2026, 10:01 a.m.

West Sacramento, California

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CHAIRPERSON DUDLEY: Good morning, everyone. Today is Thursday, February 5th, and the time is 10:00 a.m.

Thank you all for attending the Peace Officer Standards Accountability Advisory Board hearing.

Please note that this hearing is being live-streamed, recorded, and transcribed.

Further, please note that the microphones are auto on/off. When you begin speaking, they will go live. With this, you will need to watch your cross-talk.

We will now call the roll of board members.

Chandler.

MR. KNAPP: Thank you, Chair Dudley.

Good morning, Members.

Member Clavo.

MEMBER CLAVO: Present.

MR. KNAPP: Member Crawford.

MEMBER HATCHER-CRAWFORD: Present.

MR. KNAPP: Member Doyle.

(No response.)

MR. KNAPP: Chair Dudley.

CHAIRPERSON DUDLEY: Here.

MR. KNAPP: Member Johnson.

MEMBER JOHNSON: Here.
MR. KNAPP: Member Lara.
MEMBER LARA: Present.
MR. KNAPP: And Member Pena.
MEMBER PENA: Present.
MR. KNAPP: Madam Chair, that's six of nine members present.
CHAIRPERSON DUDLEY: Thank you. A quorum has been established.
I would now like to introduce board counsel, to my left, Christopher Beatty; and POST Assistant Executive Director Annemarie Del Mugnaio.
This time is set aside for members of the public who wish to comment on items not on the agenda, but those within the Board's jurisdiction. Public comment on matters on the agenda will be heard after each item is presented. Public comment on specific peace officer revocation cases to be heard today will be heard at the time of the hearing of each such matter.
Is there anyone present in the audience or appearing remotely who would like to address the Board during public comment?
First checking the audience.
(No response.)
CHAIRPERSON DUDLEY: Seeing no one.

Is there anyone remotely?

(No response.)

CHAIRPERSON DUDLEY: There's nobody remotely either. Please be advised that the Board cannot take action on items not in the agenda and may discuss those items only to the extent necessary to determine whether any matter should be made an agenda item for further meetings, to respond briefly to statements or questions posed, to request clarification, or to refer to -- the items to the staff.

Please remember this meeting is being transcribed, so I may politely interrupt and ask you to repeat or speak slowly and clearly so your comment can be correctly captured on the transcript.

As the Board Chair, I may ask members of public to limit their remarks to no more than three minutes pursuant to existing board policy.

I may conclude the public comment period if multiple speakers are voicing repetitive already similar statements and the 15-public -- 15-minute public comment period has expired.

You will be given five minutes to speak and the limits will be strictly enforced, so please ensure that you complete your thoughts within the allotted time.

Before I open public comment or matters not on the

agenda, please note that if you wish to comment on disciplinary matters scheduled to be heard today by the Board, you must wait until that matter is called to offer public comment.

If you have a specific complaint about an officer that is not on today's agenda, you should file a complaint with POST or with the officer's employing agency. Staff will assist you in this regard.

I would like to remind individuals making comments to discuss [sic] pending complaints or pending disciplinary actions that may later come before this board for a recommendation. If the Board takes action on your complaint, you will have an opportunity to address the Board at that time. Following these rules is necessary to comply with the law and to avoid compromising the Board's mission.

When it is your turn, you may state your name and organizations.

So is there any public comment?

Again, looking out into the audience.

(No response.)

CHAIRPERSON DUDLEY: And remotely?

(No response.)

CHAIRPERSON DUDLEY: No. There's no public comment.

One moment, please.

Is there anyone present or appearing remotely or by phone who would like to address the Board regarding the approval of the October/November meeting transcripts? When it is your turn, you may state your name and organization if you wish. Each gets three minutes.

Anybody want to comment on the agenda?

(No response.)

CHAIRPERSON DUDLEY: Okay. Are there any questions or comments from the Board?

(No response.)

CHAIRPERSON DUDLEY: Seeing none.

If the Board concludes [sic], the appropriate action would be a motion to approve the meeting transcripts from the October and November 2025 meetings.

Is there such a motion?

MEMBER LARA: I can make a motion.

CHAIRPERSON DUDLEY: Thank you.

MEMBER CLAVO: I second.

CHAIRPERSON DUDLEY: Thank you.

Is there any opposition? Any abstentions?

(No response.)

CHAIRPERSON DUDLEY: At this time I will ask -- okay. So I think that, then, the motion passes.

And at this time, POST Assistant Executive Director

Annemarie Del Mugnaio would like to address the Board and introduce the new business items.

MS. DEL MUGNAIO: Thank you, Madam Chair, Members of the Board.

Our first new business item is the annual selection of the Board Vice Chair. Many of you know, the governor appoints or designates the Chair of the Board, which is Ms. Dudley. But the Board itself is required to annually select a Vice Chair from amongst its members.

Vice Chair Doyle has served as the Board Vice Chair for the year of 2025.

So we will now be accepting nominations for the 2026 Vice Chair of the Peace Officer Standards Accountability Advisory Board.

Are there any nominations for Vice Chair?

CHAIRPERSON DUDLEY: Let me speak first.

To let you know that I spoke to -- to Sheriff Doyle yesterday. And the reason he's not here -- and he wanted me to make this clear to all of you -- is because he's going through some treatments. And the treatments are going very well, but they made it impossible for him to be here today.

If it is your -- if you would like to renominate him, he is willing to accept that nomination. But, again, this is open to anyone who would like to put

their name in for VP. Excuse me, for Vice Chair.

MEMBER CLAVO: I renominate Sheriff Doyle.

MEMBER HATCHER-CRAWFORD: I second it.

CHAIRPERSON DUDLEY: Okay.

MEMBER HATCHER-CRAWFORD: I seconded.

MS. DEL MUGNAIO: Thank you, Regina.

CHAIRPERSON DUDLEY: Okay. Are there any other nominations?

(No response.)

CHAIRPERSON DUDLEY: And Sheriff Doyle has already said that he would accept the nomination. So Mr. Knapp, please call the roll.

MR. KNAPP: Thank you, Madam Chair.

Member Clavo.

MEMBER CLAVO: Aye.

MR. KNAPP: Member Crawford.

MEMBER HATCHER-CRAWFORD: Aye.

MR. KNAPP: Member Dudley.

CHAIRPERSON DUDLEY: Aye.

MR. KNAPP: Member Johnson.

MEMBER JOHNSON: Aye.

MR. KNAPP: Member Lara.

MEMBER LARA: Aye.

MR. KNAPP: Member Pena.

MEMBER PENA: Aye.

MR. KNAPP: Motion carries.

CHAIRPERSON DUDLEY: Okay. Is there anyone present or appearing remotely or by phone who would like to address the Board regarding the selection of the Board's Vice Chair?

Anyone present?

(No response.)

CHAIRPERSON DUDLEY: Seeing none.

Anyone on the phone?

(No response.)

CHAIRPERSON DUDLEY: Seeing none. No public comment then.

And now back to our Assistant Executive Director.

MS. DEL MUGNAIO: Thank you, Madam Chair.

At this time, we're going to review the report regarding the data for serious misconduct investigations and disciplinary outcomes. This report is something that you have seen every meeting consistently. We are trying to provide you more data to kind of explain the voluminous numbers that are the intake numbers and try to further define where those complaints, charges, and allegations are going throughout the investigative process.

So at this time, I'm going to call forward Bureau Chief Brian South, Professional Conduct Central Bureau,

and also Bureau Chief Sarah Wallace in Intake and Disposition Bureau. And they will be reviewing the statistical data report and answering any questions you have.

Thank you.

MR. SOUTH: Good morning, Madam Chair and Board Members.

Appreciate the opportunity to go over some of these numbers. We'll jump right into it.

The first slide here is talking about the agency participation. So what we're finding is we're at our highest level for agencies participating and sending in allegations of serious misconduct to POST.

So you can see here that most agencies have now submitted multiple serious misconduct reports.

Of those that haven't, over half of those agencies employ less than ten full-time peace officers. So we statistically expect there to be less allegations for those -- that size of police department or sheriff's office.

The next slide is talking about the tracking of this. We do continue to track this. And every year, we send out a letter any nonreporting agency that we identify to confirm whether they, in fact, didn't have any serious misconduct to report. And we sent out 60 of

those letters, and most of those agencies did respond to the -- to the letters that we sent.

The next slide talks about the agency misconduct report volume that we're looking at. We have taken in nearly 43,000 agency misconduct reports since we started this endeavor.

And what you can see in the graph here is there was a large spike, which we expected, due to the retroactive reporting. And what we have seen, though, in the trend, is that after that initial spike, in about quarter one of 2024, it sort of stabilized, and we have about 2500 reports that we get per quarter.

This next slide is the same information. It just shows a few different data points in the graph. It includes reports with final disposition and the reports with open investigations.

But, again, the data is showing that we had that spike initially with the retro reporting, and then we're leveling off with -- with the reports and the closures.

And I will let Sarah talk about some POST public complaints.

MS. WALLACE: Good morning.

As you can see, we continue to receive an increase in public complaints on a quarterly basis. I won't go over all of these, but we are seeing an influx coming in

lately.

The next slide goes over our POST public complaint process and how we reach out to the agencies.

And the next slide, I will go over in more detail.

This outlines the number of POST public complaints that we have received that have been closed versus which ones are going under POST review currently and the complaints requiring additional documentation from the agencies.

There are -- in my bureau specifically, who does the intake of the POST public complaints and reaches out to the agencies initially -- 718 of those complaints are actually undergoing agency review right now.

241 of those complaints are within my bureau, going through triage, determining whether or not they need to be closed at the IDB level because they do not meet the definition of "serious misconduct" or have a complaint relating to serious misconduct.

627 of those are undergoing the professional conduct review.

So anything that includes an allegation of serious misconduct goes through a thorough review at our professional conduct level with our LECs and our analysts to determine whether or not those should be closed.

MR. SOUTH: All right. So the next slide we're talking about -- did you want to say something?

MS. DEL MUGNAIO: Yeah. Just one thing I want to talk to Sarah about, to highlight, is the question that the Board has had in the past is how long it's taking agencies to respond to us when there is a public complaint filed and we may not have an agency misconduct report already on file with POST.

And Sarah and her team are working toward that end.

So Sarah, do you want to talk a little bit about --

MS. WALLACE: Sure.

MS. DEL MUGNAIO: -- kind of statistically what we see?

MS. WALLACE: Yes. And I apologize. I was going to cover that in a later slide.

MS. DEL MUGNAIO: That's okay.

MS. WALLACE: That -- we have been looking at Mark43. And the way our system is currently set up, it limits our functionality to be able to extract data that compares the date the public complaint was "intaked" versus the date the agency has responded.

And so we're going through a manual process right now to do a statistical analysis on a certain dataset of those closed cases to see what we can pull, and then building a process moving forward to be able to track

that data manually.

Based on what I have seen just peripherally, it appears that, in most cases, the agency has already reported the cases of true serious misconduct prior to the public complaints coming in.

On the closure side, I ran a report and looked at each of those individual cases. And this is in a later slide.

Of the closed cases that actually resulted in a serious misconduct decertification action, only one of those cases was precipitated by a POST public complaint that was immediately followed by an agency misconduct report. So they were happening simultaneously. So if that helps provide a perspective.

But we are trying to do a deeper dive into the data, and I hope to have more information at the next meeting.

CHAIRPERSON DUDLEY: Any questions from the Board?

(No response.)

CHAIRPERSON DUDLEY: Okay. Thank you.

MR. SOUTH: Okay. The next slide is talking about what we call agency supplementals. So what happens is, when an agency provides a report, maybe they have gotten an allegation, but they have not completed their investigation. They made their report within the ten

days, which is required. It comes into Sarah's bureau at Intake, and it is -- and it is listed as an open investigation.

They will then provide a supplemental report for a whole host of different updates.

Most of the updates we have gotten, which is 38,000 of these updates, generally consist of -- they are updating the case status so maybe they have a finding now from their investigation; or they are uploading evidence, perhaps that we have asked for, like body-worn camera or the documents; or there are findings, as I mentioned.

So you can see in the graph, most -- most of the ones that we get are case status updates.

And then in terms of time frame -- and, again, this is for reports that agencies have made to us -- it is taking about an average of 255 days to get that final disposition and finding from the agency to -- and that does fluctuate agency to agency. That's what -- but that is what we're seeing in the supplementals.

In the next slide, this is talking about the -- yes. Yes, ma'am?

MEMBER HATCHER-CRAWFORD: How are you doing, sir?

MR. SOUTH: Good. Good morning.

MEMBER HATCHER-CRAWFORD: Good morning.

I have a question about the reporting.

MR. SOUTH: Yes.

MEMBER HATCHER-CRAWFORD: Basically we talked about if there's a formal complaint filed through the agency, possibly one through the community. And so that's where I'm kind of seeing a disconnect.

And as you mentioned, you tried to, like, match them as a puzzle to make sure that each one is going through.

So one of the concerns is in the liberty of the agency writing the report, what I'm finding -- because I do other things. But what I'm finding is that their perspectives and view are not sometimes what the community may see as misconduct.

And especially now with everything going on that we're seeing in the environment, and a lot of times it is coming down to constitutional law. Meaning are people constitutionally being, you know -- are their constitutions being violated? Are their civil rights being violated?

There are perspectives on two sides where an officer and an agency may say, well, you know, it -- you know, constitutionally, they have probable cause. But probable cause may not be -- be the case.

Is POST looking at it in the perspective of looking

at constitutional law, civil rights violations, and in -- and when we're talking about misconduct?

Because I am honestly seeing that on the other side -- and no offense to any officers who may be on my board members or before. They are not looking at constitutional law and I don't think -- and civil rights law. And I do not believe that that is being pushed or enforced.

So when does that part meet?

MR. SOUTH: Well, so we are an independent review for -- and will evaluate the agency response.

So if it does come in through the community and we refer it to the agency, Sarah's bureau will work very hard with the agency to ensure that we're getting all of the documentation in their response.

We then evaluate the sufficiency of that response. And we will do additional follow-up. So it does happen sometimes where an agency may say we don't consider this an allegation of serious misconduct, but our independent review and evaluation of the response is that we would like more information. We -- we consider it that it probably is an allegation of serious misconduct, and we're going to need more information as to the investigation as to the evidence. And we review it.

The important thing to note, though, is that we are

limited to the nine areas of serious misconduct. So that is our analysis is, is this alleged conduct serious misconduct? In other words, one of the nine areas?

So a lot of the other things you are talking about, though, would fall -- potentially fall into that. And we absolutely would do an independent review, regardless of agency finding.

MEMBER HATCHER-CRAWFORD: And I -- and that was my concern about seeing one of the cities thinking -- without saying one of the cities, there was a large disconnect as far as how the agency responded -- that I felt is my opinion. How the agency responded.

I could clearly see the community saying there's civil rights violations, so I'm hoping that POST is -- and constitutional violations. I'm hoping that that part is being taken seriously, and it sounds like you are taking it seriously.

So thank you for your response.

MR. SOUTH: You are welcome.

The next slide here is talking about --

MEMBER JOHNSON: Excuse me. I'm sorry.

MR. SOUTH: Yes, sir.

MEMBER JOHNSON: This is going back to the public complaints process. So there's various ways that complaints can be brought to POST.

Are we actually identifying the various numbers that are coming to POST by way of either a citizen review board, community member? I remember seeing a thing -- news media, what have you.

Are we actually tracking where they are coming from?

MS. WALLACE: The bulk of the complaints that we have received are from individual complainants, members of the public.

There are a few members of -- of member advocacy groups, public -- public advocacy groups that are submitted complaints. And we -- I know who they are, and we have identified them. It's been a small percentage of the number of complaints that we have received.

And then, again, this would just be to the manual process that we're going to need to go through. We do get a lot of complaints that are from the public, that are a matter of rereporting what's been seen in the media. Not necessarily a new complaint, but just making sure that we're aware of what's in the media.

MEMBER JOHNSON: I think I'm interested in knowing how many citizen oversight committees actually are filing complaints.

MS. WALLACE: We will add that to the data

collections --

MEMBER JOHNSON: Excuse me?

MS. WALLACE: We will add that to the data collection point.

MEMBER JOHNSON: Okay.

MS. WALLACE: Thank you.

MR. SOUTH: So on this -- is there another question?

CHAIRPERSON DUDLEY: I don't know. Let me check.

MR. SOUTH: Okay.

CHAIRPERSON DUDLEY: Are there any other additional comments or questions?

MS. DEL MUGNAIO: Just one comment.

So Board Member Johnson, to speak to that.

So anything that's not a law enforcement agency would get characterized as a public complaint. So sometimes we'll get complaints directly from an agency, like the Department of Justice, non-law enforcement side of DOJ. That would also get categorized as a public complaint.

So if it's not coming directly from a law enforcement -- traditional law enforcement agency, it falls into that bucket.

And then there's also -- we will, at times, get information from DAs, right, that may submit something

to us or have entered into a plea deal with an officer regarding something that occurred that was a criminal complaint.

That would probably get entered as a public complaint, depending on the DA, whether or not they are within our Mark43 system.

So there's just things, you know, categorically that fall under public complaints that are probably not the traditional, what we would say, citizens, you know, either individual citizen or an oversight board.

But I do know that we have had oversight boards that have reached out to us that have asked for us to help them with their board members to understand how they can participate, if you will, in filing complaints with POST, and whether or not they would be seen as a separate entity from the law enforcement agency that they are providing oversight to.

So that is something that is -- and we have engaged in conversations.

MEMBER JOHNSON: That's good.

MS. DEL MUGNAIO: Yeah.

MEMBER JOHNSON: Because that's the same question that came to us --

MS. DEL MUGNAIO: Yeah.

MEMBER JOHNSON: -- citizen oversight members

asking how does the process work?

MS. DEL MUGNAIO: Right.

MEMBER JOHNSON: So that's -- so that's why I thought that we should actually start, you know, taking data on that.

MS. DEL MUGNAIO: Yeah.

CHAIRPERSON DUDLEY: Mr. Johnson, are you also suggesting that POST consider doing some training for those boards?

MEMBER JOHNSON: I would definitely suggest that.

CHAIRPERSON DUDLEY: That's what I heard.

MEMBER JOHNSON: Because they are totally unaware that they can.

CHAIRPERSON DUDLEY: Yeah. That's what I thought I heard in your questions.

So perhaps that's something POST can reach out to various boards and let them know that we are available for training.

MS. DEL MUGNAIO: Yeah.

At San Diego, their oversight board -- which is just kind of, I think, starting to formulate and come together and trying to get their bearings -- has reached out to us and asked for some guidance in terms of how our process works, how they can engage with us. So we have had, as I mentioned, boards reach out to us. I

think Bureau Chief Brian South has comments on that regard as well.

MR. SOUTH: Yeah. I was just going to mention that we had members of the Department of Public -- Police Accountability in San Francisco attend one of our workshops that we put on in San Francisco. So we have seen, you know, some of those folks in -- in our trainings. And one of the goals for this year is, you know, creating some training that would be specific to community members.

So maybe not even just a -- civilian oversight boards but just, you know, community members, just to have more of an understanding of the process. Not only the public complaint process, but just SB 2, you know, generally.

So that's -- that's on the docket for this year.

MEMBER JOHNSON: You know -- and I would confirm that because I was at a film festival. And one of the films centered around police violence.

And 90 percent, if not 95 percent, of the attendees didn't even know anything about the decertification process and how it works. So yeah.

CHAIRPERSON DUDLEY: And another possibility would be training the media so that they understand. And how one would do that, I don't know. But I'm assuming there

are media conferences throughout California. And if it makes sense to look into one of those conferences and seek to be placed on the agenda so that the media understands this too.

I think we're proud of the work we're doing. It is important to get that information out there for that reason.

But for the bigger reason, if the media sees something that they want to report, then they should understand what the process is and how to go about that.

Thank you.

MEMBER HATCHER-CRAWFORD: I would like --

CHAIRPERSON DUDLEY: Hang on. I think Ms. Pena was first. And you are next.

MEMBER PENA: Is a public complaint, the category, is that -- is that the correct category where anything that's not related -- that is not connected to the police departments, is that the correct category for these complaints? Or should there be some other type of category to capture the nonpolice agencies but not what you would traditionally think of as a member of the public?

MS. WALLACE: That's an interesting question. And I think we could potentially explore that.

I think public complaint has been categorically

used to include anything that does not come directly from a law enforcement agency, the bulk of which have truly been public complainants that have submitted complaints. We do receive a lot of anonymous complaints.

I think if perhaps while we're doing this data analysis and looking at this, and we find that perhaps there needs to be additional categories added, we can bring that back to the Board for consideration.

MEMBER PENA: Yeah. Because it would be interesting to see, since SB 2, has the number grown that has come from accountability boards, for example? You know, within that breakdown, where -- if the numbers have increased for certain entities.

MS. WALLACE: Noted. We will -- we will look at --

CHAIRPERSON DUDLEY: Ms. Pena, I'm not sure I understand.

Numbers increased from what to what? I'm a little lost on the category now. You mean public complaints in general?

MEMBER PENA: Under public complaints, complaints that have come in from oversight boards, for example; has that number increased over time?

CHAIRPERSON DUDLEY: Okay. Oversight boards are also, to some extent, relatively new. So I think, at

this point, I think we might be dealing with apples and oranges. But it is still important to track the data as well.

Now I understand. Thank you.

Yes. Ms. Crawford.

MEMBER HATCHER-CRAWFORD: So, first of all, I -- I appreciate all the work that's being done here from POST. We were fortunate enough in the beginning, last year, or the year before last, to have our executive director and assistant director talk to law enforcement.

And -- and through that, in my conversation, my annual meeting with law enforcement, they talk about SB 2 and enforcement through the participation.

I guess I would like to see -- and not exactly because they are both busy. But, you know, where they do go out to maybe San Diego or Sacramento and have that one-on-one room interaction with SB 2 starting, one, with law enforcement. Because they -- they clearly don't understand it. Some agencies. Not Ventura County. Some agencies.

And to "tickle" it down to the community is what I would like to see. Oversight committees -- I kind of somewhat agree with you. It is kind of apples and oranges because I don't know the authority level. But a lot of oversight committees believe they have a certain

authority level, which is not true.

And so I would like to add to that that distinction of it so that it's clear to people as we move forward with SB 2.

So, again, I would like to thank both of them for coming. We enjoyed it and we're looking forward again but -- in Ventura County.

But those are some of the measurement steps that we have seen that worked for us in Ventura County.

And I have to do a bragging point. We are considered the -- in California, the safest county. So...

CHAIRPERSON DUDLEY: Thank you. That's because you are adjacent to Santa Barbara, but that's okay.

Yes, Mr. Johnson.

MEMBER JOHNSON: Hopefully it's my last.

But the agencies that are not reporting, have we -- I'm sure you know. But can we have an identification of the particular agencies in the number of employees that they have or officers that they include?

Because I know that the bulk of them are less than ten. But there's other agencies that, I'm sure, has more employees than ten that hasn't begin to report.

MR. SOUTH: Yeah. So we do have that. I can -- I can go -- there's about 15 that we sent the 60 letters

out. There were about 15 that we haven't heard back from.

And I will give you just sort of a sampling. Most of them are what you are talking about, the smaller agencies, like Bear Valley, four officers.

Ferndale Police Department, four officers.

Stallion Springs, three officers. Things like that.

There are some larger agencies. That's a little bit more difficult. We -- we look at sort of a statistical analysis on our best guess as to how many peace officers in the agency has and how many agency misconduct reports we would expect from an agency that size.

But we don't really know exactly what allegations they are getting directly, right?

So that's a little bit more tricky. There are some larger agencies involved in that. We -- we do additional proactive follow-up. Some of those agencies on that list, we are in constant contact with, and we have -- we are getting misconduct reports.

The one that are zero, though, are those smaller agencies with just, you know, a handful of officers, typically.

CHAIRPERSON DUDLEY: Are those smaller agencies

receiving POST funds in terms of training and back-up?

MR. SOUTH: Yeah. I think they are POST-participating, yes.

CHAIRPERSON DUDLEY: So maybe that's something to think about. There's nothing in the law that tells us what to follow through, into, but they do depend upon us, to some extent, and we're dependent upon them for these referrals. So...

MR. SOUTH: Right. And a lot of it is just confirming -- an agency may respond and confirm that, in fact, we have three officers, and we just didn't get any complaints.

CHAIRPERSON DUDLEY: Exactly.

MR. SOUTH: But we're trying to continue to drill down on that.

CHAIRPERSON DUDLEY: But that doesn't seem like a big ask.

MR. SOUTH: Sure.

CHAIRPERSON DUDLEY: Thank you.

Go ahead.

MS. DEL MUGNAIO: One comment. I just want to close the loop on the oversight agency thing.

So in the law currently, 13510.9, and it is (a)(3) -- thank you to help from my lab partners in the -- in the audience. It does require that any

findings of an oversight agency are submitted to POST.

Interestingly enough, the law actually specifies those findings should come through the law enforcement agency, even though it is an oversight body's findings. So San Francisco, you know, oversight body; San Diego, etc. -- there's several -- that the agency themselves is supposed to submit the oversight body's findings to POST if it is serious misconduct.

Some of the communication that we have had from these oversight boards is they feel strongly that those findings are not being submitted to POST. And their questions are, can we then take it upon ourselves to submit those findings? And the answer is yes.

Going back, Ms. Pena, your comment about are those considered public complaints? They are, because there's only two -- two kind of parcels in the law. It is an agency misconduct report and a public complaint. That's how it is defined in the statute.

That doesn't mean that we can't, through our data, separate out the source. And we'll do that for you just so there's a general awareness.

In terms of the increase in -- in public complaints, as Sarah mentioned, you know, I think in the first year we might -- we had under a thousand, I think, in the first year and we're up to 3200.

So clearly as people are becoming more familiar with the POST process, we're getting more interest in individuals reporting to POST.

We continue to train law enforcement agencies on -- on the regular. That's something that's been ongoing since -- prior to the implementation of SB 2. When we knew the law was taking effect, you know, there was a grassroots effort, if you will, to train every law enforcement agency in the state on the tenets of SB 2.

Where I think we still have some opportunities is getting in the room with the community that invites us in to say, hey, we would like basic information on what your jurisdiction is.

So where we find that there's probably an education piece or a gap is, they understand that POST has an oversight role, but they either feel -- they either believe that the oversight role is for the agency itself, which, you know, to Chair Dudley's point, we do, from a training perspective; we have oversight of the agency: How they train their officers, whether or not they follow our regulations, background requirements, etc., how they hire, that type of thing.

And then we have serious misconduct which drills down to the individual officer.

So it is different. And I think that is some of

what, over the last three years, we have tried to communicate that there's now a distinct difference between the relationship the agency had with POST prior to Senate Bill 2, which was an agency relationship, versus now an individual officer relationship.

So the public still perceives us, I think, as an agency relationship. Like, POST can now regulate the agency and the conduct of their officers through, perhaps, some sort of punitive action against the agency.

Where, really, we only have that now with the officer when it comes to serious misconduct. So that's part of the education piece that I think we have opportunity to continue to perhaps, you know, elevate that so that the general public has a better understanding.

And then, again, what constitutional violations would fall under one of the nine acts of serious misconduct? What comes to mind: Civil rights violations, excessive use of force, perhaps bias conduct.

You know, there's certain things that I think rise to that level typically, when we see civil rights violations, that they are encompassed in the nine acts of serious misconduct. They are just called something

very specific in terms of how the officer engaged the public.

So we still have an opportunity to investigate those incidents. But perhaps educating the -- the public about what that means within that framework of serious misconduct.

CHAIRPERSON DUDLEY: That was an excellent -- excellent.

MR. SOUTH: Yeah.

CHAIRPERSON DUDLEY: Thank you.

MEMBER JOHNSON: Yeah. And I can add to that, it was interesting -- because I remember reading somewhere -- I can't remember where.

So the agency can be out of compliance.

MS. DEL MUGNAIO: Correct.

MEMBER JOHNSON: And so it came to me, well, if they are out of compliance, what is basically the punishment?

Or in addition to that, right, if we got an agency that has three or four employees, and we have sent notices to them and they respond that we just don't have any incidents, okay, that's understandable.

But the agency that may not respond, what's their time frame of being required to respond as well for those that has more than ten employees?

There's got to be a time limit set on them to respond. And then if they don't respond, they are out of compliance. Then out of compliance brings whatever the accountability is.

MS. DEL MUGNAIO: And that is exactly where we are today, Board Member Johnson, is the fact that we have now done the outreach, and we have now given you an opportunity to respond.

So this is no longer a case of we just didn't know. Or as you -- as you stated, we have no reports because we have five officers. That's fine. That's understandable. But no response is unacceptable.

So what do we do about that? And that's where we -- in March, are working with our Commission to understand what's the next step?

Because according to the legislation -- and Chair Dudley pointed this out -- there's no recourse right now. It is just, essentially, they didn't comply.

They probably don't want to go on notice publicly that they didn't comply. And we're talking about some of that here today.

And there's a very -- there's a distinction between had no reports and okay by -- okay reporting that we have had no reports because of the minimal number of officers, versus not responding.

And so we will be addressing that with the Commission in March. So I'm glad you brought that up.

MEMBER JOHNSON: Thank you.

CHAIRPERSON DUDLEY: And, Mr. Johnson, when you were talking about noncompliance. So, again, going with the same model that was just explained, if the agency is out of compliance -- let's say they are not getting psychological exams for their law enforcement officers, and they are moving them into the position of law enforcement officers, there is recourse for POST in terms of something like that, noncompliance.

What is unique about this is that we don't have that specific recourse.

MEMBER JOHNSON: Okay.

CHAIRPERSON DUDLEY: It is just, you are supposed to do this and left that way.

And there are several laws that are like that. But I think this is something that POST has been working on for at least the last year to try to get that down, so that we can do the follow-up and say, "You haven't sent us anything. At a minimum, you are supposed to send us whether anybody inquired. That hasn't happened. And the recourse is going to be this."

I'm sure they will keep us posted and let us know when they have that.

Yes, Ms. Pena.

MEMBER PENA: I'm curious whether you are seeing complaints being filed directly with you all or through police departments, agencies, regarding ICE or the border patrol. And what -- how you treat those and what you end up doing with those.

MS. WALLACE: I -- I would not have data to be able to answer that at this point.

CHAIRPERSON DUDLEY: Do you know if anyone has --

MS. WALLACE: I'm not aware of any complaints that we have received at all at the public complaint level. So -- but I can't promise that we haven't received any. So...

CHAIRPERSON DUDLEY: Clearly, we have no power over ICE.

MEMBER HATCHER-CRAWFORD: Absolutely.

CHAIRPERSON DUDLEY: This agency has no power over ICE. Unless --

MEMBER PENA: At times when, you know, it is unclear who it is that's doing -- making the arrest or doing the inquiry, or if there's local police nearby that is involved, someone could become confused about --

CHAIRPERSON DUDLEY: Sure.

MEMBER PENA: -- who exactly it is --

CHAIRPERSON DUDLEY: Yeah.

MEMBER PENA: -- that they should file something again.

CHAIRPERSON DUDLEY: Yeah.

MS. WALLACE: I'm not aware of any complaints that we have received. But we will -- I will talk to my staff, but I'm not aware of anything and have no data to support that.

MS. DEL MUGNAIO: Okay. I -- I think as Chair Dudley said, we would refer that to the federal agency.

But I have not received any inquiries in that regard.

And I don't believe our Executive Director has either. I'm looking at Manny. No.

So yeah. I don't think that's come to us at this point.

CHAIRPERSON DUDLEY: But I understand what you are saying, Ms. Pena.

So if a law enforcement officer was standing by while an ICE agent was beating somebody up with a club, did that law enforcement officer have a duty to intervene?

And if not, then should that be a report that comes to POST in terms of misconduct?

So I understand the complexity of your question. But apparently no specific things with allegations about

POST behavior -- I mean, excuse me, ICE behavior.

Thank you.

Anything else?

MEMBER JOHNSON: Yes.

CHAIRPERSON DUDLEY: Mr. Johnson.

MEMBER JOHNSON: So that leads to the question, if an officer is decertified, can he go get a job as an ICE agent?

MEMBER HATCHER-CRAWFORD: Absolutely.

CHAIRPERSON DUDLEY: A law enforcement officer who is decertified by the state, by our agency, can still be hired by another agency, not in California, if they choose to hire somebody who has been decertified in California.

POST is in charge of certification and decertification of California law enforcement officers. So federal or another state, sure.

I think about two years ago, I saw an ad that Texas law enforcement agencies were looking for law enforcement officers in California, who had been decertified. They were advertising that.

MEMBER HATCHER-CRAWFORD: I'd seen it.

CHAIRPERSON DUDLEY: So --

MEMBER JOHNSON: Well, I mean, because this brings us to this point what the SB is actually supposed to do.

So we have the National Decertification Index that agencies around the country should comb before they hire. And maybe some do and maybe some don't. We just don't have the data to know who is actually doing it and who is not.

The other part of it is, if I'm an officer in Hayward and I'm being decertified, what stops me from walking across the street to be employed by ICE?

CHAIRPERSON DUDLEY: Nothing.

MS. DEL MUGNAIO: Right.

MEMBER JOHNSON: Okay.

MS. DEL MUGNAIO: I mean, it just would depend on their background requirements as to whether or not they would query the NDI.

Most states do query the National Decertification Index. I think there's very few states that would hire a decertified officer or an officer that's been revoked.

Because we query -- not only query it, we report to it, we see the information from other states.

But in terms of, you know, federal agency hire, it is just dependent upon back- -- their background criteria. Yeah.

CHAIRPERSON DUDLEY: I can tell you as an attorney, that if they hired someone who had been decertified, and that person was accused of another act of misconduct,

there would be a big civil suit. Hey, you knew California already decertified him, and you chose to hire him. I think they are concerned about that liability.

MEMBER JOHNSON: Right.

CHAIRPERSON DUDLEY: They should be concerned about a lot of things, but that liability alone would be significant.

MEMBER JOHNSON: You know, and I -- I am trying to have more apt to believe that most agencies in the country is combing the database because, again, to -- to avoid the situation that you just spoke about.

CHAIRPERSON DUDLEY: Right.

MEMBER JOHNSON: But I think the new concern, especially from the public, is, well, if we decertifying 3 and 4 and 5 hundred officers, we will just say, a year, 400 of them or 450 of them might be getting hired by ICE right around the corner from where they were just employed or decertified from.

So I mean, that's -- that's a whole new issue we got to deal with. But that's -- to me, is an escape hatch, because SB 2 was to stop the wandering officer. And so, in many ways, we have actually done that.

But what we are finding now because ICE has grown so strong and big, that maybe we haven't really stopped

it.

CHAIRPERSON DUDLEY: So one of the things you could do -- not as a member of this board, but as an individual -- is to contact your federal assemblyman, senator, whatever it is, and say this is a concern of yours. That maybe they are not aware of POST is doing and they are not aware of this decertification process, but they are in D.C., and they could potentially have some control over that from there.

But, again, don't mention this board. Just mention you as an individual, just because none of us can speak for the Board.

MEMBER JOHNSON: Right.

CHAIRPERSON DUDLEY: Yes.

MEMBER HATCHER-CRAWFORD: So I serve on different committees. One of them talking largely to immigration. And my other capacity, my other hat, you are seeing where we are in defense of officers who are going against ICE and reminding the public that one's state, one is federal.

The officers at best -- and we have had tragedies in Camarillo that made the news. At best that they can do is stand in defense and try to keep peace between ICE and the community. And so it went as far as it went down to the hospital.

And so we wanted the community to understand that these officers' hands are tied due to legislation, due to their positioning as state officers versus federal.

To your questions, yes, ICE will hire you. We are being told they are hiring anybody off the street, and they are not being trained, as we're seeing in Minnesota.

And as far as what we can do here, we're telling people, you know, look at your senators, write to your senators, write to your congressmen, because we are right now -- and that's why I talked about the Constitution and the civil rights. We are, right now, in a battle of fighting the Constitution.

And with this administration, we understand even with the -- the index, agencies are not checking them. They are not using it and not being encouraged to use it.

So I agree with Chairman Dudley. You know, individually as people in their cities need to understand state versus federal, what they can and cannot do.

I know our law enforcement is talking to the director of ICE, and nothing has happened.

So what can SB 2 do? Nothing. So yeah.

I serve on different committees --

CHAIRPERSON DUDLEY: On that happy note --

MEMBER HATCHER-CRAWFORD: Happy note, yeah.

CHAIRPERSON DUDLEY: -- back to the data.

Thank you.

MR. SOUTH: So we'll just pick up talking about the top area of serious misconduct that is reported to us. And in looking at the graph here, this has stayed consistent actually since we started.

The top allegation of serious misconduct that we receive is excessive force followed by demonstrating bias.

A future slide will show what the top area of certification action, which is actually different. But this is -- these are the top allegations that we receive.

And because of the look-back provision for the retroactive reporting, only 70 percent of those reports are -- are actionable by POST, because the other 30 percent occurred prior to 2022 and are not one of the three areas that are actionable. So we -- we can't take action on all of the retroactive reports that we received.

And then the next slide is talking about prioritization. How are we triaging all of these tens of thousands of reports that we're receiving?

And I will just quickly touch on our priority levels. The Intake Bureau will look at the report when it is received and then attach a label to it, which helps prioritize it.

The main one, I think -- main three that we'll touch on real quick are POST ITS. That means that the intake analyst has determined that one of the three criteria for an Immediate Temporary Suspension may apply based on the report that was received. And that gets top prioritization and sent over immediately to the bureau chief for the respective bureau to review and assign, if necessary, because if it is an Immediate Temporary Suspension, we want to move on that as quickly as possible.

The second one, Priority 1, means that there's sustained findings. So that's -- that gets a higher priority.

And then Priority 3, I will mention -- because you will hear the terms in future slides. That means it's a finding by the agency that is not sustained, unfounded, or exonerated. And as we will talk about, we still look at those, but it does have a lower priority.

As you could see in the data here on the next slide, it is the same --

CHAIRPERSON DUDLEY: Before you move on from

priorities --

MR. SOUTH: Yes.

CHAIRPERSON DUDLEY: -- I want to make sure I understand this.

MR. SOUTH: Yes.

CHAIRPERSON DUDLEY: In terms of public safety, I want to understand the priority. If somebody is -- has been cleared, not cleared, depending upon what the allegation is -- the person is on administrative leave, not on administrative leave -- just thinking about the safety of that community and that person still being a law enforcement officer, do you consider that in the priorities? Or is it just merely the area that we're looking at?

MR. SOUTH: So for this prioritization, for the label -- remember, this is on intake.

CHAIRPERSON DUDLEY: Right.

MR. SOUTH: So prioritizing all these thousands of reports.

CHAIRPERSON DUDLEY: Right.

MR. SOUTH: It is based on the finding and things we're talking about. But once it comes over to us --

So let's say there is a sustained finding. It comes over as a Priority 1. Those get assigned, as soon as possible, to a law enforcement consultant who are

investigators.

Then there's additional prioritization that's done at that level, like at the case management level. So, yes, if someone -- if an officer is working, for example, there's a potential for a higher public safety risk. So that is generally prioritized. If they are under an Immediate Temporary Suspension, we prioritize resolving those cases.

Whether they might be lateraling, looking at starting -- you know, getting hired at a new department, those are all aspects that are reviewed sort of in that secondary triage from the initial prioritization label.

CHAIRPERSON DUDLEY: Okay. Thank you.

MR. SOUTH: Absolutely. So this next slide is just showing the remainder of the nine areas of serious misconduct. And it is a -- it is a clear trend that the vast majority of reports that we receive are what we call those P3s: Exonerated, not sustained, or unfounded.

So then when we go to the case status, kind of where we are at with all these cases, this slide has -- it looks a little bit different than it did last year or even six months ago.

And what we're seeing is we have closed 88 percent of the cases that we have received. So we have really

had an increase in efficiency of getting through these case.

So we're at about 9 percent that are open cases, so they are open with POST, as we call it, so we have a finding by the agency. And now it's being hand -- investigated by POST.

And then the remainder there, inactive cases, we also call those open with agency. 3 percent. That just means that we have gotten an open investigation -- an open report from the agency. We don't have a finding yet. So the ball is still in their court. So we're waiting for them to provide a finding, in which case it will flip over to open with POST. And then we will investigate from there.

CHAIRPERSON DUDLEY: Johnson.

MEMBER JOHNSON: So that's -- that's interesting. Closed cases now is at 30,000, or almost 31,000, correct?

MR. SOUTH: Cases, yes.

MEMBER JOHNSON: All right.

MR. SOUTH: We have received over 40,000 reports.

MEMBER JOHNSON: Right. I remember when we first started, it was like 32. And I was, like, blown away, because it looked like it was just going to take another 30 years to get through that process.

But the majority of those cases, if I remember right, were before 2021 or before SB 2 came into existence. And so that meant it brought it down, we'll just say, to 12,000 that were considered open cases.

And so in the last year, I guess, or two, if I remember correctly, we were really working with about 12 to 15 thousand cases. And now, it appears we only have almost 3300 cases we're working with that is considered valid cases going forward.

So are we saying all the cases that occurred prior to SB 2 has been worked through? That's what I'm not clear on.

MS. DEL MUGNAIO: We still have some pending retro cases. And I think you're talking about the retro -- retro cases. So at one time, our retro cases -- and I was looking for the stat -- maybe, Brian, do you have it?

MR. SOUTH: In -- well, the next slide actually talks about --

MS. DEL MUGNAIO: Okay.

MR. SOUTH: -- our backlog.

MEMBER JOHNSON: Oh.

MR. SOUTH: Yeah. And I think that's maybe where you are going with this, to Annemarie's point, with the retro.

We did it -- and you saw it in an earlier graph. We did have that big spike, right? A lot of cases that came in. And we were backlogged with going through those cases.

What we did -- and we reported this last time. But if we go to the next slide, you can see how we addressed that backlog. And we did an abbreviated review process.

So to your point about why we have less open cases now, is we identified that somewhere in the neighborhood of 95 percent of that big number are not sustained, unfounded, or exonerated by the agency.

And we were not finding, over the first two years, any examples of -- of those cases where an agency is -- done a thorough investigation, exonerated the officer, but we have determined there's clear and convincing evidence of serious misconduct.

And we wanted to be able to reallocate our resources to the most significant cases, which are the sustained cases.

So we did engage in an abbreviated review process. And as you can see in the numbers, that's why we -- we were able to clear through the backlog. And what we're doing now is sort of an audit process.

So while the review -- we reviewed them. But it was more of an abbreviated review.

Now we're auditing and have -- and actually have been auditing for the last couple of months -- to make sure the more high risk cases were looked at as a secondary review just to make sure nothing fell through the cracks.

And now we're able to -- because we were able to clear that backlog, and now this number, as you pointed out, is a smaller, more manageable number, we're able to reallocate our analytical staff, particularly, to go back to that full review.

So as of this month, February 1st, we're going back to that full review. But now we just have a much more manageable number of cases to do so.

MS. DEL MUGNAIO: It was, 42 percent of the intake was retro. So that's a huge proportion. So that does speak to volume.

And there are still some retro cases that we are finalizing. You know, again, the bulk of them that we received at the very beginning -- remember, because we could only take action on the three, whether it was use of deadly force that resulted in SBI or death, sexual assault, or dishonesty. But, yet, we collected reports on all of the nine for every agency that had to submit retroactive reports.

So there was a huge repository of information that

POST couldn't act on. Because of the way the statute was written, we were limited to the three.

And so that speaks to that volume was closed, nonactionable.

CHAIRPERSON DUDLEY: Thank you. Thank you.

MR. SOUTH: Okay. Now we'll talk about time frames on our -- on our closed cases.

So as you can see here, this shows the average days that the cases were open and what the longest duration was. On average, cases are closed within 255 days.

One thing I will point out, when you see some of the outliers there on the longer time frames, is that we do toll cases. So if there's an ongoing criminal investigation or criminal prosecution, we toll those. In other words, we press pause on them. And we will wait until those processes are complete.

Sometimes we may toll for an appeal process, as well, that's going on at the agency disciplinary level.

So that can sort of be part of some of these longer case aging.

One thing I will point out though is it doesn't affect our three-year time frame of statutory -- you know, statute of limitations. We have three years from when we receive the agency findings to come up with our findings.

So when we're tolling, it presses pause on that it doesn't affect the three-year time frame.

And to date, we have resolved cases that have been within our three-year statutory time frame, so we haven't gone over our time frame at this point.

This next slide talks about sort of our closure reasons; why we have closed a case. And what you can see here is, 2 percent of the cases we have received have resulted in disciplinary action by POST. The rest have been closed with no further action.

And just for context, as I mentioned before, the majority of the cases that we have are those, what we call, P3s: The unfounded, exonerated, not sustained.

So the -- it is about 5 percent are the sustained cases, which are the most likely to potentially result in some sort of certification action.

And then the next slide drills down a little bit on when we decide we're -- determine we're not going to take action, what are the reasons for that?

Well, the stats show that in 78 percent of those no further action cases, they were closed because they were not serious misconduct. They were deemed not to be serious misconduct.

4 percent of those were deemed that there was not clear and convincing evidence.

Now, one thing to remember is that this is looking at the totality of all of the cases, so including P1s through P4s.

If we go to the next slide, we kind of break it down a little bit more as to --

CHAIRPERSON DUDLEY: Let me interrupt for one second.

MR. SOUTH: Sure.

CHAIRPERSON DUDLEY: We've been going for an hour, and I'm being sensitive to our reporter. So can you tell me about how much time you have left in your presentation?

MR. SOUTH: Depending on questions, we have -- we're on slide 17, and there's 26 slides. So --

CHAIRPERSON DUDLEY: Now's an excellent time for a ten-minute break.

MR. SOUTH: Perfect.

CHAIRPERSON DUDLEY: 11:00 to 11:10. Thank you, everyone.

(Break taken in proceedings.)

CHAIRPERSON DUDLEY: Thank you so much. Please continue with the data.

MR. SOUTH: Okay. So we were just talking about case closures. And one thing I just wanted to mention is when you look at that, you know, no further action

due to no serious misconduct, we are implementing a new report that breaks out the not serious misconduct a little bit more. So in -- in the future, we'll be able to say it is not serious misconduct, and here's why in a little bit more detail.

The next slide, again, is just closure trends. What you can see here is that with the Priority 1s and 2s, which means there's sustained findings, that not clear and convincing number jumps up.

So we have -- 67 percent of the 1 and 2 closures are due to no clear and convincing evidence. So that typically means there's some sort of gap between the agency may have had a preponderance of the evidence, but we couldn't substantiate clear and convincing evidence. That is a significantly higher evidentiary threshold.

MS. WALLACE: Just -- next slide is an overview of the case closure trends for public complaints.

About 96 percent of the complaints that we receive via the public are closed for nonserious misconduct at a jurisdiction are not actionable. And 2 percent may rise to the level of serious misconduct.

I just wanted to reiterate: Of the cases that were closed as revoked, ineligible, voluntary surrender, or default, it was only one voluntary surrender that was a result of a public complaint coming in before an agency

misconduct report.

MR. SOUTH: The next slide talks about the number of disciplinary actions taken by POST and how that compares to other regulatory licensing agencies.

So what we see here is that when we look at the entire population of peace officers in California, which is somewhere in the neighborhood of 80,000-plus, we have taken action against 1.1 percent of the overall population.

That is actually higher than other regulatory licensing agencies: Doctors, lawyers, nurses, etc.

And so we just point that out to sort of give you level set where we're at in terms of enforcement actions versus other licensing.

CHAIRPERSON DUDLEY: I'm sorry. I missed it. Is it higher or lower than doctors?

MR. SOUTH: We're higher. We're higher. The other agencies are generally below 1 percent. We're in the neighborhood.

CHAIRPERSON DUDLEY: Okay.

MR. SOUTH: But it is -- it is marginally higher.

CHAIRPERSON DUDLEY: Okay. So just to be clear on the statistics, 2 percent of the cases that come in --

MR. SOUTH: Correct.

CHAIRPERSON DUDLEY: -- are a finding. And then

one point -- okay.

MR. SOUTH: Exactly. Against the peace officer population.

CHAIRPERSON DUDLEY: Got it.

MR. SOUTH: Exactly.

CHAIRPERSON DUDLEY: Thank you.

MR. SOUTH: So at this slide, I alluded to before. This is pointing out what area of serious misconduct we have taken action on the most. And so what it shows here is that it is actually acts that violate the law has resulted in the most certification action by POST, followed by excessive force.

This next slide talks about Immediate Temporary Suspensions.

There's -- there's -- yes, ma'am.

MEMBER HATCHER-CRAWFORD: Back to the other side.

So acts that violate the law is kind of generic. Can you give me an example? Because I was surprised that that excessive force probably would have been -- well, it is good it is not.

But I think that's what the public looks for. We're always looking for optics. Excessive force. But you mentioned acts of violating the law.

Can you just give me, like, one or two examples of what that would be?

MR. SOUTH: Sure. Typically --

MEMBER HATCHER-CRAWFORD: Or what it looks like?

MR. SOUTH: Typically, we might see domestic violence, things of that nature. Sometimes DUI, although usually it would be repeated acts for the DUI. But you have seen a few cases come through that you have heard.

But I -- but I would say, again, just anecdotally, it could be any act that violates the law. But, generally, it's going to be those type of law violations that are sufficiently egregious. So we have seen sexual battery. We have seen domestic violence and things like that.

MEMBER HATCHER-CRAWFORD: Okay. Thank you, sir.

MR. SOUTH: You are welcome.

So this slide talks about the Immediate Temporary Suspension. There's quite a -- there's a lot of data on there for you to look at.

But the bottom line is, the most ITSs that we have issued have been because there's been an officer arrested or indicted for a felony or another qualifying misdemeanor.

And then on the other side of the slide, you can see that the actions that were taken: 36 were revocations. So the high -- so when there's an

Immediate Temporary Suspension that's resulting in a revocation the most, and -- and sometimes a voluntary surrender, you can see there.

In the next slide, this talks about the Notice of Intent to Revoke and how those -- what outcomes are involved with that.

So when we send a Notice of Intent to Revoke, that goes out to the officer and they have 30 days to respond. And what we're seeing is, in over half of the cases, they are not just responding at all, which means it goes through as a default revocation.

So you won't hear those cases. It just goes through as an -- as an automatic revocation. And that is happening in a little over half of -- of the cases.

In the next slide, we kind of drilled it down to show you what happened since October, your last hearing. And it is actually closer to two-thirds. So we have sent out 15 of those notices. 10 of them resulted in a default decision, meaning they did not respond.

Three appealed, and you are going to hear those today.

And two resulted in a voluntary surrender.

Now, when look at this slide, this is talking about causes of action. So we have what the agency reported to us in terms of what areas of serious misconduct they

are reporting to us.

What this is showing is sometimes we amend that. We may determine that, in fact, there's a different area of serious misconduct that's more applicable. Or we may add an allegation because, as a result of either our investigation or something came up during the agency's investigation that perhaps wasn't ultimately charged by the agency, we still reserve the right to charge it under our statutory provisions. And that has happened in -- in some cases.

And this slide is showing the difference between what's occurred with outcomes at the Board versus the Commission.

So what you can see on the left there, this board here has made a decision in 19 cases to -- voted for revocation; two stipulated settlements; one suspension; and none recommendation for no action.

The Commission has decided 14, as you can see there: Four stipulated settlements; two suspensions; and two no actions.

MEMBER JOHNSON: A question.

MR. SOUTH: Yes, sir.

MEMBER JOHNSON: Actually, back to the two slides before that one. I was just curious. On the -- you see 14 dishonesty. Go two slides back.

MR. SOUTH: Which one?

MEMBER JOHNSON: Slide number 26, I think it is. Or 25.

MR. SOUTH: 25? Okay.

MEMBER JOHNSON: Yeah.

MR. SOUTH: So yeah. So 14 were relating to dishonesty --

MEMBER JOHNSON: Right.

MR. SOUTH: -- for the serious misconduct.

MEMBER JOHNSON: So I see six and six. But -- so six came in as an act that violate the law.

And then POST determined that six were not acts that violated the law.

MR. SOUTH: We removed it, right. We may have chosen a different area of serious misconduct that was more applicable.

MEMBER JOHNSON: Oh, okay. So it could have been switched to a different area or it could have been removed totally.

MR. SOUTH: Correct.

MEMBER JOHNSON: Okay.

MR. SOUTH: Yes.

Okay. So that was the last slide, when we were looking at the differences in outcomes at the board level versus the Commission level.

But happy to answer any other questions that you may have.

MEMBER JOHNSON: I do have a question.

MR. SOUTH: Sure.

MEMBER JOHNSON: On the -- so on the process of complaints being filed, whether it is the agency or the public, is there a -- you know, the first-in, first-out? So how is it -- how is it categorized? I know it comes in and goes through a filtering process. And it is -- it is put in its zone or its category.

So when a complaint is put in its category -- and we'll say number 10, it is the tenth complaint in that category; and then another complaint comes in very similar, that becomes number 11. And then it goes through a process of eventually coming before the Board or the Advisory Board, us, and eventually the POST.

So is it first-in, first-out? How is that done?

MR. SOUTH: It is all -- it is prioritization. So part of it is the triage, as we were speaking about earlier. And then part of it is just case management with the law enforcement consultants that are working cases. We are looking at what cases, you know, need to be resolved sooner for public safety, you know, risk.

And so it is really more of on the case management side as to -- it is not necessarily first-in, first-out.

We are going to triage it for what cases to be addressed the -- sooner than later.

MEMBER JOHNSON: So a case could come in today, and it could have such a high priority. It could be a case that we do tomorrow.

MR. SOUTH: Correct.

MS. DEL MUGNAIO: As a matter of fact, if I may, Board Member Johnson, cases that result in Immediate Temporary Suspension are supposed to take priority in terms of final resolution. So the statute actually says that we are supposed to prioritize the cases that result in Immediate Temporary Suspension. Those cases arguably should be the cases that have the highest public risk.

But that depends on when the Internal Affairs investigation is done, because, for the most part, we're issuing an ITS, an Immediate Temporary Suspension, sometimes just at the complaint level. We don't have an Internal Affairs investigation from the agency yet.

So we do have to wait for that to come in.

CHAIRPERSON DUDLEY: Any other questions or comments from the Board?

(No response.)

MR. SOUTH: Thank you.

CHAIRPERSON DUDLEY: Before you leave, let me ask, is there anyone present or appearing remotely or by

phone who would like to address the Board regarding the data for serious misconduct reporting, investigations, and disciplinary actions? Anybody in the audience?

(No response.)

CHAIRPERSON DUDLEY: Anybody remotely?

(No response.)

CHAIRPERSON DUDLEY: Okay. Thank you so much. We really appreciate your presentation. Thank you so much.

We now move to the next items on the agenda. We have three cases to hear today. We will only be reviewing the facts and evidence as presented by this the Division. This is not an evidentiary hearing. The rules of evidence do not apply here. Evidence is not formally admitted into the record. There is no need to make any objections, and objections will not be ruled upon.

Under the Penal Code and applicable state regulations, this initial hearing will determine only if the matter proceeds forward for Commission review; and then, should the Commission approve, for a full evidentiary hearing before an administrative law judge to determine whether the allegations are true and justify discipline.

For those commenting on each item at the early stage, the Board must only consider the facts that the

Division, after investigation, believes can be proven at a larger -- excuse me, at a later evidentiary hearing.

For that reason, today the Board will entertain arguments as to whether or not those facts, as presented by the Division, demonstrate clear and convincing evidence. In other words, a high probability that serious misconduct, as defined in Penal Code section 13510.8 and Commission Regulation 1205, occurred.

Actions by the Board or the Commission prior to a full evidentiary hearing amount to a final determination that an officer did, in fact, engage in misconduct or that revocation or suspension be -- is ordered. That will be determined after the evidentiary hearing.

At the conclusion of each law enforcement consultant's presentation, the Board will have an opportunity to ask questions. Then public comment from the subject officer or their counsel will be taken, followed by members of the public.

Further discussion by the Board will be allowed if necessary. The Board may go into closed session deliberations after each case or -- and adjourn into closed session to deliberate on all cases presented.

After reconvening into regular session, votes will be taken on each case.

So we can -- after each case, we can go into the

back room, as we have done many times. Or at times, sometimes, people just felt there was no need to deliberate and they wanted to have the discussion out here.

Okay. So let's start.

At this time, I will now call upon the Bureau Chief Robert Tripp, formerly the Professional Conduct Central Bureau, and Brian Hoffman, Attorney IV, Legal Affairs Bureau, to provide a report on Case POST2316280, Khammouane Kevin Thakham, T-H-A-K-H-A-M, who, at the time of the events at issue in this case, was, and still is, employed with the Fresno Police Department.

MR. TRIPP: Good morning, Madam Chair and Members of the Board. My name is Robert Tripp. And as was mentioned, I am a bureau chief and law enforcement consultant previously assigned to the Professional Conduct Central Bureau in the Peace Officer Standards Accountability Division.

With me today is Brian Hoffman, an attorney in our Legal Affairs Bureau.

I'm here today to present POST Case POST2316280, involving Khammouane Kevin Thakham of the Fresno Police Department.

Next slide, please.

It is the Division's determination that clear and

convincing evidence exists to demonstrate that Khammouane Kevin Thakham committed acts of serious misconduct, as set forth in Penal Code 13510.8 on August 10th and August 11th, 2023.

Specifically, the Division determined that Officer Thakham committed the following acts of serious misconduct: Dishonesty and acts that violate the law.

He committed these acts when he placed three anonymous calls to the Fresno Police Department, reporting an ongoing violent disturbance at the residence of a former romantic person. He knew no such incident was happening and made the reports to prompt an emergency response.

In this presentation, I will present a brief outline of the Division's findings of investigation in this matter. My plan is, first, to provide some background on the respondent, and then a timeline of key events to guide you through the incidents.

I will then play excerpts from the calls to identify some of the respondent's false statements, followed by body-worn camera video from responding officers to illustrate victim impact.

Finally, I will provide an analysis supporting the Division's determination that the respondent's actions constituted serious misconduct.

And so, to begin, the respondent's background.

Next slide.

The respondent has spent his entire career with the Fresno Police Department, where he is currently employed. He joined the department in 1994 as a reserve officer, a Level II reserve officer, and became a police officer in 1996. He holds Basic, Intermediate, and Advanced POST certificates.

During his career, he has served in several assignments including patrol, violent crime suppression, Night Detective Unit, and U.S. Marshalls Task Force. He was also a member of the SWAT team for 19 years, both as an operator and later as a part of the support team. In this role, he gained extensive experience with emergency responses, and that is pertinent to the allegations at hand.

Fresno Police Department reported that prior to this incident, he had no disciplinary actions on file. After the incident, however, he did receive a letter of reprimand for failure to activate his body-worn camera while driving Code 3, lights and sirens.

This came to light after he collided with another car during that response. It is to note, though, that POST has no allegations of serious misconduct on file related to this specific incident.

I would like to move now to the sequence of events, which provide the factual basis for the Division's analysis, using a timeline to mark key events associated with the incident.

Next slide.

The respondent began a relationship with a woman to whom I will refer to as Victim 1 in the summer of 2022. At some point later in that year, Victim 1 moved into the respondent's residence.

In July 2023, however, Victim 1 moved out and partially broke off communication with the respondent.

In an interview with POST, the respondent stated Victim 1 would communicate with him in certain public situations when others were around, but, in private, would not initiate or respond to communications with the respondent.

The respondent nevertheless persisted in trying to contact Victim 1, and to her adult son, to whom I will refer to as Victim 2.

During the August 11th incident, Victim 2 reported the respondent once knocked on his door for 30 minutes and kept knocking and calling until neighbors came out to see what was happening. Victim 2 described the respondent's behavior more generally as stalking and harassment.

Approximately one month after Victim 1 moved out, the respondent placed the first anonymous call to the Fresno Police Department Communications Center. That call was placed at 4:41 a.m. on August 10th, 2023. The respondent did not give his name, and he blocked his caller ID.

In this call, the respondent reported a female was being assaulted. He provided an address for the assault, which was the residence of Victim 1 and Victim 2.

The police dispatcher designated this call as Priority 0, and noted in the dispatch log, this was an emergency, presumed life-threatening situation.

Now, for context, Fresno dispatchers prioritize calls using a numbering system. Priority 0 are the highest priority calls involving threats to life.

Priority 1 calls are also urgent, but not necessarily involving a threat to life.

And Priority 2 and Priority 3 calls are nonurgent situations, such as welfare checks and historical property crimes.

The event log noted at least one officer did, in fact, proceed to the scene Code 3, lights and sirens. And other officers did respond. On scene, officers conducted an investigation, determined there was no

disturbance, and departed.

At 10:08 p.m. on the following evening, approximately 41 hours after the first call, the respondent again called the Fresno Police Department Communications Center to report an in-progress disturbance. And, again, he blocked his number and declined to give his name.

After giving that report, 15 minutes later, at 10:26 p.m., he called the Communications Center a third time and provided additional details about the violent disturbance.

The Fresno dispatcher designated the incident as Priority 1, urgent, non-life-threatening property -- property crime in progress.

And units again responded and determined there was no disturbance.

During this response, the victims shared their suspicion that the respondent placed the calls, which lead to his identification as the anonymous caller.

Next slide.

So I've already given a brief summary of the call content. But now I would like to provide you with more specific detail by playing the calls themselves. The combined duration of the calls is nearly ten minutes, so to keep things moving along, I will play excerpts,

starting with excerpts from call 1.

Now, I do note that personal information regarding the victims has been redacted, accounting for some short gaps on the recordings.

If you will advance the slide, that will start the excerpts.

(Call 1 played.)

MR. TRIPP: Salient points in the first call are as follows: There's some kind of an ongoing violent disturbance involving a female who is screaming for help. There is frequent traffic through the apartment. The situation is happening right now, in realtime. And the caller does not want to give his name.

Next slide.

I will now play excerpts from the second call placed the following evening.

(Call 2 played.)

MR. TRIPP: The key points of this call are similar to the first: A female is screaming "Stop." The situation is happening in realtime. Additionally, the dispatcher does confirm that units will respond.

Next slide.

I will now play an excerpt from the final call placed just 15 minutes after the previous call. This excerpt begins 26 seconds into the conversation.

(Call 3 played.)

MR. TRIPP: This call amplifies the urgency of the situation. The caller describes the physical dispute involving breaking objects and says it is bad. The dispatcher confirms he's in contact with the officers and will relay the caller's information.

Regarding the response, Fresno police responded to the victim's residence on both days, August 10th and August 11th.

On August 10th, officers arrived on scene at 4:52 a.m., interviewed Victim 1 and Victim 2, determined there was no disturbance or assault, and departed within 15 minutes.

The interaction on that night between officers and victims was relatively cordial. Although officers woke both victims, they allowed them into the apartment without delay and cooperated fully with the investigation.

The response on the following day was more involved.

Officers arrived at the residence at 10:50 p.m. and were on scene for well over an hour. Officers interviewed Victim 1 and Victim 2 separately, who again stated there was no disturbance. This time, however, victims informed officers they suspected the respondent

placed the anonymous calls.

In addition to interviewing Victim 1 and Victim 2, officers canvassed other apartments. The canvass confirmed there had been no other disturbance as described by the anonymous caller.

Responding officers reported these allegations against the respondent to supervisory personnel and departed the scene sometime after midnight.

Next slide.

As Commission Regulation 1213(a)(2) designates victim impact as a factor when considering action against a peace officer's certification, I will provide a short excerpt from the body-worn camera video from the August 11th response.

This clip captures the initial interaction between officers and the victims. Now, when the video starts, officers have been knocking on the apartment door for exactly one minute.

Advance the slide.

(Video 1 played.)

MR. TRIPP: This was not the same cordial interaction that I described regarding the first encounter.

As you have seen, the video shows Victim 2 did not immediately allow officers into the department, but,

first, insisted on receiving some sort of identification despite the fact that the officers were in full uniform.

The reason for the victim's guarded demeanor was that he simply did not trust the police after they had showed up on his door a second time ostensibly for no reason.

Later, after the officers had rebuilt rapport, Victim 2 said he thought, quote, "Maybe you guys were friends and trying to harass us," unquote.

As I mentioned, responding officers communicated the victims' suspicions to supervisors. The department reviewed the three anonymous calls, recognized the respondent's voice, and subsequently initiated an Internal Affairs investigation.

Internal Affairs interviewed the respondent on October 10th, 2023. In that interview and in an interview with POST conducted on November 6th, 2025, he admitted he made the three anonymous calls to the Fresno Police Communication Center.

He stated he was at his own residence when he made the calls and that he fabricated the situation he described to the dispatcher. He stated he made these calls with the hope that Victim 1 would reach out to him. He thought that if he created a problem for Victim 1 with law enforcement, Victim 1 might seek his

advice since he, too, was a law enforcement officer.

In both his IA interview and his POST interview, the respondent accepted responsibility for his actions and stated he was not thinking rationally when he placed the call.

Next slide.

Following the conclusion of the Internal Affairs investigation, Fresno Police Department sustained five allegations against the respondent, including integrity and violating any misdemeanor statute.

He was initially proposed for dismissal. But following his Skelly hearing, he received a 160-hour suspension, demotion from his corporal assignment, and a lifetime last-chance agreement.

Next slide.

Regarding the dishonesty allegation -- and I have the code of the -- I have the text of the Penal Code and Commission Regulation on the screen -- the facts of the respondent's conduct are not in dispute.

Next slide.

The respondent admitted he placed the three anonymous calls. In those calls, he described an ongoing violent disturbance for assault. He knew there was no ongoing violence taking place and the situation he described was fabricated. His false statements were

material to report and, indeed, his false statements constituted nearly everything he said to the dispatchers.

The respondent made these false statements deliberately with the intent to deceive the dispatcher and the responding officers into believing an emergency was in progress when he knew there was no emergency.

These points address the key elements of California Penal Code 13510.8(b)(1) and Commission Regulation 1205(a)(1). Therefore, the Division has determined clear and convincing evidence demonstrates the respondent engaged in the serious misconduct of dishonesty.

Next slide.

Regarding acts that violate the law -- and, again, I have the text of the Penal Code and Commission Regulation on the screen -- although the respondent was not charged with a crime, the Division determined he violated California Penal Code 148.3(a), a misdemeanor.

Next slide.

The text of this law states, "Any individual who reports or causes any report to be made to any city, county, city and county, or state, department, district, agency, division, commission, or board that an emergency exists, knowing that report is false, is guilty of a

misdemeanor."

"Emergency" is further defined by Penal Code 148.3(c) as "Any condition that results in or could result in the response of a public official in an authorized emergency vehicle, among other circumstances."

Next slide.

And again, the facts of the situation are not in dispute.

The respondent reported a situation on three occasions to a city agency, namely the Fresno Police Department. Those facts described an ongoing violent disturbance involving a man and a woman in which a woman was screaming "help me" and "stop." He knew those reports to be false.

He knew how the Fresno Police Department prioritized calls for service and actually had personal experience with so-called Priority 0 and Priority 1 emergency calls.

Based on that knowledge and experience, he believed that call would be prioritized as an emergency, necessitating a response by Fresno police officers in authorized emergency vehicles. That is, in their patrol cars.

These points address the key elements of California

Penal Code 148.3. The Division therefore determined the clear and convincing evidence established that the respondent committed the facts that violated the law on three occasions in contravention of Penal Code 13510.8(b)(6)and Commission Regulation 1205(a)(6).

The facts I have just recited support the Division's finding that Officer Thakham was involved in serious misconduct, specifically dishonesty and acts that violate the law.

For the purposes of the Division's analysis, "clear and convincing evidence" means evidence of a charge is clear and convincing so long as there is a high probability that the charge is true. The evidence need not establish a fact beyond a reasonable doubt.

The Division recommends the Peace Officer Standards Accountability Advisory Board consider action against Officer Thakham's POST certification.

The Division's recommendation is based on the following, which applies both to the dishonesty allegation and the acts that violate the law allegation, as the same fact pattern applies to both.

Next slide.

Now, as I stated above, the respondent's misconduct was repeated, material, and egregious, with the respondent making three fabricated reports over a

41-hour period.

In making those reports, he used his colleagues and their good faith response to a purported emergency as a means to coerce a former domestic partner.

The respondent also placed his colleagues in inherently dangerous situations, namely the emergency responses and potentially confrontational encounters with the public.

The respondent disrupted the lives of Victim 1 and Victim 2 with necessarily intrusive police investigations, and he also disrupted the lives of other residents in the apartment complex -- in particular, on the night of August 11th, when officers canvassed the entire building to determine if there had been a disturbance.

And, lastly, the respondent diverted police resources from protecting the City of Fresno to address his fabricated emergency.

Next slide.

And that concludes my presentation. And with that, I'm happy to answer any questions from the Board.

CHAIRPERSON DUDLEY: Thank you.

Questions?

(No response.)

CHAIRPERSON DUDLEY: Apparently, there are no

questions from the Board.

Thank you.

At this time, does the subject officer and/or their counsel wish to make public comment?

(No response.)

CHAIRPERSON DUDLEY: Is there someone on this one?

MS. DEL MUGNAIO: No. No.

CHAIRPERSON DUDLEY: So there's no --

MS. DEL MUGNAIO: Just the written comment. So they received the written comment.

CHAIRPERSON DUDLEY: Yeah. The letter. Okay.

Okay.

MEMBER PENA: I actually have a question. I'm sorry.

CHAIRPERSON DUDLEY: Go ahead, please.

MEMBER PENA: I was wondering if you could -- I know there's a provision in the code that talks about looking at the facts of the cases in light of -- (audio malfunction).

CHAIRPERSON DUDLEY: We can't hear you. Would you mind starting again?

MEMBER PENA: Sure.

I think there's a provision in state law that talks about looking at these cases in light of the totality of the circumstances of the individual officer, looking at

their background, etc.

Can you talk a little bit about that provision?

CHAIRPERSON DUDLEY: It's not so much in the law. I can tell you that it's -- we, as board members, can consider those kinds of things in making our recommendation.

MEMBER PENA: Okay. So it's not -- it's not in state law?

CHAIRPERSON DUDLEY: I don't think it is. I think it is part of the policies of this board. But let me check with the real lawyers here.

MR. HOFFMAN: I think what you are referring to, Board Member Pena, are the 1213 factors in our regulations that look at the -- the different circumstances. That is going to be:

The nature and -- the nature and severity of the act that could be at issue;

The circumstances surrounding the conduct and the extent to which it impacted or caused any actual potential harm to the public;

Whether the officer is currently employed or not;

Whether it was committed under color of authority or while working in the capacity of the peace officer;

Peace officer's prior conduct, discipline, and service record;

The proximity or remoteness in time since it occurred;

Any mitigating or aggravating factors or evidence of rehabilitation;

The degree of accountability and cooperation with the investigation evidenced by the peace officer;

The extent to which discipline or forbearance would impact the best interest of the public, public service, the employing agency, and law enforcement;

The motives of the peace officer that resulted in the conduct;

Consistency of the penalty with those imposed upon other peace officers for the same or similars offense;

The clarity with which the peace officer was on notice of any rules that were violated in committing the offense;

The extent to which the action or omission was done intentionally, willfully, or maliciously;

The likelihood of recurrence;

And any other aggravating or mitigating factors relevant to the Commission's determination.

Does that answer your question?

MEMBER PENA: I think so. I think so.

CHAIRPERSON DUDLEY: So it is all of those things. Yeah.

MR. LOGGINS: And also the -- just for a quick -- I think you might be referring to when it is use of force, there's the totality of the circumstances, and that is in law. And that's for use of force incidents.

MEMBER PENA: Okay.

MS. DEL MUGNAIO: Yeah.

CHAIRPERSON DUDLEY: We may have yet another legal opinion. So stand by for a moment.

MR. HOFFMAN: In addition to the regulations, also section 13510 -- 13510 -- thank you. Point 8(g)(2). Thank you, Chief Counsel. That also refers to that any other aggravating or mitigating factors can be considered by the Commission. So I don't -- that is kind of a catchall that will catch those totalities as well.

MEMBER PENA: Okay. Thank you.

CHAIRPERSON DUDLEY: Any other questions or comments?

(No response.)

CHAIRPERSON DUDLEY: So let me just say, is there anyone from the public who would like to address the Board at this time? When it is your turn, you may state your name and organization if you wish. You will each be given five minutes to speak, and the time limits will be strictly enforced. So please ensure that you

complete your comments within the allotted time.

So let me first ask, is there anyone in the audience who wishes to make a public comment?

(No response.)

CHAIRPERSON DUDLEY: Seeing none, is there anyone remote?

(No response.)

CHAIRPERSON DUDLEY: Okay. Then let me ask the Board: Is there anyone who would like to go into closed session to discuss this, or are you comfortable discussing it publicly?

So first question: Anyone want to go into closed session?

MEMBER PENA: Yes.

CHAIRPERSON DUDLEY: Okay. Then let's go.

It is also lunchtime. So when we're back there, we will have our lunch. We will discuss this. So we'll be back out here at 12:30 with our discussion and take it from there.

So we will now -- the meeting will adjourn into closed session for deliberations on this case and for lunch. The board members will now exit the room and be back at regular session at 12:30.

(Time noted: 11:53 a.m.)

---o0o---

(Closed session was held:
11:58 a.m. to 12:15 p.m.)

---o0o---

(Time noted: 12:34 p.m.)

---o0o---

CHAIRPERSON DUDLEY: We will reconvene in regular session to take a vote on the Board's recommendation in the matter of case POST2316280. I'm afraid I'm not going to sound good on this. Khammouane Kevin Thakham, who at the time of the events at issue in this case was and still is employed with the Fresno Police Department.

What comments does the Board have on this matter?

Yes. Please. Nicole.

MEMBER CLAVO: I make a motion to decertify.

CHAIRPERSON DUDLEY: Okay.

Is there a second?

MEMBER LARA: I second.

CHAIRPERSON DUDLEY: Is there anyone that wants to make any further comments?

(No response.)

CHAIRPERSON DUDLEY: Okay. There's a second.

Mr. Knapp, will you please take a roll call.

MR. KNAPP: Thank you, Chair.

Clavo.

MEMBER CLAVO: Aye.

MR. KNAPP: Clavo, aye.
Crawford.
MEMBER HATCHER-CRAWFORD: Aye.
MR. KNAPP: Crawford, aye.
Dudley.
CHAIRPERSON DUDLEY: Aye.
MR. KNAPP: Dudley, aye.
Johnson.
MEMBER JOHNSON: Aye.
MR. KNAPP: Johnson, aye.
Lara.
MEMBER LARA: Aye.
MR. KNAPP: Lara, aye.
And Pena.
MEMBER PENA: No.
MR. KNAPP: That's five in favor. Motion carries.
CHAIRPERSON DUDLEY: Okay. So the motion passes. And there is an agreement for decertification.
Okay. Now calling the next -- thank you, gentlemen.
And at this time I will call upon Law Enforcement Consultant Raymond Bechler, Professional Conduct Northern; and Brian Hoffman, Attorney IV, Legal Affairs Bureau, to provide a report on POST2402338 [sic], Elliott Lopez, who, at the time of the events at issue

in this case, was employed with the California Highway Patrol.

Thank you.

MR. BECHLER: Good afternoon, Chair, Members of the Board. My name is Ray Bechler, and I'm a law enforcement consultant assigned to the Professional Conduct Northern Bureau in the Peace Officer Standards Accountability Division.

With me today is Brian Hoffman, an attorney with our Legal Affairs Bureau.

I'm here today to present Case Number POST2402838 involving Elliott Lopez, hereafter referred to as the respondent, formerly of the California Highway Patrol.

It is the Division's determination that clear and convincing evidence exists to demonstrate that the respondent committed an act of serious misconduct as set forth in Penal Code section 13510.8 on March the 24th, 2024.

Specifically, the Division has determined that the respondent committed the following act of serious misconduct: Acts that violate the law.

In this presentation, I will present a brief outline of the Division's findings regarding this matter.

The respondent began his career with the California

Highway Patrol on June the 8 -- June the 18th, 2004. He received his Basic Certificate on March the 18th, 2009. He was an active member of the Peer Support Team.

The respondent had three past annual performance evaluations for 2024, 2023, and 2022. The respondent was rated either proficient or excellent in all categories.

The respondent had no prior dis- -- no prior complaints of misconduct resulting in disciplinary action from his agency.

In regard to the present allegation, the California Highway Patrol became aware of the respondent's misconduct following his arrest in Las Vegas, Nevada, on March 24, 2024, for domestic violence against the victim, who he was in a qualifying relationship with.

The respondent resigned from his employment prior to being interviewed by Internal Affairs and discipline being imposed.

The CHP completed their administrative investigation and sustained allegations of misconduct against the respondent.

On October the 15th, 2024, CHP reported this case to POST.

A factual summary of the respondent's misconduct is as follows:

On March 24 -- in March of 2024, the respondent and victim traveled to Las Vegas, Nevada, for an annual trip with friends. The respondent, victim, and friends checked into the Westgate Hotel on Thursday, March the 21st, 2024, and planned to stay for several days to attend a popular cigar conference.

The next three days were spent with friends and seemed to go as planned as they enjoyed the conference and Las Vegas festivities at night.

However, on Saturday, March the 23, 2024, the victim, Respondent, and their friends visited Fremont Street to dance and enjoy music. As the night ended, the respondent and victim returned to their hotel for the evening.

At approximately 4:15 in the morning of March the 24th, 2024, the respondent physically attacked the victim by punching her in the face, head, arms, and upper torso, multiple times, causing significant injuries.

Hotel security received numerous calls from nearby guests regarding screaming and yelling, emanating from the respondent's room. They were directed to the respondent's room where the yelling was coming from and contacted the respondent.

According to security, they made -- entering into

the room and saw the respondent holding a trash can and had vomited. He also had blood on his finger.

Security asked the respondent where the victim was and eventually called her on a cell phone. The victim answered the phone and alerted hotel security that she was on the 25th floor. Security contacted her and called 911 for police and medical assistance.

Security detained the respondent in handcuffs and escorted him down to the security office, awaiting a police response.

Las Vegas Metro PD Officers Mayer and Nguyen arrived at the hotel. Mayer contacted the respondent who was being detained in the security office, while Nguyen checked on the victim, who was on the 25th floor.

According to the Las Vegas Metro PD crime report and inner CHP administrative interview, the victim stated that she and the respondent had been drinking at the Fremont Street Experience. The respondent drank too much, fell to the ground, and blacked out.

Friends had to call an Uber to get the respondent back to the hotel. Their friends had to help walk the respondent to their room and place him on the bed.

While the respondent laid on the bed, sleeping, the victim looked through his cell phone. In doing so, she found several sexually explicit messages and photographs

between the respondent and another person. The victim thought to herself, "Not again."

After sitting with her sadness and disappointment, the victim tried to go to sleep. But it was difficult for her to get into the bed as the respondent was taking up most of the bed space. The victim made numerous attempts to wake the victim -- or wake the respondent in order to have him move over so she could sleep.

Lacking a response -- lacking a response by the respondent and frustrated, the victim asked the respondent about the person he exchanged sexually explicit photographs and messages with. Calling the person out by name, who is -- upon hearing the person's name, the respondent suddenly woke up, looked around the room, and began wailing on her.

The victim described "wailing" as throwing punches to her face. She fell on the bed. She fell off the bed, onto the floor, curled up in a fetal position, and screamed for the respondent to stop, as he continued to repeatedly punch her.

The respondent -- the respondent stopped his attack momentarily, which allowed the victim to grab a cell phone off the table and run out of the room.

Officer Nguyen took numerous photo- -- photographs of the victim's injuries.

Las Vegas Metro PD Officer Mayer contacted the respondent, who said he had been out drinking with the victim on Fremont Street. They had an argument and then took an Uber back to their hotel where he passed out.

The next thing the respondent recalled was security waking him up. The respondent said he didn't remember the incident. He added that he and the victim had been having troubles but were working on their relationship.

Officer Mayer arrested and booked the respondent at the Clark County Detention Facility on a misdemeanor domestic violence charge.

The victim was transported by ambulance to a local hospital where she was treated for her injuries and released.

The victim was interviewed by CHP Internal Affairs on March 28th, 2024, just four days after the assault took -- and took these photos, which were caused by the respondent.

On March the 28th, 2024, the Clark County Nevada District Attorney's Office filed an amended criminal complaint to battery resulting in substantial battery harm, constituting domestic violence, which was a Category B felony.

On July the 9th, 2024, the respondent pled nolo contendere to a misdemeanor domestic battery charge.

The respondent was required to attend 13 classes of anger management counseling, spend two days in jail, pay court fines, and submit to a mental health evaluation.

The facts that I just recited support the Division's finding that the respondent was involved in serious misconduct, specifically acts that violate the law.

For purposes of this -- of the Division's analysis, clear and convincing evidence means evidence of a charge is clear and convincing so long as there's high probability that the charge is true. The evidence need not establish a fact beyond a reasonable doubt.

The Division recommends that the respondent's certification be revoked or suspended. The Division's recommendation is based on the following:

The Division found that clear and convincing evidence substantiated that the respondent's conduct amounted to acts that violate the law as described in Commission Regulation 1205(a)(6); and that on March the 24th, 2024, the respondent physically harmed the victim by hitting and punching her numerous times about the head, face, and shoulders.

The respondent's actions were inconsistent with the respondent's obligation to uphold the laws of the state.

The Division finds -- the Division finds the

respondent's act of violence upon the victim not only violated CHP's internal policies, but also a criminal act by violating Nevada Revised Statute 33.018, which, had it occurred in California, would have violated Penal Code section 273.5, corporal injury upon a spouse or cohabitant, a felony.

In addition to violating the department's policy, clear and convincing evidence exists that the respondent violated California Penal Code section 13510.8(b)(C) and Commission Regulation 1205(a)(6), acts that violate the law.

With that, I'm happy to answer any questions that the Board may have.

CHAIRPERSON DUDLEY: I was wondering if there was any consideration to the fact that he may have been legally unconscious at the time of his acts.

MR. BECHLER: Go ahead.

MR. HOFFMAN: When you say "legally unconscious," I'm --

CHAIRPERSON DUDLEY: As we know, as attorneys, if you commit an act, but at the time that you commit the act, you are unconscious --

MR. HOFFMAN: So --

CHAIRPERSON DUDLEY: -- then you are not liable for an action.

MR. HOFFMAN: So battery is from -- in Nevada and California, is a general intent mens rea.

In terms of whether or not he was legally unconscious or not, the investigation -- I -- I don't remember if there's was there was a BAC level taken promptly as part of the investigation or not. So we don't know what his level of intoxication actually was.

But I don't think there's a full determination made on whether or not he was legally unconscious by anyone in Las Vegas or by the Division.

CHAIRPERSON DUDLEY: Okay. Yes.

MEMBER LARA: I remember reading in the -- in the -- in the report that the defendant had mounted the victim.

And so for me --

CHAIRPERSON DUDLEY: I'm sorry. He did what?

MEMBER LARA: Well, a mount is a position, say, in, like, in a mixed martial art, where the person is either kneeling over or on top of.

And so if -- if we're talking about intentionality, this does not appear to be wild flailing of an uncontrolled intoxicated person; but a purposeful, intentional mounting of a person to inflict more severe harm.

And so could you elaborate for us if you -- if I'm

correct in my recollection of reading that the -- some of the attack occurred from a mounted position?

MR. BECHLER: Yeah. The -- excuse me. Yes. Yeah. The victim did mention that when he got off the bed, got on top of her, in an MFA -- or MF- -- whatever --

MEMBER LARA: MMA.

MR. BECHLER: MMA style, mounted her, and then began wailing on her. That's -- that's her words.

To address your point, Chair, the issue of his awareness spiked when he was -- when he heard the name being said, is when he came to. And then that -- the whole subsequent violent act occurred after that.

So he was aware enough to understand who -- who she was talking about, the victim was talking about. And then responded, reacted accordingly.

CHAIRPERSON DUDLEY: And he pled guilty.

MR. BECHLER: He -- he pled nolo contendere.

CHAIRPERSON DUDLEY: Right. Okay.

MR. BECKER: Yes. Essentially.

CHAIRPERSON DUDLEY: So the same as pleading guilty for all criminal purposes.

So we don't -- so there was never really a hearing on this. And certainly no attorney raised this issue that he may have been unconscious.

Okay. Anything else on that, Captain?

MEMBER LARA: No.

CHAIRPERSON DUDLEY: Okay. Other thoughts and comments from the Board?

MEMBER CLAVO: I had a -- Mr. Lara, did you have another question?

MEMBER LARA: No.

MEMBER CLAVO: Oh. I had a question, and hopefully I'm not getting cases confused.

But I think I recall him saying that he thought she did this to herself. Was that his case?

(No response.)

MEMBER CLAVO: So I'm a little confused during his statement, during the investigation, him making this reference to, oh, she did this herself. She's just trying to take me down, take my job, this, that, or another. But, yet, he pleaded "no contendere." Hopefully I said that right.

But -- so I was just a little confused. But he did state those things in the report?

MR. BECHLER: Yes. I -- I called and had an interview with him. And he had mentioned that's -- he had mentioned, at that time, that maybe the possibility that she might have done that. Because he was saying that he didn't know what happened. So he -- he had mentioned that and maybe she had done that by -- to

herself. You are correct.

CHAIRPERSON DUDLEY: Yes.

MEMBER HATCHER-CRAWFORD: So one of the things that kind of caught my attention was although he mentioned he wasn't aware of what he did -- and then Chair Dudley talks about there being an unconsciousness -- in reality, in the community's world, those type of circumstances are not exceptional.

If it had been me, and I had been drinking and I did this, I would be charged with assault. And that comes to that responsibility piece and accountability piece. That, as a community, just as you expect more from me, I expect more for anyone who is wearing a uniform, who is sworn to serve and protect me.

So I will say out loud -- and I think putting it back on the victim, whether -- we were not in that room. They were in the room.

Looking at the pictures, I could not possibly see how she could have inflicted those marks on herself, unless she had somebody drive in from wherever, to Las Vegas, and give her a black eye, this on the arm. And I just didn't understand that.

So I think what took me back was the accountability piece. And so...

CHAIRPERSON DUDLEY: Just to be clear, I'm talking

about a state of blackout.

MEMBER HATCHER-CRAWFORD: Right.

CHAIRPERSON DUDLEY: So where -- where someone who commits what would be a crime, if you weren't in this state of blackout, versus someone who was.

The reports that we read talk about him collapsing; him needing to be lifted; him needing to be moved on to the bed; his being nonresponsive when she wanted to get into the bed.

And I just didn't have a clear understanding about that as I was reading the reports. And that's where my question came from.

I mean, there's no doubt in my mind that if he was conscious and these were the kinds of things he was doing, how outside the law they are. I just wanted to address that question. But I certainly understand the accountability issue.

Yes.

MEMBER PENA: I believe it was in this record where, once they got into the hotel room, he was on Chat G -- what is it called? He was communicating with someone online.

MR. BECHLER: I'm not familiar with what you are referring to.

CHAIRPERSON DUDLEY: That he was -- that he was

texting his girlfriend or somehow communicating with her.

MR. BECHLER: So the victim found that on his phone? Yes.

MEMBER PENA: She found it on his phone. But he had been -- he was on his phone right before he went to sleep. I believe I read that in the record.

MR. BECHLER: No. He was -- he was blacked out completely. But -- well, he was a -- he was on the bed, sound asleep. Passed out. I will say that.

CHAIRPERSON DUDLEY: What you read, a communication between --

MEMBER PENA: Was earlier?

CHAIRPERSON DUDLEY: I believe so.

MEMBER PENA: Okay.

CHAIRPERSON DUDLEY: Is that your -- gentlemen? The communication he allegedly had with his alleged girlfriend was before this incident.

MR. BECHLER: Oh, yeah. We're assuming so. Prior. Prior to this incident.

MEMBER PENA: Okay. Thank you.

CHAIRPERSON DUDLEY: Yes. Mr. Johnson.

MEMBER JOHNSON: I'm curious. I have -- I must have missed it.

Why are we here? I mean, he resigned, correct?

CHAIRPERSON DUDLEY: But we're talking about whether he is decertified. Meaning, he can't apply for --

MEMBER JOHNSON: Oh, no. I mean, I understand that.

But -- because he has a right to contest it, right? The fact that he was resigned and the fact that it's been reported to POST. So is he asking for his job back?

I'm just saying, I'm not clear on -- I understand we have procedures to follow. But does he really want his job back?

CHAIRPERSON DUDLEY: I don't know. But I think our decision needs to be based on whether he should get his job back. What he wants, none of us know.

MEMBER JOHNSON: Okay. So then, really, all the other details don't matter because it is pretty obvious he don't want his job back because he hasn't taken a form of defense. And so, really, to me, we just waste -- this is just me speaking. We're wasting more time about it then.

MR. BEATTY: Yeah. I think that we're just making a decision. You all are voting on the record in front of you --

MEMBER JOHNSON: Okay.

MR. BEATTY: -- and whether that is something that it proceeds to an ALJ -- you know, if those facts were to be proved, would warrant, you know, the charge be brought in front of it. So that's what -- we don't know his intention and probably shouldn't -- shouldn't calculate on it, because it is unknowable.

MEMBER JOHNSON: Okay.

MS. DEL MUGNAIO: One point of clarification.

So Board Member Johnson, he affirmatively appealed --

MEMBER JOHNSON: Okay.

MS. DEL MUGNAIO: -- the decertification proceeding, which is why it is here in front of you.

MEMBER JOHNSON: Okay. Yeah.

MS. DEL MUGNAIO: Yeah. Has he defaulted, which means didn't respond to us, you wouldn't be hearing this matter.

MEMBER JOHNSON: Right.

MS. DEL MUGNAIO: It would be an automatic revocation.

MEMBER JOHNSON: Right.

MS. DEL MUGNAIO: So his intent was to appeal this body. To appeal to this body. Yeah.

MEMBER JOHNSON: All right.

MS. DEL MUGNAIO: Thanks.

MR. HOFFMAN: Just -- if I may add a point of clarification on the point of consciousness or lack of consciousness, under California law, a person who is presumed to be conscious is a criminal defendant. And they would have to produce -- the burden is on the defendant to produce that they were in an unconscious state or a state of blackout beyond a reasonable doubt.

That's not necessarily the standard that we apply here in the administrative process, but just to provide a little bit further clarity on that topic.

CHAIRPERSON DUDLEY: Yeah. Thank you.

Because there wasn't a hearing, that never came up. He pled nolo.

MR. HOFFMAN: Correct. We have no evidence either way on that -- in light of the --

CHAIRPERSON DUDLEY: And, yes. The administrative standard of beyond a reasonable doubt versus clear and convincing. Clearly different standards.

Anything else on this? Any other questions?

(No response.)

CHAIRPERSON DUDLEY: At this time, does the subject officer and/or their counsel wish to make a public statement?

And is he here or remote?

MS. DEL MUGNAIO: He's here.

CHAIRPERSON DUDLEY: Okay. Thank you.

You will be given five minutes to speak, and the time limits will be strictly enforced, so please ensure that you complete your comments within the allotted time.

While commenting, keep in mind that the Board will only consider the facts as presented by the Division today and will not consider any additional facts or defenses at this time.

The sole question before the Board today is the following:

If the facts offered by the Division today are, in fact, proven at a later hearing, do those facts demonstrate a high probability that serious misconduct, as defined in Penal Code section 13510.8, and Commission Regulation 1205 occurred?

And, sir, would you introduce yourself, please.

MR. LOPEZ: Thank you. My name is Elliott Lopez, formerly with the California Highway Patrol.

I would like to begin by saying thank you for listening to this and taking it into consideration for not revoking my certificate.

First of all, I would like to say that this is something that is completely and unequivocally out of character for me. I have never been in contact with law

enforcement negatively other than a traffic stop.

I did go out that night. We did have drinks. And I had not been drinking for quite some time. I am diabetic and I've been taking care of it. For the week leading up to it, I had not taken my medication.

And I did, 100 percent, completely black out. The last thing I remember was watching some show with some young child on Fremont Street.

The next thing I remember, somebody is pounding on the door, asking me to get out of the room.

As per witnesses on BR11, Witness 1 in the IA investigation corroborates the fact that this was something completely out of character. On talking to one of the witnesses, he gave me a statement stating that my spouse, once they threw me in the room -- because I was completely unconscious -- followed them out to the elevator and told him that I had asked her for a divorce the month before.

The reason I went to this -- to Vegas for the cigar convention was because friends of mine, of ours, had paid for the entire trip and I didn't want to leave them behind. I didn't want to not -- to spend the money that they had already spent on me going.

She told him that ever since I asked them for the divorce, all I talked about was wanting to beat her up,

which, I can tell you, 100 percent is not true.

After the incident that occurred and everything that happened, law enforcement did not take any photographs of myself, of any wounds that I may have had on my hands, or defensive words from her. Nothing. There was nothing on me, which is something that I remember sitting in jail, just looking at, to try to see if I had anything.

Since the occurrence, I have done everything that is required of me.

I know the question of did I plead no contest came up? Yes. And I will explain myself at the end, because I don't want to -- make sure I have enough time.

CHAIRPERSON DUDLEY: If you need additional time, you can have additional time.

MR. LOPEZ: Okay. The reason I pled no contest was because I was given five minutes. I went to Vegas. I was told, hey, this is a preliminary hearing.

I said perfect. No -- not guilty. We'll go -- we'll figure this out later.

He goes no, no, no, no. That's not how this works. He goes, you can either plead no contest or you take this to court and you lose; you go to one year in prison automatically, no matter what. You have five minutes to decide.

So being an ex-police officer in another state, going to prison for a year; or I plead no contest and I do everything they ask and this goes away in a year. To me, it was an easy decision. I don't feel I did it, and I'm not placing blame on her.

It is just very hard that we were married for 14 years, together for 18. I asked her for a divorce a month before this happens. And then, all of a sudden, I become this violent monster that attacks her?

That's why I find it very difficult to believe that I had something to do with this. It sucks. I was a horrible husband towards the end of the years. But I'm not violent by any means.

I did this job for 17 years. Not once -- you heard him testify. Not once did somebody complain. And I was in a lot of fights. And I would pick people up, dust them off. And my commander would actually tell -- actually, we talked about this after the fact. She goes, it's funny how you get in fights with people and you guys are laughing on the way to the jail, because they think you are the coolest guy ever for not going farther beyond of what you've -- what you should have, because they deserved it. She goes, and you guys are like friends. She goes, I don't know how you do it, but it always happens.

Getting back to this, the reason I believe -- and I'm not, again, shifting blame -- the victim, my ex-wife in this, has changed her stories on three different written accounts of this.

The first was she found text messages. The report she gave to Vegas Metro was she just pushed me and I went crazy.

Another account was she just walked by and I just woke up and started swinging.

And she told several people that she felt her life was in danger. Yet, again, at no point did I have any kind of defensive wounds.

Being a diabetic, those defensive wounds stay for quite a long time. I have scratches on my feet from two years ago. So I still, to this day, have nothing from that night.

This is the last thing I will say.

I am the first person in my family to do anything good, so to speak. My father came over from Mexico, worked his ass off. And if I can be half the man that guy is, I'd lead a pretty good life.

My mother, who passed away three years ago, wasn't the greatest mom but she did her best.

I would never do anything to make anybody ashamed or do any -- I wanted to be a cop since I was a kid. I

was an Explorer with the Highway Patrol at 14 years old. I did it for the four years. After that, I tried to join at 21 and my -- my score wasn't high enough to become an officer because my oral was only 85 and not 95. And then when I finally went through in 2007 -- not 2004, I apologize -- when I went through in 2007, they were letting 70s through. So my 85 got me in pretty quick.

But I did my job great. From my first year, when I, unfortunately, watched my partner get killed; and then being in two shootings subsequently over the following years, I had every reason to drink. I had every reason to be an asshole. I had every reason to be a horrible person, and I did my damnedest not to be. And I was a great cop. I was a horrible highway patrolman. I hated writing tickets. But I was a damn good cop.

So with that, I will tell you and I will say thank you for listening. I will say thank you for taking my answers and any questions you may have and respect for not -- I would like to go back to the Highway Patrol.

CHAIRPERSON DUDLEY: Let me start with some questions.

How long were you in custody?

MR. LOPEZ: I was arrested -- that's another --

that's another -- I was arrested about 4:30 in the morning, I believe the report says. And I was detained in handcuffs until about 10:30 in the morning, before I was actually taken to the jail.

I was never given a BAC. The nurse finally at the hospital -- or sorry, at the jail, checked my -- my diabetes, my blood sugar. And I was well over 400. And that was six hours, seven hours after the fact that I had finished drinking. So it was pretty high up there.

CHAIRPERSON DUDLEY: Okay. That wasn't my question.

How many hours were you in custody?

MR. LOPEZ: Oh. I was let out -- so I -- I'm horrible at math. That's why I became a cop.

CHAIRPERSON DUDLEY: Okay.

MR. LOPEZ: I was let out at about 2:00 on Monday morning. 2:00 or 3:00 on Monday morning. Or, sorry, 2:00 or 3:00 on Monday afternoon.

CHAIRPERSON DUDLEY: So you said that no one took photographs of your hands to show any defensive wounds.

You did -- you have done evidence collection your entire career. Why don't you get photographs of your hands?

MR. LOPEZ: It wasn't -- how do I say this? It wasn't -- I was so in shock of everything that happened.

I mean, I should have. I -- I understand what you are saying.

CHAIRPERSON DUDLEY: No. Only because you said, when you were in custody, you were looking at your hands and saying they didn't take pictures of my hands. So it was a thought you already had.

But when you got out of custody, you didn't get photographs of your hands?

MR. LOPEZ: No.

CHAIRPERSON DUDLEY: Okay.

MR. LOGGINS: I was just trying to get home. I apologize.

CHAIRPERSON DUDLEY: And help me understand. Was this a private lawyer or a public defender?

MR. LOPEZ: Private.

CHAIRPERSON DUDLEY: And this is someone you were paying.

MR. LOGGINS: Yes.

CHAIRPERSON DUDLEY: And they were telling you, you have five minutes to make a decision?

MR. LOPEZ: Yes.

CHAIRPERSON DUDLEY: Okay. But you have been in this world of attorneys and law enforcement for a long time.

Why couldn't you say, "No. I want more than five

minutes or I want another lawyer"? Why did you feel you had to be, for lack of a better term, a victim to what he was telling you about the fact that you only had five minutes?

MR. LOPEZ: It was a -- it was a decision that rationale and emotions kind of played in. It was, hey, this or that. Now, like -- we can take this, but you are going to go to prison. You have no defense.

CHAIRPERSON DUDLEY: And you felt help- -- you felt there was nothing you could do.

MR. LOPEZ: I felt helpless. It was -- it was just -- I was so emotionally charged.

CHAIRPERSON DUDLEY: Okay. Even though this is someone you are paying to do a job. Okay.

And how did your ex-wife get all those injuries?

MR. LOPEZ: I don't know. I can -- I can assume but I can't tell you.

CHAIRPERSON DUDLEY: So what do you think happened?

MR. LOPEZ: What do I think happened?

Unfortunately, with circumstances after the fact, I believe she did them to herself. And the reason I say circumstances after the fact is because she has changed her story. And she had a restaining order against me for about a year and three months. And then she goes, hey, I'm going to take it off but I want you to

continue -- you can't be a cop. Like, maybe go to POST and all that stuff.

And just recently, in the last 30 days, she's upset because I'm not paying for everything. So she has told her lawyer to place a restraining order back on me so I can pay for all the bills at the house. Not for --

CHAIRPERSON DUDLEY: You explained the ways that she changed the story. I didn't hear you ever say that she admitted to you or anyone else that she did it to herself.

MR. LOPEZ: No. She hasn't. That's just --

CHAIRPERSON DUDLEY: Okay.

MR. LOGGINS: -- my thought.

CHAIRPERSON DUDLEY: I don't have any more questions.

Other board members?

MEMBER CLAVO: You asked all mine.

CHAIRPERSON DUDLEY: I'm sorry?

MEMBER HATCHER-CRAWFORD: Go ahead, Nicole. Then I'll go --

MEMBER CLAVO: You asked all mine.

CHAIRPERSON DUDLEY: Ms. Hatcher, you go first.

MEMBER HATCHER-CRAWFORD: I would say that, unfortunately, you -- you get to see on the other side of some of the things that the community goes through.

And to the point of I'm not an attorney, one. But I have seen people going through the court system where they are told what you were told.

And your first life survival is let me take this and please, God, let it go away, not understanding the ramifications or the end results of why we are here now.

One of the things that I'm struggling with -- and so I'm talking to you -- is the -- the blackout statement, you know, of swinging and her -- her story, not yours. Swinging. And then the injuries where they are -- I'm -- I literally at one point tried and I'm like, how do I hit my arm and get this?

And so that was the accountability piece. And so as Chairman Dudley talked about, a little bit about the blackout portion and some of the other things, those raise doubt.

But I would -- I guess my question to you is -- couples do things, and when they are in a battle, things are said and things are done.

I guess my question to you is the accountability piece of it. Do you feel that you played any role other than that what you described, or what maybe later you thought about, that happened in that room in your blackout statement?

That's kind of -- I know it kind of sounds --

MR. LOPEZ: I think I understand what you are trying to say is, do I take any accountability for what happened in that room that night?

MEMBER HATCHER-CRAWFORD: Right.

MR. LOPEZ: Yes. I take accountability for the fact that I was not completely divorced, and I was speaking to another woman, and it was not the first time that I had, unfortunately, cheated on my wife.

We had had this conversation many times over, where I felt that she was more of a roommate than a spouse. And I had asked her about going to counseling. We never went.

And then, finally, I had the courage to ask her for a divorce, which, again, is why -- I don't understand why after all these years of nothing, I asked her for a divorce and then less than 30 days later, here we are.

I will say this: I am accountable for drinking. I was handed those drinks. And I -- I willingly took them. I drink rum and tequila is what I usually -- or sorry. Rum and pineapple juice is what I usually drink. These drinks were tequila and pineapple juice. So an extremely higher BAC alcohol.

And they were -- they weren't a glass. They were cups. I take responsibility for drinking those and allowing myself to get in state of inebriation that I

could not take care of myself. For that, I'm an idiot. It had been years since I drank like that. And I can't remember the last time I drank so much that I blacked out. But I allowed myself to get to that stage.

I cannot say 100 percent without a doubt, hey, she did it. I cannot say. I can only speculate.

What I can say is that I have no recollection of --

MEMBER HATCHER-CRAWFORD: Do you currently drink now?

MR. LOPEZ: No. I stopped. After -- after that incident, I stopped drinking.

Even -- I was just in a motorcycle accident that -- you saw, when I was limping when I walked up -- six months ago. And I broke every -- my legs, both legs, both arms, broken. I didn't even take the pain meds. Whatever they gave me in the hospital, I took. And they sent me home after a month of rehab, and I didn't even take those.

MEMBER HATCHER-CRAWFORD: So you went through, also, anger management classes?

MR. LOPEZ: I did.

MEMBER HATCHER-CRAWFORD: Do you recall that?

MR. LOPEZ: Yes.

MEMBER HATCHER-CRAWFORD: Was it helpful?

MR. LOPEZ: They were. They were -- in the

beginning, I'm like, why am I here? I don't feel like I have anger problems. Again, I have every reason to have them, but I didn't feel like I had them.

But after kind of listening to other people's stories and kind of being part of the classes, I think they were good.

I learned to -- I have always been -- I have been on our peer program since 2011. And I was in multiple line-of-duty deaths, talking to people, and I -- that was one of the thing I would tell them, hey, talking is the best thing. Keeping it bottled up, you are going to be like a firework. You are going to explode. Let it out. And if you have to explode over one drink every now and then, that's fine. But don't -- don't hold it in.

So this helped me realize that much more.

MEMBER HATCHER-CRAWFORD: Okay. Thank you, sir.

MR. LOPEZ: Thank you.

MEMBER CLAVO: I have a question. I have a couple.

CHAIRPERSON DUDLEY: I know.

MEMBER CLAVO: I know.

Did you enjoy your job?

MR. LOPEZ: I loved it.

MEMBER CLAVO: I have heard you made this estimate a couple of times while you were speaking that you had

every reason to feel angry. Why?

MR. LOPEZ: So December of 2009, I watched my partner get run over and killed while I was working in Los Angeles. That was trauma that not -- I would say a very small percentage of officers deal with. Being with someone that you went to the academy and you watched them lose their life right in front of you. And you can't do anything to save them.

And I remember me and my spouse -- she was my girlfriend at the time, arguing about it. And I'm telling her, hey, I should have died. We have no kids. He's got five. Why did God decide to take him and not me?

Many times people would get into fights with me. Again, as a highway patrolman, we work alone, for the most part, until we get together at night. So there was plenty of times where I fought with people by myself.

And in an -- in an unincorporated area like Tuolumne County, back-up will be 45 minutes away. That's why it's nice being in -- when I worked in LA, because back-up was always about five minutes away. So there was always that portion of stuff.

I, in my career, have been in two shootings. Unfortunately, the second shooting I was in, in March of 2022, the party that I was involved in the shooting with

did lose his life. That is something that we know, as law enforcement, is possible, but that is not something that any of us want to do. And I didn't want to do it. But when somebody points a gun at you, you have to protect yourself and the person next to you. So it happened.

And, again, you know what? I can just drink and I will be fine. But I couldn't --

MEMBER CLAVO: Did you seek counseling for any of those incidents?

MR. LOPEZ: All of them.

MEMBER CLAVO: Are you seeking counseling now?

MR. LOPEZ: Yes. So I did seek counseling for all those incidents. And as of the incident that occurred in March of '23 -- '24? '24. I have been going to counseling every two weeks minimum. So either by phone or in person.

MEMBER CLAVO: So it would be my assumption that through your training, you have probably seen domestic violence victims. You may have investigated some.

So how would you say, in your professional opinion, one would receive bruises as extensive as your previous -- your former wife received, and how would one do that to themselves? How would -- how could one do those type of arm bruising, black their eyes, facial,

jaw bruises to themselves?

MR. LOPEZ: So many ways, unfortunately.

And the only reason I know is from conversations that I have had after the fact with people that have had -- like one friend I talked to, she goes, yeah, my mom used to beat herself all the time and tell -- call the cops on my dad. And she hit herself or grab something and hit herself. She would run into the wall and do all these things. I don't know if she did that.

I will tell you this: That I was an instructor for physical methods of arrest and fighting and defense tactics in the academy -- or not in the academy. But at the office. I was the training officer for that.

And I'm a large individual. Something I did think about after the fact is, if I did hit her the way she said I did, she has veneers. I would have easily knocked the veneer out. I would have easily broken a nose. I would have easily broken an eye socket. I'm not a small man. And if I was as angry as she is saying I was, and I was trying to murder her like she said I was, those wounds that you see those photographs would have been much worse.

So, again, I'm not saying that -- in my heart, I don't feel like I did it. The only other thing is, I feel that she did it to herself. I do feel had it had

been me, the injuries would have been much worse, given her account of the actions.

MEMBER CLAVO: Last question: In your hotel room, were there items in the room that could have -- she could have used to do that type of violence to herself?

MR. LOPEZ: It's been a while. I mean, she could have hit herself with a lamp. There was lamps in the room, type thing. There was TVs. There was drawers. There was the bed. There was the floor. There was walls.

MEMBER CLAVO: Normal --

MR. LOPEZ: Normal.

MEMBER CLAVO: -- hotel room, right.

MR. LOPEZ: Yeah. Nothing I could -- there was no bat in the room.

MEMBER CLAVO: Okay.

MR. LOPEZ: Nothing like that.

MEMBER CLAVO: Thank you.

CHAIRPERSON DUDLEY: Yes.

MEMBER LARA: I have a couple of questions for you.

So first thing is I -- the first things I've heard you to say today is "I don't feel I did it. I don't believe I did it."

And so that being the case, just with your background as a law enforcement officer, if you don't

believe or feel or perhaps, at some point, you will say today that "I didn't do it," why would you not have taken this to trial?

Instead of -- I mean, I hear the "I had the six-odd minutes to do so."

But you had two opportunities to explain and defend yourself: The first at trial; and, to my mind, the second is you could have given a compelled statement with your agency under -- under the threat of losing your job. But you chose to take neither of those opportunities to defend yourself.

Can I ask why?

MR. LOPEZ: So the first reason for the -- while we were in trial, was the one year in prison. That was hands down the reason that I took the plea, because he's like, hey, one year in prison, you are now a felon. You can never own guns ever again. And kiss your law enforcement career goodbye. That was hands down for that one.

For the one before that, in April, so the -- the jury trial was July. Or not the jury trial. But when I pled no contest was July.

The interviewer resigning from the Highway Patrol was in April. I was told by our union, one of the head guys in our union, don't even fight it because you are

going to lose your job.

And I'm like, wait. What do you mean? Like, I shouldn't have a chance?

And he's like nope.

We had a case where a husband and wife got into an argument. He was arrested for pushing her. She recanted the whole thing, and they still fired him. He goes, so take away, quit, resign with your head held high, and at least you can go to another agency.

Worst -- worst decision I ever made by not -- by not going through with the interview.

And as I told the investigator, when he called me, I'm like, any questions you have, I will answer. There was no reason for me not to answer that question. And that's why I'm here today so that you folks can ask any questions that you may have regarding any of this situation.

I have nothing to -- to hide. I'm not trying to do anything. I literally just would love to get back into my career.

MEMBER LARA: But there was no threat of a felony or compelled statement through your agency; is that correct?

MR. LOPEZ: Correct.

MEMBER LARA: That's all I have.

CHAIRPERSON DUDLEY: Yes. Mr. Johnson.

MEMBER JOHNSON: So as I was reading your wife's interview, she talked about two to three years prior to the incident that she kept asking you to get help. And she did lean toward the fact that you was involved in a shooting.

You know, so it's pretty obvious that there was trouble in the home to such a degree that she was repeatedly asking you to get help. Why?

MR. LOPEZ: So I'm going to say this with all respect. And I apologize for using vulgar language. I am, to all extent, the nicest asshole you will ever meet.

The communication between me and my wife was horrible. We never talked. I never told her anything because everything I told her was used against me. So she took me shutting down and not saying anything as me being -- needing help. And it wasn't that she was -- she was upset because I didn't tell her, because I didn't talk to her.

The reason I didn't talk to her was, case in point, after my last shooting, I got home at 1:00, 2:00 in the morning and she's blitzed. She had gone out with friends. I called her. "Hey, I have had an incident. I was involved in a shooting. Someone died. I'm okay."

And instead of being like, okay, that's it, I'm done, I'm going to go home and wait for my husband, she proceeded to get blackout drunk. Well, not blackout because she was still awake when I got home. But she was highly, highly intoxicated.

And she told me, as soon as it happened, I went back to the table and I'm like, hey, let's -- I got to take shots. We got to take shots. Elliot was just in a shooting. He killed someone. Let's take shots.

We get to that night -- or I get home that night and she asked me what happened. I tell her the entire story.

The next day, she's upset at me because I told somebody else the story. I'm like, yeah, the officer -- the other officer was injured. She's like, "You didn't tell me that."

I'm like, "Yes, I did." We were -- I told you that he got hurt by -- when I fired my gun. It was in his ear so he got hurt.

And me and her just didn't have communication. So that's why she would say that I needed help because I didn't ask her for it.

MEMBER JOHNSON: So I guess my follow-up question, then, would be if I heard correctly earlier, you talked about the struggles of the shootings. I'm not sure if I

read or heard you state the loss of a parent, someone being really sick.

But in your own mind, you didn't feel that was nothing wrong with you and it all had to -- it is pretty obvious because it keeps sounding like it was more your wife than yourself.

So I'm -- my last, though -- you know, and I would like to hear a response to that. But I wanted to add this too: Why are you here without representation?

So that's two -- a two-part question.

MR. LOPEZ: Okay. Can you ask the first again? And then I will --

MEMBER JOHNSON: Yeah.

MR. LOPEZ: -- tell you the second.

MEMBER JOHNSON: It appeared earlier that you were stating that you knew you needed some help. You have been involved in the shooting. Parent was dying or someone dying. You know, there was trouble happening in your life.

But you just expressed that it really wasn't you. You are okay. But I think earlier, if I heard it correctly, that there was some struggles in your life, and you knew that. And but, yet, you refused to get help.

And -- and because of that it escalated to a point.

And it is really hard for me to believe, unless it was a true blackout, that you beat your wife the way she had those bruises.

I mean, she had two black eyes that was just horrifying. I mean, and it is almost like you -- we know there's abusive folks in the -- in the home. Especially it could be a husband. And sometimes he will beat his wife more than once over a period of years.

So you never, ever touched your wife before violently like that, until that night?

MR. LOPEZ: Well, that is the reason why I do not believe I did it. I never --

MEMBER JOHNSON: But, yet, you still say you didn't believe you needed help.

MR. LOPEZ: I didn't -- I didn't believe that I needed so much help that this would happen. Everybody needs help. Everybody -- I tell every -- every new person that comes on, I tell every -- every new person that's been around for 20 years, "Hey, man. You know what? Go find a good counselor, even if you go once a month."

MEMBER JOHNSON: And so I know you was a part of a peer group, and I think you was mentoring in that peer group. So you know all the right things to say. But, yet, you didn't apply them to yourself.

And so my last question, though, is what happened in Vegas and pleading no -- "nololo," whatever it's called? What is it called?

CHAIRPERSON DUDLEY: No contest.

MEMBER JOHNSON: No contest. Right? Why -- I mean, and that was the biggest mistake in your life that you stated.

Why are you here without representation today?

MR. LOPEZ: I don't want you to think that I have anything to hide. I don't. I'm not hiding anything. I'm not hiding behind a lawyer. I'm not hiding behind anyone. I just want to be a cop again. I was a good cop. And I am a good cop. I did everything in my 17-year career. I was good. I was a horrible "Chippie." I worked at night for probably 12 out of the 16 years, 17 years that I worked. But I was a damn good cop.

So I don't have anything to hide. That's why I don't need a -- to hide behind a lawyer. That's why I did not bring any counsel with me today.

CHAIRPERSON DUDLEY: Anything else, Mr. Johnson?

MEMBER JOHNSON: I'm done.

CHAIRPERSON DUDLEY: Okay. Ms. Hatcher-Crawford?

MEMBER HATCHER-CRAWFORD: I just have one more thing.

CHAIRPERSON DUDLEY: Sure.

MEMBER HATCHER-CRAWFORD: Thank you for coming here because we really appreciate you being here.

You always make the statement -- and I have heard you twice say it, maybe more than twice -- that you are a nice asshole. Excuse my --

MR. LOPEZ: Yes.

MEMBER HATCHER-CRAWFORD: -- words for saying it.

But what does that exactly mean? Again -- and I'm speaking from the community. And I believe in community policing. And if I run across an officer that is that, I may have a problem. So could you kind of expound on that?

MR. LOPEZ: So I -- the reason I say that I'm a nice asshole is because you get what you give. If you are nice to me, I will be nice. I was told a long time ago, in the beginning of my career, to do the job like your family is standing over your shoulder. And if somebody is being nice and somebody is being respectful, that's exactly what you get.

If somebody is trying to be an A-hole back to you, if somebody is just trying to chip on you and somebody is trying to -- sometimes you kill them with kindness, but sometimes you got to treat them the way they are treating you.

And I can't tell you how many times in -- I have an old partner that still complains to this day how he would say "please" and "thank you" and I would tell people to shut their fucking mouth. And after that, they are like, okay, you are not messing around.

And I'm like, nope, we're not messing around. We -- you did something wrong. And if you want to try to find a complaint, you can find a complaint. If you are going to be rude about it, I'm going to be rude back.

That's why I tell people I am either the nicest thing that you will ever meet in people's story or I'm the worst thing you will ever meet in people's story. And I believe both of those. Because they got what they deserved accordingly. So that's why I say I'm the nicest asshole you will ever meet.

CHAIRPERSON DUDLEY: Is there anything else?

MEMBER PENA: I have two.

CHAIRPERSON DUDLEY: Yes, Ms. Pena.

MEMBER PENA: You said that you had had problems in your marriage for a while.

MR. LOPEZ: Correct.

MEMBER PENA: How many years would you say you'd had problems?

MR. LOPEZ: Five or six, if not -- yeah. Five or

six years at least.

MEMBER PENA: You also mentioned -- I think you mentioned that -- well, you mentioned you were having an affair, and it wasn't your first time.

MR. LOPEZ: Correct.

MEMBER PENA: And so you had other -- another affair earlier.

Did your wife know about that one?

MR. LOPEZ: She did.

MEMBER PENA: So I would imagine you probably had arguments from time to time?

MR. LOPEZ: Yes. From time to time. We were -- I wouldn't say that we were that couple that argued every week or every -- every month even. We would get into big arguments, like, once every six or seven months and then not talk to each other for 24 hours. And then the next day, one of us would see who wanted to go to lunch. I'm not one to hold grudges nor was she.

MEMBER PENA: Would your wife -- when you would get into arguments, would your wife ever be physical with you?

MR. LOPEZ: Yes.

MEMBER PENA: And what -- what did that look like?

MR. LOPEZ: There was one occasion, September 2019, I believe. We were in Vegas for the softball

tournament. She found messages on my phone that were sexual in nature. And I had had a couple of drinks so I was kind of in the bathroom. And she began kicking me in the stomach while I was on the ground.

And I didn't tell anybody because -- just a couple of kicks. I was an idiot.

And, unfortunately, it is not one of those things where it's like, oh, my God, my wife beat me up. You know what I mean? So I didn't say anything.

She threw the first -- the first affair that I had that she found out about when we were talking. She goes, "You haven't said no to any of this."

And I'm like, "No. I had the affair."

She had the glass beer bottle in her hand and she threw it at my face, and I was able to swipe it away with my hand. So, again, it didn't cause any arm. It didn't cut me, it didn't hurt me in any way. But she threw a glass beer bottle at me.

I have only told my counselor and an old lawyer, and that was the only person I have ever told about that. Well, now everybody knows. But those are the only two true incidents that I can think of where she physically hit me.

MEMBER PENA: Did she ever shove you or slap you?

MR. LOPEZ: She did. The -- the day that I asked

her for the divorce, she -- we were at our friend's cigar lounge. She had tons of drinks. She was with another friend that kind of amped her up to the point where I could see it.

And I remember telling my buddy, and I'm like, I do not want to go home. This is going to be bad.

Completely quiet all the way home. We get home, and as soon as I park the car, she begins to yell at me to the point where I yell back. And I'm like, you know what? There's no point to fighting like this. I get out the car. I go to open the garage door to go inside. And she bum-rushes me, pushes me up against the fence we have there. In a defensive mode, I kind of just do this. She is so intoxicated that she literally falls on the ground.

I went to help her up and she had her wallet and she threw it at my face. I caught it and I was like, you know what? You can stay on the ground.

I walked away, threw her wallet in the garage, and then that's when we proceeded to argue and yell inside. Several times, she got into my face and told me, "Just hit me, just hit me, just hit me."

And I'm like, what are you talking about? I was not intoxicated at the time.

And that's the night I asked her for a divorce.

And then that night, she goes, "Hey, what can we do to fix this?"

I'm like, "Nothing. It's over. It's been too long. You are not happy. I'm not happy. We're done."

And that was a month leading up to this incident.

MEMBER PENA: And so the next time that there was anything physical was the night in question.

MR. LOPEZ: Correct.

MEMBER PENA: Did she -- that night that you don't recall what happened, was she physical with you that night? Did she strike you at all?

MR. LOPEZ: Not that I recall. Not that I -- like I said, we were out on Fremont Street. And I remember talking to some -- one of the people that was performing. And then that was the last thing I remember until somebody was pounding on the door.

So anything that may have happened in between there, the Uber ride, and whatever, there's -- there's talks of a fight on Fremont Street. But nothing that I recall.

MEMBER PENA: Was she also intoxicated?

MR. LOPEZ: She was.

MEMBER PENA: Okay. Thank you.

CHAIRPERSON DUDLEY: Anything else?

MEMBER CLAVO: Yes.

How tall is your wife?

MR. LOPEZ: 5'10", 5'11".

MEMBER CLAVO: And how tall are you?

MR. LOPEZ: 6 feet.

MEMBER CLAVO: Did you guys have an emotionally verbally abusive relationship?

MR. LOPEZ: No. No. It was just, like I said, towards the --

MEMBER CLAVO: Infrequent arguments.

MR. LOPEZ: Infrequent arguments. And like I said, towards the end there, we were roommates. We weren't even friends. It sucked.

MEMBER CLAVO: If you were investigating this case, what would be your thought process? And if you were investigating yourself, what would you think?

MR. LOPEZ: Old me? And that's -- that's the crappy part is from what I have learned from this. Old me, didn't care. Not that I didn't care. But like, okay, she's got bruising on her face. You are clearly drunk. You -- she said you did it and you don't remember; you are clearly guilty. Let's go to jail.

I will say this: The DA did initially drop the charges. They said there were misdemeanors and they took me and in. And Monday morning, when we went to court, they are like, hey, we're dropping the charges,

and they let me go.

Several days later, after my ex-wife and her lawyer called the DA is when they decided to press charges for felonies. So...

MEMBER CLAVO: The old you would be like, yeah, you did this.

MR. LOPEZ: Oh, yeah. 100 percent.

MEMBER CLAVO: Who is the new you?

MR. LOPEZ: The new me seeing kind of like -- like, hey, man, like, you didn't recall. Like all these things happened. Kind of going on. And I would slow down, if that made sense. I wouldn't rush to make a decision.

So there was no -- and that was the other thing that killed me, was there was all these witnesses and all these people that called in that night that said it was a -- something happened in the room. But there's no -- there's no witness statements from those people in this report at will. Nobody went to go talk to anybody. Nobody said, hey, what did you hear? What was going on? Was it all her? Could you hear him? What happened? Nothing.

It was just, hey, there were multiple people who called in, so we responded. But nobody talked to any witnesses. That's the one thing I would have changed.

I would have gone and talked to those witnesses.

MEMBER CLAVO: Thank you.

CHAIRPERSON DUDLEY: Anything else?

Yes.

MEMBER JOHNSON: So you are -- you are getting help now.

MR. LOPEZ: Correct. I go every two weeks.

MEMBER JOHNSON: We're getting ready to make a very important decision about your life. And it could be good, it could be bad. And I'm saying that to say you speak about that choice you made in Vegas that you shouldn't have made.

Are you are mentally prepared for what can happen?

MR. LOPEZ: Absolutely.

MEMBER JOHNSON: Okay.

CHAIRPERSON DUDLEY: Yes.

MEMBER LARA: All right. So I just wanted to ask a question based on your statement.

You -- you gave us a window into -- into you by saying, "I'm the nicest asshole you will ever meet."

The statement that -- so you kind of -- the equivalent of that is you match energy. Is that -- am I -- am I kind of saying that correctly?

MR. LOPEZ: Yes. For -- for work me, yes.

MEMBER LARA: Okay. So -- and you said the stories

may change and that your ex-wife's story has changed.

But would your ex-wife's confrontation of you, with your infidelity, which -- who is she going to get? Is she going to get the nice guy or she going to get the asshole?

MR. LOPEZ: I don't know. I wasn't -- well, I don't want to say I wasn't there. But I don't -- I don't remember that night. I don't know who she got.

So -- and even if she did get the asshole, never once did I raise a hand. Never once did I -- I screamed. I'm a man. I'm a human. I'm emotional. It gets the best of me. But never once did I charge her. Never once did I attack her. Never once did I do anything that would physically harm her.

CHAIRPERSON DUDLEY: How do you -- how do you know if you don't know?

MR. LOPEZ: No. I'm saying, up to that point, never once in the 18 years we were together had I ever done any of that to her.

CHAIRPERSON DUDLEY: But you don't know what you did that night.

MR. LOPEZ: I do not.

CHAIRPERSON DUDLEY: Okay. Anything else?

MEMBER JOHNSON: Yes. Me.

I'm sorry. Lara.

MEMBER LARA: I'm finished. Thank you.

MEMBER JOHNSON: The -- the marriage has been strained for, what, 14 years.

MR. LOPEZ: We were married 14 -- sorry. Yes. For 14 years.

MEMBER JOHNSON: And, you know, we're not talking about one night, even though that is why we're here. But the history of the relationship and her complaints didn't center on what happens that night. It is centered on what was going on prior to that night and, of course, even earlier. And she advocated consistently about yourself getting help.

But it doesn't appear that you recognize beyond the first night of beating her up, that there was any other issues that ever existed.

MR. LOPEZ: There was issues. I will -- I will say that. My infidelities were 100 percent issues. My attitude at times were issues.

You are getting the "CliffNotes" into our marriage of the horrible times. You are not seeing the great times that were in there in between. You are not seeing the vacations. You are not seeing the years that I told her, "You don't have to work. I got us." And we were happy. And you are seeing all the good times that were 90 percent of it. Nobody sees that. We see the

negative.

So my career, nobody saw, hey, Elliott drove an hour because -- or two hours away because somebody talked about killing themself, and he sat with them all night long. I'm not saying hoorah me. I'm saying you don't hear that stuff. You are hearing the bad stuff. You are hearing about one night.

So yes, was it a bad relationship towards the end there? Yes. Was it always that way? No.

CHAIRPERSON DUDLEY: Are there any other questions? We're going to have to take a break for the reporter, which means that we're going to have to take ten minutes and then come back and ask any other questions you have.

Does anybody else have any questions? Do you -- do you have a quick one?

MEMBER HATCHER-CRAWFORD: It is a quick one.

CHAIRPERSON DUDLEY: Okay.

MEMBER HATCHER-CRAWFORD: So in the statement -- and it's actually to the attorneys. In the statement that was from his former wife, I noted that she had stated that he has never previously acted like this before.

Am I correct, for the record?

MR. BECHLER: Yes. That is correct.

MEMBER HATCHER-CRAWFORD: Okay. Thank you.

CHAIRPERSON DUDLEY: Okay. Is there anything else?

(No response.)

CHAIRPERSON DUDLEY: Do you want to go in private and discuss this further? Or do you -- is there a motion now?

Let me just ask, is there anybody that wants to go in private to discuss this?

MEMBER LARA: I will go.

MEMBER HATCHER-CRAWFORD: I do.

CHAIRPERSON DUDLEY: Okay. Then what we're going to do is we will come back at -- I don't know. Probably around five to 2:00, but it might be a little longer. We'll see. When we come -- let me first ask for public comment before we go back.

Is there anyone in the public who would like to address the Board at this time?

MS. JOHNSON: Yes.

CHAIRPERSON DUDLEY: Okay. Ms. Johnson.

Okay. Sir, you can step away from the mike. Thank you.

MS. JOHNSON: Beatrice Johnson. I'm here as a community person. And I did not want to say anything, but I think I -- I just -- as a community person -- and this is a police officer, Highway Patrol, but the job is to protect and serve.

There were some very disturbing things that I heard is that "I give back what I get." And in public service, that's really not the best attitude, because people say all kind of things to the police, and you are supposed to just continue to do your job. And if you are going back and forth and you giving back what you are getting, that, to me, is not good.

And the fact that, as a woman, if he's -- I can't believe that he and his wife did not argue. If you are consistently cheating, that doesn't make sense. Because -- I haven't experienced that, but women do not just go along to get along with that. There's a lot of emotions that go on. I work with a lot of women. I don't believe that.

I don't believe that -- that -- I just don't believe him, and I just wouldn't want him to be out in the community.

And the other thing is that people called in. Why would people call in if there was no raucous? I don't feel that the wife could make enough raucous by herself, beating herself up, for people to call in.

Also, if I'm correct, it was, like 4:00 and he was arrested at 4:10. And he was arrested not shortly after. I don't see how the wife could do all that before the police come and he be arrested.

And the other thing is that he said that he was not -- not trying to be like a hoorah him, or rah-rah him. But, yes, everything he said was about him.

And if he has been married to this woman a long time, even if he did not do it, he showed no compassion. Because where -- is she mentally ill? Why would she do that? As -- you know, even if she was in that state, there was no compassion for her because if somebody does that to themselves, there should be some compassion about, you know, well, if she did this. And, you know, I feel bad if she did it or whatever. There was no compassion for her. This testimony was all about, yes, rah-rahing him.

And that's what I want to say. I don't think that he should continue to be an officer.

CHAIRPERSON DUDLEY: Thank you, Mrs. Johnson.

Is there any other public comment in the audience?

(No response.)

CHAIRPERSON DUDLEY: How about remote?

(No response.)

CHAIRPERSON DUDLEY: Okay. We'll now take a break and be back somewhere around 2:00. Yeah. 2:00.

(Time noted: 1:45 p.m.)

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(Closed session was held:
1:57 p.m. to 2:17 p.m.)

---o0o---

(Time noted: 2:25 p.m.)

---o0o---

CHAIRPERSON DUDLEY: Let's start up.

Apparently there's someone online who would like to make a public comment and looking forward to hearing the public comment.

MS. KRUEGER: Okay. Am I online?

CHAIRPERSON DUDLEY: You are on and we hear you. This is Joyce Dudley. Please go ahead.

MS. KRUEGER: Thank you, Ms. Dudley.

My name is Olivia Krueger (phonetic), and thank you for taking the time to hear me. I apologize for my voice and potential cough. I'm getting over the flu.

I appreciate the opportunity to speak. I would like to do so on behalf of Mr. Lopez. I have known him since 2007. We have been friends and continue to be friends.

I would like to corroborate that this incident is completely out of character for him. Never once have I witnessed him to be violent to his wife. I have known them both since before they were married and after they were married.

I had the opportunity to speak with his wife the day after the incident occurred. She was immediately wanting to send me pictures of her injuries. I asked her if this had ever happened before and her response was "never."

She reached out to his captain, the local DA, other officers, close friends, prior to his release from jail.

I asked why, and she said she was worried no one would believe her. I found that to be suspicious. This had made me consider this story possibly to be by design, to eliminate him from continuing to be a peace officer, for efforts to defame him, and take away his livelihood, his dreams, as to what appears to be revenge by a woman scorned. I have never witnessed her be affectionate or loving towards him. I have never asked why, because personal dynamics among married people are their own.

As a woman, a wife, a mother, and a friend, I vehemently stand against domestic violence; something I do not support.

There are many things that do not add up in this scenario in my opinion, humbly.

For example, finding explicit photos and explicit messages of a sexual nature and then getting into bed, that doesn't make sense to me.

I would like to humbly ask you to give him the opportunity to fight for his reinstatement of his POST certificate -- excuse me -- and present his entire side of the story.

I hope you can find that he's a meaningful person who wants to do good and correct his mistakes. I can say that when he is stressed, sometimes he talks too much. He is truthful to a fault. His statement about being a nice asshole is a result of that. Pardon my language.

I believe that his police record reflects that, and he has responded professionally and appropriately. I have always found him to be a genuinely good person. He tries to see the good in other people. He is not violent. He is a gentle giant.

I wish I could add to how or why this happened, but the truth is, I don't know. And I appreciate your time and consideration, ladies and gentleman.

CHAIRPERSON DUDLEY: Okay. Thank you.

And just because you may not be familiar with the process, this is part one of the process. Then it goes to the Commission. He can go before an administrative judge. So it doesn't end here today. I just wanted to make sure you understood that.

And thank you for your call.

Any other --

MS. KRUEGER: Okay. Thank you, ma'am. I appreciate that.

CHAIRPERSON DUDLEY: Yes. Any other public comments?

(No response.)

CHAIRPERSON DUDLEY: Okay. So any more discussion? Or is there a motion?

MEMBER JOHNSON: I would like to make a motion.

CHAIRPERSON DUDLEY: What is the motion?

MEMBER JOHNSON: Decertification.

CHAIRPERSON DUDLEY: Is there a second?

MEMBER LARA: I will second the motion.

CHAIRPERSON DUDLEY: Okay. Any questions, comments, abstentions?

(No response.)

CHAIRPERSON DUDLEY: Okay. Would you take the roll call, please.

MR. KNAPP: Thank you, Chair.

Clavo.

MEMBER CLAVO: Aye.

MR. KNAPP: Clavo, aye.

Crawford.

MEMBER HATCHER-CRAWFORD: No.

MR. KNAPP: Crawford, nay.

Dudley.

CHAIRPERSON DUDLEY: Yes.

MR. KNAPP: Dudley, aye.

Johnson.

MEMBER JOHNSON: Aye.

MR. KNAPP: Johnson, aye.

Lara.

MEMBER LARA: Aye.

MR. KNAPP: Lara, aye.

And Pena.

MEMBER PENA: Aye.

MR. KNAPP: Pena, aye.

That's five in favor. Motion carries.

CHAIRPERSON DUDLEY: Okay. Thank you.

At this time, I will now call upon Law Enforcement Consultant Raymond -- let's see -- hang on. Let me make sure I'm not lost here. It's the same person?

MS. DEL MUGNAIO: Yeah.

CHAIRPERSON DUDLEY: Raymond Bechler, Professional Conduct Northern, and Bryant Henley, Attorney IV, Legal Records [sic] Bureau, to provide a report on POST2403212, Richard Adams -- why does it say Elliott Lopez? -- who, at the time of the events at issue in the case, was employed by the California Highway Patrol.

Okay.

MR. BECHLER: Good afternoon, Chair, Members of the Board.

My name is Ray Bechler, and I'm a law enforcement consultant signed to the Professional Conduct Northern Bureau in the Peace Officer Standards Accountability Division.

With me today is Bryant Henley, an attorney with our Legal Affairs Bureau.

I'm here today to present Case Number POST2403212 involving Richard Adams, hereafter referred to as the respondent, formerly of the California Highway Patrol.

It is the Division's determination that clear and convincing evidence exists to demonstrate that the respondent committed acts of serious misconduct as set forth in Penal Code section 13510.8, on July the 13th of 2023.

Specifically, the Division has determined that the respondent committed the following acts of serious misconduct: Acts that violate the law and dishonesty.

In this presentation, I will provide a brief outline of the Division's findings of investigations into this matter.

The respondent began his career with the California Highway Patrol on June the 26th of 2017. He holds a Basic POST certificate, which he received on June 8th,

2019.

The respondent had no prior complaints of misconduct resulting in disciplinary action from his agency.

In regard to the present allegation, the respondent reported his interaction with law enforcement to his agency on March the 19th of 2024.

On April the 19th, 2024, CHP reported this case to POST.

The California Highway Patrol completed their investigation and sustained allegations against the respondent, and the respondent was terminated on November the 5th of 2024.

A factual summary of the respondent's misconduct is as follows:

On February 25th, 2024, the respondent and his live-in girlfriend, referred to as the victim, were staying at the Hampton Inn Hotel in Poway, California.

At approximately 4:00 p.m., the victim called 911 after she and the respondent got into an argument and his behavior was scary.

The victim waited in the parking lot for police to respond.

San Diego County sheriff's deputies arrived and contacted the victim, who explained the respondent was

an off-duty CHP officer and was inside the hotel.

The victim told the deputies she and the respondent were verbally arguing, and she -- and he did not get physical with her. The victim added she wanted to drive back to their residence in Yucca Valley by herself, and the respondent wasn't letting her leave without him.

While talking to the deputies, the victim informed them about several incidents of physical violence by the respondent over the past two years.

One of the allegations of prior physical violence reported by the victim was captured on their front door home camera system. This video is shown to the deputies by the victim and depicted the respondent dragging the victim outside of the front door of their residence, forcibly pushing her to the ground, causing the victim to land on her head and upper torso.

The video further showed the respondent using two hands to get control of the victim's right leg as he dragged her out the front door while the victim frantically yelled "Richard, stop, stop."

The victim said this incident occurred on July the 13th of 2023.

At this point, I would like to show the video.

(Video played.)

MR. BECHLER: The victim further reported -- the

victim further reported to the San Diego sheriff deputies three other domestic violence incidents which occurred in June of 2022, May of 2023, and February of 2024, where she endured violence from the -- from the respondent.

After speaking to the victim, the San Diego sheriff deputies elected not to contact the respondent for a statement, as all the reported incidents of violence occurred in San Bernardino County.

The deputies ensured the victim safely drove away from the hotel parking lot without further incident by the respondent.

San Diego County deputies reported these incidents and forwarded their report to the San Bernardino County Sheriff's Office for follow-up.

Each of the prior incidents reported by the victim were investigated both criminally and administratively. Ultimately, the San Bernardino County District Attorney's Office filed and pursued prosecution of the respondent for one misdemeanor domestic violence charge, involving the incident captured on video that occurred on July the 13th of 2023.

The District Attorney's Office did not file in any of the other reported domestic violence incidents reported by the victim.

The criminal case against the respondent was ultimately dismissed on February 4th, 2025, by the District Attorney's Office.

In the administrative investigation and subsequent findings against the respondent, the CHP sustained one allegation of committing domestic battery upon the victim which involved the incident captured on video. All other -- all other domestic violence incidents were not sustained by the agency.

The agency further sustained a finding against the respondent for being dishonest when he asked -- when he was asked about the domestic violence incident captured on the video.

The respondent filed an appeal from dismissal to the -- to the State Personnel Board. The respondent's case was heard before a State Personnel Board Administrative Law Judge Douglas Purdy on April 1st and 2nd of 2025.

After hearing testimony and weighing all evidence, Judge Purdy rendered his decision. Judge Purdy specifically assessed the credibility of the respondent's testimony regarding the video evidence from their home recorded on July the 13th of 2023.

Judge Purdy documented, "The video footage from the doorbell camera was not consistent with consensual

role-playing. The respondent lifted the victim, tossed her onto the front porch, where she landed on her back. That action could clearly have resulted in serious injury to the victim, which makes it unlikely she willingly consented to it."

Judge Purdy further wrote, "The respondent was dishonest when he told Sergeant Mason" -- who was the IA investigative sergeant -- "that the July 13th, 2023, incident was consensual role-playing and when he stated that his disputes with the victim had never escalated into physical conflicts."

In his concluding remarks, Judge Purdy wrote, "Peace officers hold special positions of trust and are held to the highest standards of behavior. Also, peace officers must frequently testify in court and must be credible and honest to perform their duties effectively. Because of the special position of trust peace officers hold, dishonesty by a peace officer -- peace officers warrants harsh punishment."

Judge Purdy sustained Respondent's dismissal by the agency.

Following POST investigation and review, POST found, by clear and convincing evidence, that reasonable grounds existed for consideration of revocation pursuant to Penal Code section 13510.8.

The facts I have just -- I have just recited support the Division's finding that the respondent was involved in serious misconduct, specifically acts that violate the law and dishonesty.

For purposes of the Division's analysis, "clear and convincing evidence" means evidence of a charge is clear and convincing so long as there is a high probability that the charge is true.

The evidence need not establish a fact beyond a reasonable doubt.

The Division recommends that the respondent's POST certificate -- certification be revoked. The Division's recommendation is based on the following:

The Division finds that the clear and convincing evidence substantiated that the respondent's conduct amounted to acts that violate the law as described in Commission Regulation 1205(a)(6). On July the 13th, 2023, the respondent physically harmed the victim by forcibly throwing her to the ground outside their residence and further dragging her on the ground by her ankles.

This conduct was inconsistent with Respondent's obligation to uphold the law or respect the rights of members of the public.

The Division finds the respondent's act of violence

upon the victim not only violated CHP's internal policies, but also California Penal Code sections 242 and 243(e)(1), which confirms the respondent's unlawful conduct.

In addition to violating the CHP's policies with regard to off-duty conduct, clear and convincing evidence exists that Respondent violated California Penal Code section 13510.8(b)(6), and Commission Regulation 1205(a)(6), acts that violate the law.

The Division further finds that the clear and convincing evidence substantiated by the respondent's conduct amounted to dishonesty, as described in Commission Regulation 1205(a)(1), in that the respondent claimed that the domestic violence encounter recorded on the front door video camera was merely role-playing incident, in which the respondent played the role of a landlord and the victim was a tenant who was late on paying her rent.

Respondent made these dishonest statements, first through the San Bernardino County sheriff's investigators, who were investigating a crime; and then later to CHP administrative investigators, who were investigating the same events as part of an investigation into misconduct.

Misconduct was inconsistent with Respondent's

obligation to uphold the law or respect the rights of members of the public.

The Division finds the respondent's statements to the San Bernardino Sheriff's Office and the CHP concerning the July 13th, 2023, video -- video established clear and convincing evidence he violated California Penal Code section 13510.8(b)(1) and Commission Regulation 1205(a)(1), dishonesty.

With that, I'm happy to answer any questions the Board may have.

CHAIRPERSON DUDLEY: Okay. Questions?

(No response.)

CHAIRPERSON DUDLEY: Apparently the Board doesn't have any questions.

And do we have somebody -- okay. Remote. Right?

MS. DEL MUGNAIO: Yes.

CHAIRPERSON DUDLEY: Okay. So at this time, does the subject officer and/or their counsel wish to make public comment? If so, you will have five minutes to speak, and the time limits will be strictly enforced. So please ensure that you complete your comments within the allotted time.

While commenting, keep in mind that the Board will only consider the facts as presented by the Division today and will not consider any additional facts or

defense at this time.

The sole question before the Board today is the following: If the facts offered by the Division today are, in fact, proven at a later hearing, do those facts demonstrate high probability that serious misconduct, as defined in Penal Code section 13510.8 and Commission Regulation 1205, occurred?

And I won't hold you to those five minutes. I want to make sure you can say everything you need to say.

So please.

MR. EWERT: Good afternoon, Madam Chair.

My name is Jason Ewert, and I am the representative for Mr. Adams. I will be making a statement, and then Mr. Adams would also like to provide a short statement, and then we are both happy to entertain any questions that the Board may have.

So our position as to the facts of this case do not demonstrate clear and convincing evidence that serious misconduct occurred. Specifically, everything relates back to this video of a video that was captured by the San Diego County Sheriff's Department during an incident where Mr. Adams's significant other called the police in order to handle a verbal argument that they had had at a hotel.

This person, Mr. Adams's significant other -- I

know there's been significant efforts to redact her name from the materials, so I'm just going to refer to her as the "significant other" -- has an established practice of calling the police any time that she has any issues with her significant other.

This was demonstrated through the number of times that she called the police department or law enforcement and did not result in even reports being taken or any charges being filed against Mr. Adams.

Now, on the date in question, in San Diego, I think it is important to note that the Division has acknowledged that there was no act of physical violence that occurred at that point in time, as determined by the San Diego Sheriff's Department.

In fact, they looked at the situation and said that they weren't even going to take a statement from Mr. Adams due to the fact that they didn't have any evidence that there was actually a physical altercation that occurred.

The significant other acknowledged that she had been drinking during this incident in a letter that she later submitted to the District Attorney's Office, which is also admitted as evidence in these proceedings.

So the --

CHAIRPERSON DUDLEY: Excuse me, Counsel. Counsel,

excuse me.

I am already confused about what incident you are talking about. So are you talking about the hotel in Poway? Or are you talking about the time the video was made? So could you clarify what you are responding to?

MR. EWERT: So my initial response is to the call for service that occurred in San Diego at the hotel.

CHAIRPERSON DUDLEY: Okay.

MR. EWERT: And that is where the video was -- was delivered to the San Diego Sheriff's Department via their body-worn camera system.

CHAIRPERSON DUDLEY: Right. But then you made a subsequent comment. And I'm lost.

So -- so I understand you are talking about when they came to Poway, they came to the hotel. Everyone agrees, nothing physical happened. And she was just saying she wanted to be able to go home safely. And that was the end of that incident.

Was there more that you wanted to say about that?

MR. EWERT: It is demonstrative of her practice for calling law enforcement every time they got involved in an argument, and there is no evidence that those arguments became physical.

CHAIRPERSON DUDLEY: Okay. Go ahead.

MR. EWERT: So the two issues at issue for this

board are whether or not Respondent, Mr. Adams, engaged in acts that violate the law or are sufficiently egregious or repeated as to be inconsistent with his obligation to uphold the law or respect the rights of members of the public, as determined by the Commission.

Mr. Adams's position, during this entire proceeding, has been that this was a consensual role-play scenario that was captured by his significant other at the time on video so that it could be used as ammunition against him at the time she deemed it to be proper. This was her established practice to call law enforcement in order to end arguments.

There is no evidence tending to support that there was actually physical violence that occurred between Mr. Adams and his significant other, including in the incident that happened on July 13th of 2023 that was captured on that body-worn camera.

The second issue is related to dishonesty relating to the reporting, investigation, or prosecution of a crime. And essentially, it relates back to whether or not Mr. Adams did, in fact, commit the act of domestic violence that he is alleged to have committed on July 13th of 2023.

He has remained consistent in his statements that he did not engage in an act of domestic violence both

with his statements to the San Bernardino County Sheriff's Department, as well as the California Highway Patrol.

Now, he has currently been dismissed from his employment with the California Highway Patrol. However, I do think it is important for the Commission to note that that dismissal is on appeal through civil writ proceedings in the San Bernardino County Superior Court.

Now, the clear and convincing standard requires a finding of a high probability that the facts which are asserted as being true do more than show that the facts are probably true.

In this case, POST's Division of Investigation is relying exclusively on the San Diego County Sheriff's Department report, which is attached to the report as Attachment C;

The San Bernardino County Sheriff's Department report, which is attached as Attachment D;

The victim letter, which is attached as Attachment F;

The doorbell video footage that has been shown during this proceeding, which is attached as Attachment G;

The State Personnel Board Resolution and Order that is attached as Attachment H.

And the transcripts of Mr. Adams's statements to both the California Highway Patrol as well as the POST Division of Investigation regarding this matter.

Now, it is very important to note that Adams was not interviewed by the San Diego Sheriff's Department and was not given an opportunity to provide his side of the story with respect to that video.

Again, as this has already been discussed, this is because the San Bernardino County deputies confirm that the alleged acts of violence all occurred in San Bernardino County and the matter was referred to the San Bernardino County Sheriff's Department.

Now, the San Bernardino County Sheriff's Department reached out to Mr. Adams and asked for him to give a statement. Because he didn't feel like he had done anything wrong, he went in and gave a statement. Actually, the statement occurred in his driveway at his home, when multiple deputies from the sheriff's department came to his house to obtain a statement. He didn't have a chance to meet with counsel. He didn't have a chance to see what the evidence was that they allegedly had against him. He felt he did nothing wrong. So he decided to show up and give that statement.

Now, the Division of Investigation has alleged that

there is no corroborating evidence to support the respondent's claim of role-playing.

This is in the Investigative Summary and Findings at page 11.

However, if you look at the actual San Bernardino County Sheriff's Department report, that's attached as Attachment D, you will see that the significant other of Mr. Adams stated to the San Bernardino County Sheriff's Department, the video that you are referring to, that's not what happened in that video.

Now, again, there are allegations that Mr. Adams has been inconsistent in the statements that he provided to the sheriff's department, as well as the California Highway Patrol.

However, if you look at the sheriff's department report, it specifically indicates that "Mr. Adams described they sometimes role-play in a rough manner which could be misinterpreted. Adams could not explain how or why the role-playing would have ended outside, as normally that is a thing for the bedroom."

Now, the victim letter, that was attached as Attachment F, specifically includes the statement from respondent's significant other that she had been drinking alcohol and Richard did not want her to drive. He wanted to leave -- or she wanted to leave. So she

called the police, and when they arrived, she was drunk, upset, and angry at Richard. She made the comments that were untrue at most and exaggerated at least.

I think it is also important to note that she has not testified at any point during the administrative proceedings against him or the criminal proceeding.

And I haven't ever talked to her. But my understanding is that she does have professional licenses of her own, and she is concerned with the fact that she provided false information to a law enforcement agency during the course of her interactions with the San Diego Sheriff's Department.

Now, the State Personnel Board -- I'm sorry.

The doorbell video footage, which is attached as Attachment G, was admitted over hearsay objections at the State Personnel Board hearing.

Our position is that this is incompetent hearsay. That is an out-of-court statement being offered to prove the truth of the matter asserted. In other words, that this was an act of domestic violence and not a consensual role-play scenario without authentication from Ms. -- the respondent's significant other.

The State Personnel Board Resolution and Order specifically acknowledges the absent and applicable hearsay exception. The Board cannot base findings

solely on hearsay evidence. And that's the State Personnel Board.

As I previously indicated, this decision is on appeal, and the decision in that case is also based on a preponderance of the evidence standard, not the clear and convincing standard that is subject to POST.

Now, if you look at the respondent's IA interview transcript, which is included as Attachment I, this was also considered by the State Personnel Board.

And if you look at pages 170 to 173, Respondent attempted to explain to the California Highway Patrol how he was caught offguard by the fact that this deputy was someone that was close to the respondent's mother's age, and another sergeant were in his driveway asking him about his very personal sexual preferences in a way that he was not prepared to adequately respond to.

Again, he didn't lawyer up for this. He didn't talk to any counsel. He didn't know what video they were talking about out of the gate.

And when they presented the video to him, it was difficult to see. It didn't have sound. And he was also embarrassed by the fact that he was going to have to explain some of his more exotic sexual preferences to these law enforcement officers.

Again, Mr. Adams was consistent in his statements

to POST during his investigation and interview with them. And he has done everything in his power to try to get his side of the story across the table in these proceedings.

Now, the Division alleges that it finds it implausible to believe the video footage is consensual role-playing after watching the video numerous times. However, again, there is no direct evidence outside of that video tending to go against what Mr. Adams is saying is actually depicted in that video.

The allegations that Mr. Adams was dishonest to California Highway Patrol and the sheriff's department and POST rely on the fact that it had to be a nonconsensual act of domestic violence, which Mr. Adams adamantly contests that this video actually depicts.

It is important to note that when the Division subsequently interviewed the respondent, he continued to maintain that the doorbell video footage was nothing more than consensual role-playing. And in assessing his credibility, the Division find -- found the respondent not to be credible.

That conclusion was based, in part, on the tone of the voice of the respondent, who sounds and appears angry, and the actions of the victim, who seems to be protecting herself and sounds frightened as she

repeatedly tells the respondent to "stop."

Therefore, the Division found the respondent's representations in that video depict an act of domestic violence and not a consensual role-play scenario.

This is all based off of non-direct evidence, and there is no testimony outside of Mr. Adams's testimony tending to indicate that what he is saying is not true.

I understand my limitations during this -- this hearing. And so I will not discuss the additional evidence that we intend to introduce if it becomes necessary. However, it is our hope and sincere intent to avoid any further proceedings on this matter.

Mr. Adams has already been through a significant amount of work related to this incident. And we are continuing to work on that in the writ proceedings. And so it is our hope that we can provide you with the facts and evidence necessary to make a decision not to proceed with decertification of his peace officer certificate at this time.

Thank you.

CHAIRPERSON DUDLEY: Thank you.

Mr. Adams, you wanted to speak.

MR. ADAMS: Good afternoon, ladies and gentleman. Can you hear me okay?

CHAIRPERSON DUDLEY: Yes, we can.

MR. ADAMS: Okay. I just want to say thank you for giving some time to this manner. I appreciate that.

Like Jason has said, I have had the same statement and same -- testified to the same events multiple times now. My story has not changed.

My -- (Zoom malfunction) --

CHAIRPERSON DUDLEY: I'm afraid you have frozen, Mr. Adams.

MR. ADAMS: I have fought this on every level.

Can you hear me now?

MR. EWERT: Richard, I don't -- it seems like it might be on their end.

MR. ADAMS: Uh-oh.

CHAIRPERSON DUDLEY: We have heard everything you've said so far.

The last thing that I recall you saying is that your story has been consistent throughout.

Did you want to add to that?

MR. ADAMS: Yes, ma'am. Can you hear me okay?

CHAIRPERSON DUDLEY: Yes, we can.

MR. ADAMS: Okay. Yes. So my statement has been consistent throughout. My testimony has been consistent throughout. I have fought this on every level possible, which obviously brings us here today.

And, you know, I continue to fight as much as I can

to show the proof of what actually was going on that day.

And that event that has caused me just -- it's destroyed my life. I have had to liquidate retirement funds to afford for lawyers to fight this.

And, you know, I loved being a CHP officer. And this has really destroyed that future. And that's why it means so much to me to be able to -- to speak my mind and speak my side of the story.

Because I understand the video -- you know, it is what it is. It looks out of context. It does not look good.

And -- but when I add context to it, like I have done throughout all the investigations and interviews, I hope that adds to that.

You know, I can't control who calls for help, who calls 911. I can't control that.

And as Jason had said, that was what she would do. And she would call 911 when we would get in a verbal argument. And that's -- that's what was going on there.

So...

CHAIRPERSON DUDLEY: Are you through?

MR. ADAMS: Other than that, that's all I have.

CHAIRPERSON DUDLEY: Okay. What is the context you want us to consider?

MR. ADAMS: Well, the role-playing. The role-playing is the context.

So we -- just not to go down rabbit holes. But her ex-husband was deployed with the Marine Corps for six months prior to this incident. He came back -- I think it was in June -- and then he had the kids. I was taking care of the kids. She was living with me with the kids. And we had had like six months of a very -- I guess a dry spell, if you would call it that.

So he had the kids starting in July. And that's the -- the month of July is when this event happened that she -- she reported. And that is when we started the role-playing: Renter/rentee or lessee scenario.

So about halfway through the month is when she wasn't paying the rent. So we went through that role-playing, which is not comfortable for me to explain to the world right now. I have had to explain it now multiple times. But so we go through that process.

And then she held on to it for a time that she felt as though she wanted to get me back for whatever it was that she felt as though was necessary.

CHAIRPERSON DUDLEY: So is this role-playing something you did more than once?

MR. ADAMS: Yes, ma'am.

CHAIRPERSON DUDLEY: How many times?

MR. ADAMS: Over the course of a five-year relationship, I would say probably two or three times.

CHAIRPERSON DUDLEY: And it was always renter and rentee?

MR. ADAMS: That was one of multiple different scenarios.

CHAIRPERSON DUDLEY: Okay. What were the others?

MR. ADAMS: It was a passionate relationship.

CHAIRPERSON DUDLEY: What were the others?

MR. ADAMS: It would be -- I mean, it is not very comfortable. But, you know, like cleaning the house, French maid outfits, things like that. It was -- we were trying some new things to -- to spice up the relationship.

CHAIRPERSON DUDLEY: So were there French maid outfits that she would actually put on?

MR. ADAMS: Yes.

CHAIRPERSON DUDLEY: And was there rentee outfits she would put on?

MR. ADAMS: It would just be normal, like, clothes.

CHAIRPERSON DUDLEY: Okay. All right. I don't have any questions for now.

I will turn it to the Board and see if they have any questions for either Mr. Adams or his attorney.

Yes, Ms. Clavo.

MEMBER CLAVO: Can you explain to me the incident in which the daughter of the victim called?

MR. ADAMS: Yes, ma'am.

So that incident, I was taking a shower -- so I have a -- the house is like a -- think of it as a rectangle, and then the backyard is another rectangle of concrete with a pool and a pool I put in for the kids to be able to play and have fun at home during COVID. You couldn't go anywhere, so I wanted to give the children an environment to enjoy.

So we were in one part of the house. She had found something on a social media site that somebody had liked of mine. So she came into the -- to the bathroom that basically attaches to that concrete pad where the pool is. The children were outside by the pool.

I think she was 13 and then the boy was 4.

She came in to where I was taking a shower. She's yelling, smashed a glass. And that was all going on inside the house.

We go outside the house. And by that point, her daughter, who had seen her call 911 in the past relationships, was already on the phone with 911.

And we go outside, and we go over by where there's like a grill area. We're over there. We hear her on the phone with somebody and then realize it's -- she

called 911.

So at that point, I just left and distanced myself from the environment.

And being a law enforcement officer, I know some basic domestic violence investigations or disturbances, domestic disturbances investigations, where they are going to separate us. So I just distanced myself, went outside, and awaited the deputies to come and talk to me.

MEMBER CLAVO: Thank you.

CHAIRPERSON DUDLEY: Yes. Captain Lara.

MEMBER LARA: Question. The -- do -- have the role-plays that you have done in the past involved physical violence?

MR. ADAMS: Yes in -- neutrally. So we would agree upon -- I'm trying to think of the word. Yes. We would -- we would -- you know, spanking and the -- the choking and things like that.

MEMBER LARA: What would prompt termination of the role play if things went too far one side or the other?

MR. ADAMS: Disengagement. I think we would leave the scenario. And then normally a text would come after that. Like "hey." Or a phone call once we're separated.

MEMBER LARA: Was there a verbal cue either one of

you would give to prompt "role play over"?

MR. ADAMS: I couldn't hear that. I'm sorry.

MEMBER LARA: Was there something to the effect of a safe word? A "role play over" signal that would be given if things went too far? Say if somebody got shoved to the ground and thought, "Hey, this is probably not for me."

MR. ADAMS: Right. Not every time. I can probably count on a hand that we would kind of jokingly discuss a fruit or pineapple or something. Something random to shut it down. But we were both consenting adults, so we didn't think that that was an issue.

MEMBER LARA: That's all I have. Thank you.

CHAIRPERSON DUDLEY: So you didn't think "Stop, Richard," said multiple times, meant that you, as Richard, should stop?

MR. ADAMS: That was part of the role-playing.

CHAIRPERSON DUDLEY: So part of the role play is she would tell you to stop?

MR. ADAMS: So, again, the video is out of context. It really just shows a small snippet of time. After that, she comes back in the house and we end up sleeping together. But there's only like a five-second time where I'm pushing her out of the house, and then she gets up. And what is not on there is her coming back in

the house.

CHAIRPERSON DUDLEY: So what did you think "Stop, Richard" meant?

MR. ADAMS: I think that was just part of the role-playing in her mind.

CHAIRPERSON DUDLEY: So she didn't want you to stop?

MR. ADAMS: No.

CHAIRPERSON DUDLEY: Okay. Other questions?

Yes. Mr. Johnson.

MEMBER JOHNSON: Okay. Yes. You said, I think, you had taken it all the way through the procedures or "litigational" processes.

So the CHP Internal Affairs sustained dishonesty, correct?

MR. ADAMS: Yes.

MEMBER JOHNSON: The administrative law judge also found dishonesty, correct?

MR. ADAMS: Yes, sir. Yes, sir.

MEMBER JOHNSON: Then the State Personnel Board also adopted the administrative judge's decision on dishonesty, correct?

MR. ADAMS: Yes, sir.

MEMBER JOHNSON: And POST itself also has reached the same conclusion.

Do you have another job -- at least an opportunity for a policing job somewhere else in the state of California?

MR. ADAMS: No, sir.

MEMBER JOHNSON: So you are here purposely to not be reemployed by the policing agency? Or are you here --

MR. ADAMS: No, I'm --

MEMBER JOHNSON: Yeah. I would like to know, are you trying to get back into --

MR. ADAMS: Yes.

MEMBER JOHNSON: -- the policing field?

MR. ADAMS: Yes, sir. I -- that was my life for seven years. I -- the best part of being a CHP officer or an officer in general was helping the community. And the best part of my job was changing a tire for somebody on the side of the road. That's why I joined. That's why I wanted to be the good guy.

I grew up with two older sisters. I have always had to kind of help out where I can with them or look out for them. And that's what -- me growing up, that's what I wanted to do. I joined the Marine Corps and worked for them now 20 years, with no disciplinary issues there. And that, again, was to be a good guy and to be the good guy.

That's -- this allegation and this accusation -- this is something new for me.

MEMBER JOHNSON: I'm -- I mean, you were dishonest, at least we believe -- all the agencies that heard you speak has all agreed that you have been dishonest.

MR. ADAMS: That's what the --

MEMBER JOHNSON: And you are here telling us today that they are all wrong.

MR. ADAMS: Correct.

MEMBER JOHNSON: That's all the questions that I have.

CHAIRPERSON DUDLEY: Thank you.

Anything else? Anything else from any board member?

(No response.)

CHAIRPERSON DUDLEY: Okay. Counsel.

MR. HENLEY: Thank you, Madam Chair. I know this -- there's been a lot of questions already and I will do my best to be brief. But I think there's some level setting we want to do here regarding the position here at the board, the presentation before the Board, as well as the stages that come after.

And Chair Dudley already alluded to this some, so I will try not to spend too much time on it. But I think, again, to level-set where we are and where we go from

here, I would like to redirect from Mr. Ewert's comments back to what happens here.

And under Regulation 1209, what this board is looking at is whether the Commission's or the Division's presentation and the sufficiency of the Division's findings that have been presented to this board, whether those are enough to advance the case on to the Commission and potentially to an administrative Procedure Act hearing before an administrative law judge.

So again, the question is, is the sufficiency of the findings the Division has presented to you, are those sufficient to move the case forward?

So I want to start there, because that's an important threshold question. That's what you will be voting on today, as you all well know.

I want to speak to Mr. Ewert's comments about the hearsay nature of the video evidence.

So as he did allude to a little bit, I want to emphasize, there will be an opportunity before an administrative law judge to litigate this issue. But suffice it to say, for now, the standards of admissibility of evidence in an Administrative Procedure Act case are very different from a criminal law courtroom or even a civil courtroom.

And what that means is under Government Code section 11513, that rules of evidence are relaxed. And so even hearsay evidence, if it is the sort of evidence that is reasonably relied on by professional people, that type of evidence is admissible, especially in the scenario where, as here, we have not just the video evidence, which has been suggested is that all we have is a video. But I want to remind this board, we have many representations by Mr. Adams acknowledging that the video is real.

Now, Mr. Adams says what happens in the video is role-playing. But he told the CHP, he told the San Bernardino sheriffs who investigated the case, and he told Mr. Bechler in a separate interview -- at least three different interviews, he has acknowledged the video is real. It depicts Mr. Adams and the victim. So there is no question about whether this video is real or not.

Suggestions that it is hearsay are simply be out of order and beyond the nature of what we should be considering.

Moreover, those statements by Mr. Adams are what are known as an admission, and there's an exception to the hearsay rule called an admission.

So Mr. Adams's own statements added admitting that

the video occurred and it depicts him, these are admissions. They allow so-called hearsay evidence to be admitted even in a criminal courtroom. So that's important to emphasize.

This video is a very key piece of evidence, but it is, by no means, the only evidence we have here today.

We would submit to this board that there is a mountain of evidence that shows there is high probability that Mr. Adams did abuse his ex-wife, spouse -- excuse me, fiancee, not spouse -- did abuse his ex-fiancee and that he did lie about what the video depicts.

You are encouraged to view the video. You have it. It is publicly available now as part of agenda. It was presented to you before you had this case. I would urge you to view the video a few times if you have any question about what happened in the video, about the nature of the violence towards the victim, about how she was -- how she landed on the ground and whether this was a consensual encounter of role-playing or something else.

I also want to focus briefly on the fact that, unfortunately, in any domestic violence case and, sadly, both in this case and the one we heard prior, there is a common tactic among those who are accused, and that

tactic is to attack the victim. And sadly, we're seeing that again here.

We have heard from -- from Mr. Adams's lawyer that there is this, quote, established past practice of calling the police by the victim. Silently, there's no acknowledgment until the questions were asked by this board, but, obviously, also the victim's daughter, at the age of 13 or 14, herself called 911. There's no mention of that. It is focused on the victim and the victim calling the police.

There are suggestions that the victim is lying and that's the reason that she didn't cooperate with these investigations.

There's suggestions that somehow she would be exposed to liability for lying to police by reporting these encounters.

But I would ask you, as board members, to ask yourselves, if you are worried about being prosecuted, will you -- would you want to write a letter that says, "I was dishonest and these things never occurred"? Because in this case, which is part of the ISF you have, is a letter from the victim saying that these events didn't occur. If you were concerned about criminal prosecution, is it -- is it reasonable to believe you would write a letter like that?

There's something else going on here. And it is the kind of thing that happens many times when you have a victim of domestic violence. And I leave it to you to think about what those things may be.

The last point I want to make -- and then I will stop -- is they are, again, attacking the victim, suggesting that when the incident occurred in Poway, that she had been drinking; and that the reason this incident occurred was Mr. Adams was going to stop her from driving.

But I would ask you to take a look at the ISF and the exhibits to the ISF, because two peace officer from San Diego, who were physically, as you saw in the video, within less than a feet -- a foot or two from her face, both testified before the State Personnel Board, on witness sworn testimony, that no, in fact, they never detected any indicia of alcohol on the victim.

Again, we need to move away from the victim and attacking the victim here, and we need to look at Mr. Adams of his conduct.

I would urge you to look at the video. I would urge you to consider whether that video does depict, as the Division concludes, depicts domestic violence towards the victim. And I would urge you to consider whether it is plausible or whether it is dishonest of

Mr. Adams to suggest that was a role-playing encounter of a landlord-tenant sexual encounter.

With that, we believe there is a high probability that Mr. Adams engaged in spousal abuse and that he was dishonest about it.

We would urge you to take this case to the Commission so that it can proceed to an administrative law judge, and we can have our hearing, and Mr. Ewert can make any arguments he wishes about hearsay evidence.

And with that, I am happy to answer any questions.

CHAIRPERSON DUDLEY: I just want to add that these law enforcement officers, after being with her, and having conversation with her, smelling her breath, listening to her, watching her, let her get into a car and drive away.

And that would be, in my mind, rather compelling evidence that she wasn't under the influence of alcohol.

And Mr. Adams saying that she was is his perception or his statement.

Yes, Ms. Crawford.

MEMBER HATCHER-CRAWFORD: A clarification. He or the attorney can answer.

In the report I read, Mr. Adams and his fiancee are still together, correct?

MR. BECHLER: When I had last spoken to the

respondent, Mr. Adams, he had told me that he lives now on the East Coast, but they are still a long-term relationship. And so I don't know as of today what their relationship is like.

MR. ADAMS: Correct.

MEMBER HATCHER-CRAWFORD: Okay.

MR. ADAMS: Yes.

MEMBER HATCHER-CRAWFORD: And she wrote a rebuttal letter, but due to her -- her licensing, she did not want to participate in this proceeding. Am I correct?

MR. EWERT: State of mind. Speculation.

MR. BECHLER: Yeah. I don't know the intent behind why she wrote the letter. She just wrote the letter, and we're in possession of that.

MEMBER HATCHER-CRAWFORD: So I'm -- now I'm asking the attorney. Why if -- if she wrote this rebuttal letter that was submitted as evidence, why didn't she want to participate in this type of hearing? I mean, she is his fiancee. So...

MR. EWERT: The -- you would have to ask her. Ultimately, she's lawyered up several times throughout this process and has elected not to participate.

MEMBER HATCHER-CRAWFORD: Thank you.

MR. HENLEY: Madam Chair, if I could address that question to Board Member Crawford.

We can only speculate as to why she hasn't participated, of course. But as -- as we know, in many domestic violence cases, it is common for a victim, who has reported domestic violence, not to participate in the prosecution process.

That is exactly what happened in the criminal proceedings. There were a number of instances where the criminal case was continued because the witnesses, meaning the victim and other witnesses, were not available. The Court had to continue the case numerous times.

Eventually, as is reflected in Mr. Bechler's interview of Mr. Adams, Mr. Adams told his lawyer, I don't want to waive -- they call it waiving time. You have a right to a speedy trial. You can waive that right. You can waive time.

And Mr. Adams advised his lawyer, as he told Mr. Bechler, "I don't want to waive time anymore. Let's get this case moving." So they brought the case forward. The case went to a criminal trial, and, again, the victim did not participate.

That's a common thing that happens in domestic violence situations.

And the last comment I will make about this is I think it is interesting not only what the letter says,

but what it doesn't say. As Mr. Bechler noted, there is not one mention, one indicia within the entire letter, of any sexual role-playing that occurred.

So I just ask you to consider that.

MEMBER HATCHER-CRAWFORD: Thank you.

CHAIRPERSON DUDLEY: Thank you, Counsel.

MEMBER JOHNSON: I guess I have one more question.

So this before us is about dishonesty. Of course, you know, what happened behind the role-playing and whether you were honest about is being role-playing consensual.

But, you know, I'm just having trouble getting past the fact that the Internal Affairs saw it as dishonesty. You know, the administrative law judge saw it as dishonesty. Of course, the Division itself has saw dishonesty. And the State Board has saw it all as dishonesty.

And now you are telling us something different, that you are not being dishonest. She's being dishonest?

MR. ADAMS: Sir, I'm just stating that I have been consistent in my explanation of what is on that video.

CHAIRPERSON DUDLEY: Any other questions from the Board?

(No response.)

CHAIRPERSON DUDLEY: Okay. At this time -- let's see. Is there anyone from the public who would like to address the Board? Anybody in the audience?

(No response.)

CHAIRPERSON DUDLEY: Anybody remotely?

(No response.)

CHAIRPERSON DUDLEY: Okay. Thank you, gentlemen.

MR. ADAMS: Thank you.

MR. EWERT: Thank you.

At this time, does anyone want to go into closed session? Looking at all of you. Just raise your hand if you want to go into closed session.

(No response.)

CHAIRPERSON DUDLEY: Okay. Seeing nothing, no hands are raised.

Is there discussion or is there a motion? How would you like to proceed?

MEMBER JOHNSON: Johnson. Decertification.

CHAIRPERSON DUDLEY: Okay. Is there a second?

MEMBER HATCHER-CRAWFORD: I second it.

CHAIRPERSON DUDLEY: Okay. And is there any more discussion? Questions? Abstentions?

(No response.)

CHAIRPERSON DUDLEY: Okay. Please take the roll.

MR. KNAPP: Thank you, Chair.

Clavo.
MEMBER CLAVO: Aye.
MR. KNAPP: Clavo, aye.
Crawford.
MEMBER HATCHER-CRAWFORD: Aye.
MR. KNAPP: Crawford, aye.
Dudley.
CHAIRPERSON DUDLEY: Aye.
MR. KNAPP: Dudley, aye.
Johnson.
MEMBER JOHNSON: Aye.
MR. KNAPP: Johnson, aye.
Lara.
MEMBER LARA: Aye.
MR. KNAPP: Lara, aye.
And Pena.
MEMBER PENA: Aye.
MR. KNAPP: Pena, aye.
That's six in favor.
CHAIRPERSON DUDLEY: Okay. And motion passes.
At this time, that was the last item on the agenda.
Do any of the members of the Board have any additional comments before we adjourn?
(No response.)
CHAIRPERSON DUDLEY: I am looking at one exhausted

board.

All right. Seeing none, I will need a motion to adjourn.

MEMBER LARA: I will make a motion to adjourn.

CHAIRPERSON DUDLEY: And a second.

MEMBER CLAVO: Clavo. Second.

CHAIRPERSON DUDLEY: Thank you.

And therefore, the meeting is adjourned. Thank you. That motion carries.

(Proceedings concluded at 3:19 p.m.)

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CERTIFICATE OF REPORTER

I, KATHRYN S. SWANK, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing proceedings were reported, to the best of my ability, in shorthand by me, Kathryn S. Swank, Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said proceedings nor in any way interested in the outcome of said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of February 2026.

Kathryn S. Swank, CSR
Certified Shorthand Reporter
License No. 13061

E R R A T A S H E E T

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AGENDA ITEM REPORT

Title: REPORT ON DATA FOR SERIOUS MISCONDUCT REPORTING, INVESTIGATIONS, AND DISCIPLINARY ACTION OUTCOMES

REPORT PROFILE

MEETING DATE 04/15/2026	**BUREAU SUBMITTING THE REPORT** Executive Office	
RESEARCHED BY	**REVIEWED BY**	
REPORT DATE	**APPROVED BY** Manuel Alvarez, Jr.	**DATE APPROVED** 09/23/2025
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

This report provides updates on the operations of the Peace Officer Standards Accountability Division, as well as statistical data and outcomes of serious misconduct cases received by POST and cases that have moved forward with disciplinary action.

This report is presented for information only. No action is required.

BACKGROUND:

On September 30, 2021, Governor Gavin Newsom signed Senate Bill 2, which established the Peace Officer Standards Accountability Division and outlined its primary responsibilities of reviewing cases of serious misconduct that could result in the revocation or suspension of a peace officer's certification, as well as presenting its findings and recommendations to the Peace Officer Standards Accountability Advisory Board and Commission on Peace Officer Standards and Training for their deliberation.

The process for handling serious misconduct cases has been implemented within the Division, which has has been receiving and reviewing cases of serious misconduct since January 1, 2023. Pursuant to Penal Code section 13512, POST staff reports on the relevant statistics and outcomes related to cases of serious misconduct that will assist in the Board's evaluation of the Division's operative functions related to certification and decertification.

ANALYSIS:

As the final provisions authorized under Senate Bill 2 took

effect on January 1, 2023, POST staff reports out on the activities and relevant actions of the Peace Officer Standards Accountability Division, Peace Officer Standards Accountability Advisory Board, and Commission on Peace Officer Standards and Training.

RECOMMENDATION: This item is presented for information only. No action is required.

ATTACHMENT(S):

POSAAB Memo_03.18.26.pdf

Cert_Decert_Stat_Update.pdf

COMMISSION ON
PEACE OFFICER STANDARDS AND TRAINING

POST

MEMORANDUM

Date: March 18, 2026

From: Peace Officer Standards Accountability Division – Board Assistant, Chandler Knapp
To: Peace Officer Standards Accountability Advisory Board Members
Subject: April 15, 2026, Board Hearing and Outcome of Recent Commission Misconduct Case Review

Dear Esteemed members of the Board,

I trust this message finds you well as spring begins to bloom. This memo aims to provide you all with two particularly important administrative updates that impact you as Board members:

1. April 15, 2026, Peace Officer Standards Accountability Advisory Board Hearing at POST Headquarters in West Sacramento beginning at 10:00 AM.

2. A brief overview on the outcome of case review from the March 04-05, 2026, Commission Meeting.

First, during the past review cycle, Division personnel issued six - Notices of Intent to Revoke. Of those 6, all 6 subject officers have appealed, and 5 cases will be before the Board on April 15, 2026, with one case being held for the July 15-16, 2026, POSAAB hearing.

As such, we will be conducting a **one-day hearing on April 15, 2026**, at POST Headquarters in West Sacramento beginning at 9:00 AM.

Secondly, the Commission met on March 04-05, 2026, at POST Headquarters in San Diego, CA to review the recommendations made by you – the Board – at the February 05, 2026, Board hearing. Below are the results of the Commission's review. The following is a summary of those results – any further questions/discussion may be addressed during the Board hearing on 04/15/2026.

POST2316280 - Khammouane Kevin Thakham (POSAAB Recommendation: Revocation)

The subject officer was notified of the details of the Commission's review and notified of their opportunity to issue public comment. In the days leading up to the Commission meeting, the subject officer voluntarily surrendered his peace officer certificate(s) and was not present to comment. The Law Enforcement Consultant and Division Counsel were present to advise the Commission of the surrender and answer questions. One member of the public issued comment.

POST2402838 – Elliot Lopez (POSAAB Recommendation: Revocation)

The subject officer was provided notice of the Commission's hearing and their opportunity to speak. The subject officer commented before the Commission followed by two members of the public. At the conclusion of the presentation by the Law Enforcement Consultant and review of the record and recommendation from the Board hearing of February 05, 2026, the Commission voted unanimously in support of the Board's recommendation to revoke the subject officer's certification. This case will now move forward for the filing of an accusation and a full evidentiary hearing before an Administrative Law Judge (ALJ), pending an appeal by Mr. Lopez.

POST2403212 – Richard Adams (POSAAB Recommendation: Revocation)

The subject officer and his counsel were notified of the details of the Commission's review and notified of their opportunity to issue public comment. Counsel for the subject officer was present and provided comment. Commissioners were provided with a written public comment by Mr. Adams. Two members of the public came forward to comment before the Commission. Following the Law Enforcement Consultant's presentation, the Commission voted unanimously in support of the Board's recommendation to revoke the subject officer's certification. This case will now move forward for the filing of an accusation and a full evidentiary hearing before an Administrative Law Judge (ALJ), pending an appeal by Mr. Adams.

We understand that you may have questions or concerns in reference to the aforementioned case outcomes. This memo aims to provide a summary of those case outcomes; however, staff can elaborate on the outcome of any of these cases at the Board's next scheduled meeting on April 15, 2026, at POST Headquarters in West Sacramento.

We sincerely hope that Spring treats you well and look forward to seeing you all in April. If you have any general questions or concerns about POSAAB business, please do not hesitate to reach out to me at any time.

Very truly yours,

Chandler T. Knapp

Chandler T. Knapp
POSAAB Assistant - Executive Office

Peace Officer Standards Accountability Division

Statistical Data Profile

April 2026

Data through 03/31/2026

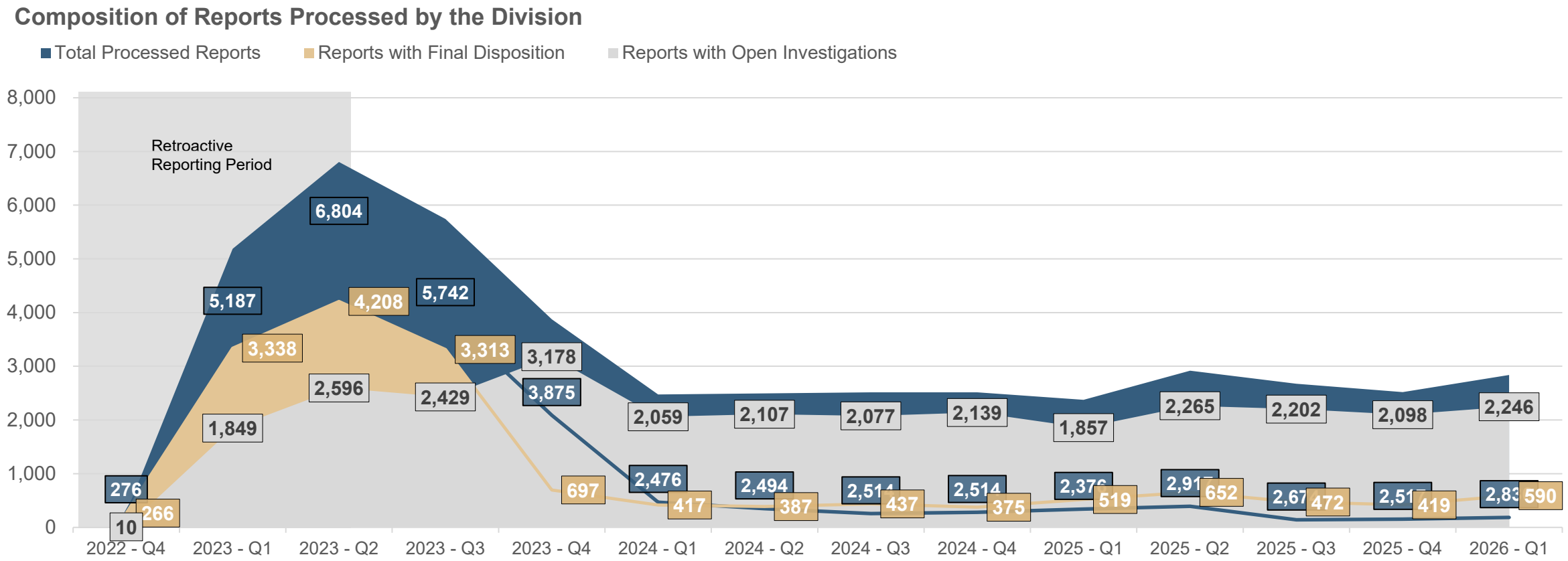
The Division's intake of serious misconduct reports was heavily driven by the statutory retroactive reporting mandate, but numbers have since stabilized at ~2.5k reports per quarter.

The Division processed over **45,000 Agency Misconduct reports.**

29% were received prior to the statutory retroactive reporting deadline: July 1, 2023.

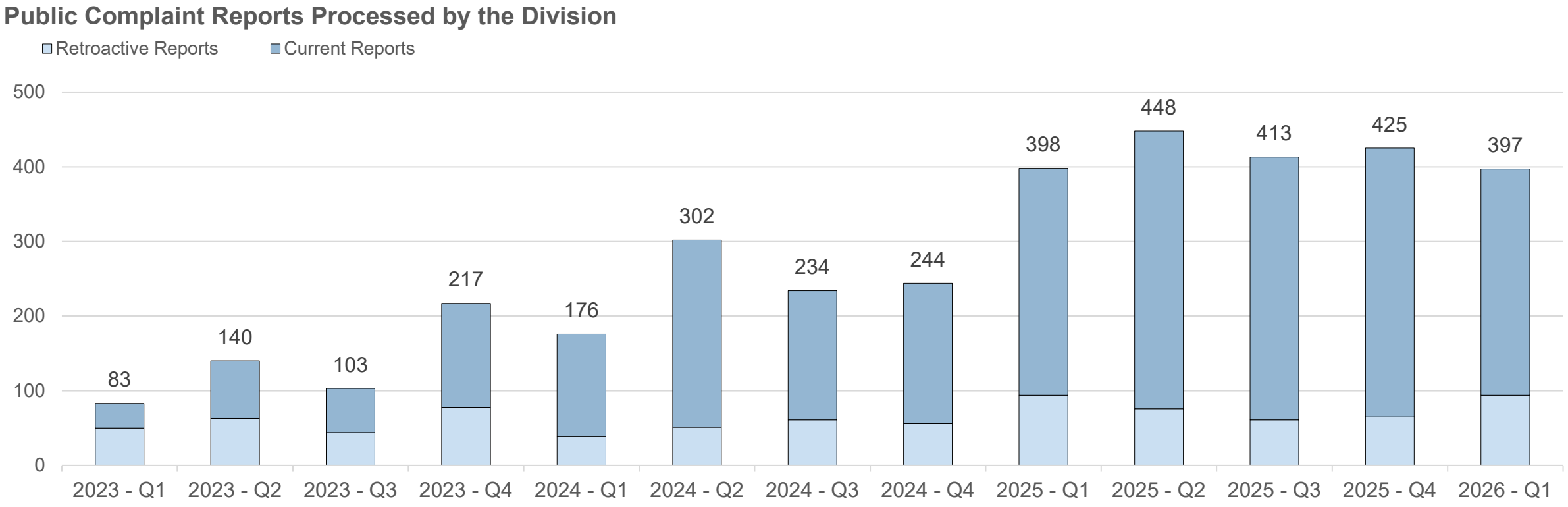
Approximately 42% of all reports were **retroactive reports** (incident date between January 1, 2020, and January 1, 2023.)

Since the 1st quarter of 2024, the Division routinely processes nearly **2,600 reports per quarter.**



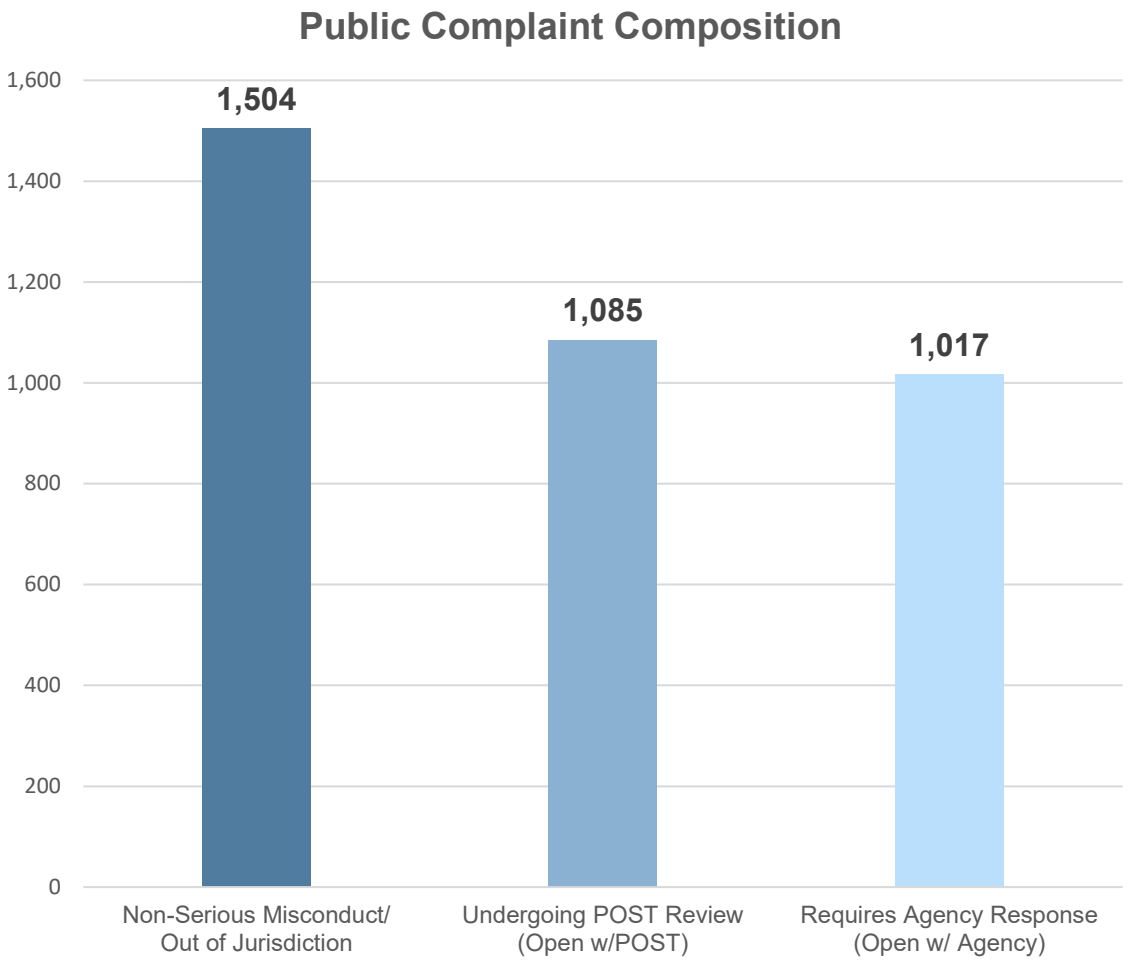
Over 3,200 public complaint reports processed by the Division; increasing public awareness of POST and the decertification process has resulted in a steady increase of public complaint submissions.

POST has received complaints from over 2,700 complainants against **over ~2,100 unique officers**.



Total reflects the **number of officers** with potential serious misconduct allegations rather than the actual number of public complaints submitted by members of the public; if an individual files a complaint that contains multiple officers, POST will create a respective report for each named officer.

POST is actively reviewing complaints and coordinating with agencies for documentation; 30% are undergoing review for potential serious misconduct, while 41% have been closed.



279 (10%) complaints are against Chiefs/Sheriffs.
These complaints are highly prioritized and brought to the attention of the Professional Conduct Bureau Chiefs, who will review the complaint and decide POST's next steps for investigation.

10 (0.3%) complaints have resulted in certification action.
These complaints have been reviewed by POST and resulted in revocation, ineligibility, or voluntary surrender of the subject officer's certification.

1,504 (42%) complaints are closed.

These complaints were reviewed by POST and determined to be serious misconduct, not serious misconduct, or non-jurisdictional. POST can only take certification action against peace officers described in Penal Code section 13510.1(a).

1,085 (30%) complaints are undergoing POST review.

POST has received sufficient agency documentation to move forward with review. These complaints were identified for containing potential serious misconduct.

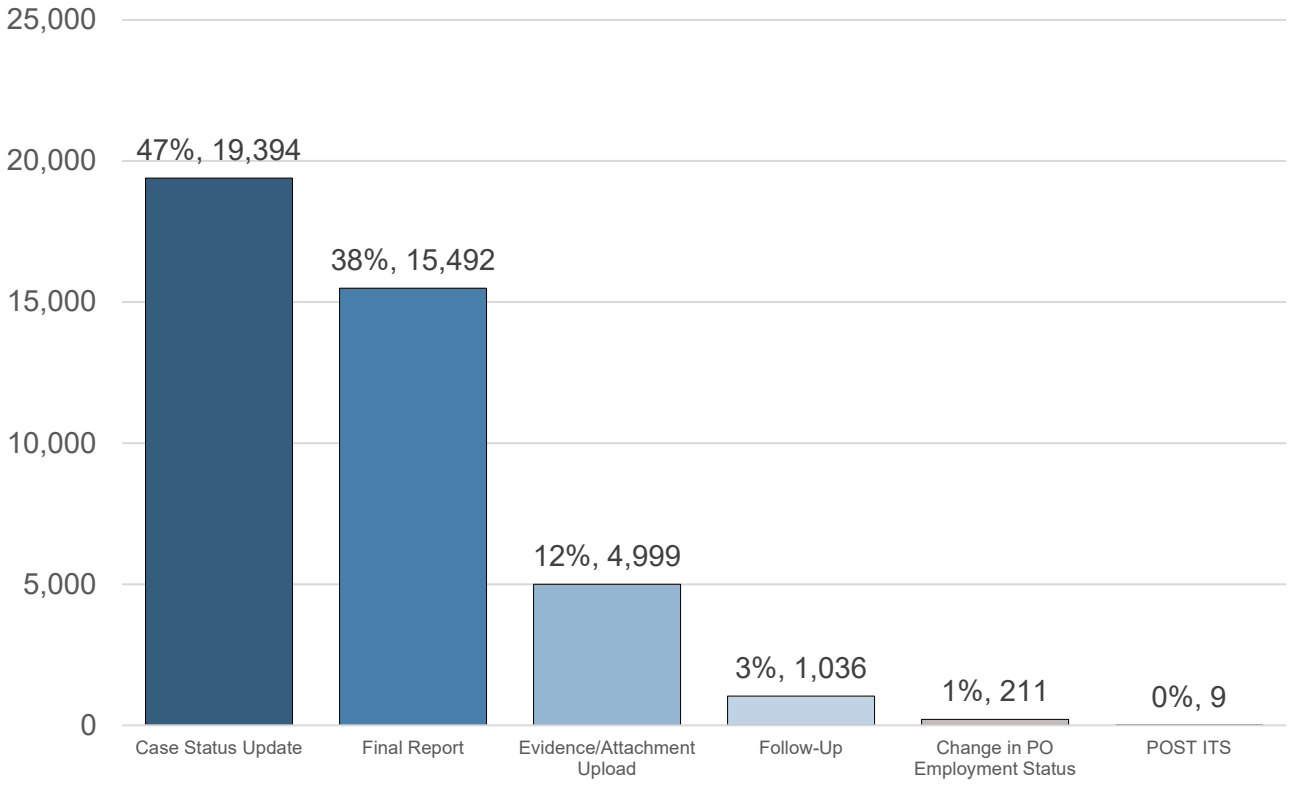
1,017 (28%) complaints require additional agency documentation.

POST communicates with agencies to receive ample documentation prior to its review.

The Division has received over 41,000 report updates from agencies, most consisting of case status updates, evidence uploads, and agency findings.

Over 38,000 Agency Supplemental reports were submitted to provide additional information to Agency Misconduct reports and public complaints.

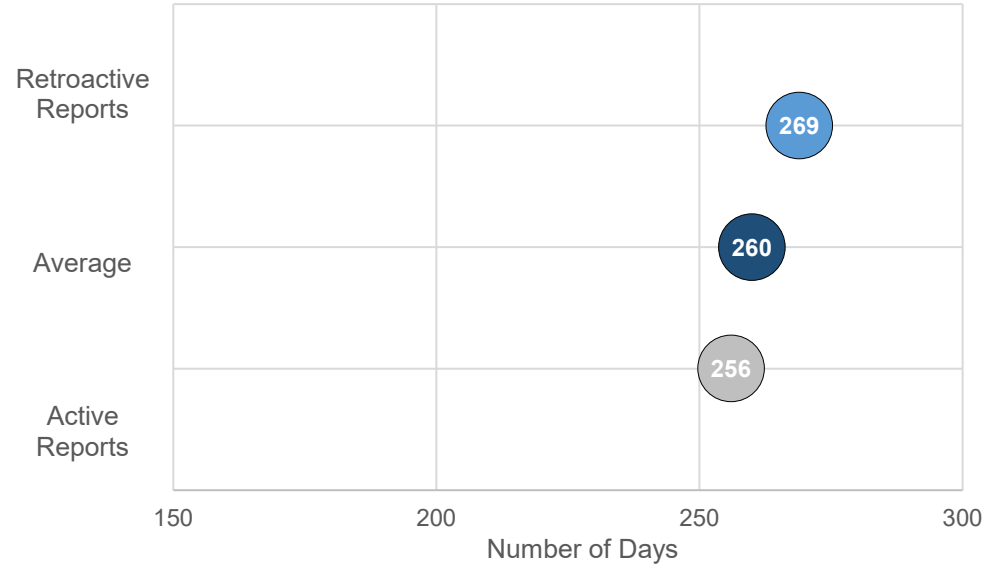
Types of Agency Supplemental Reports Submitted to POST



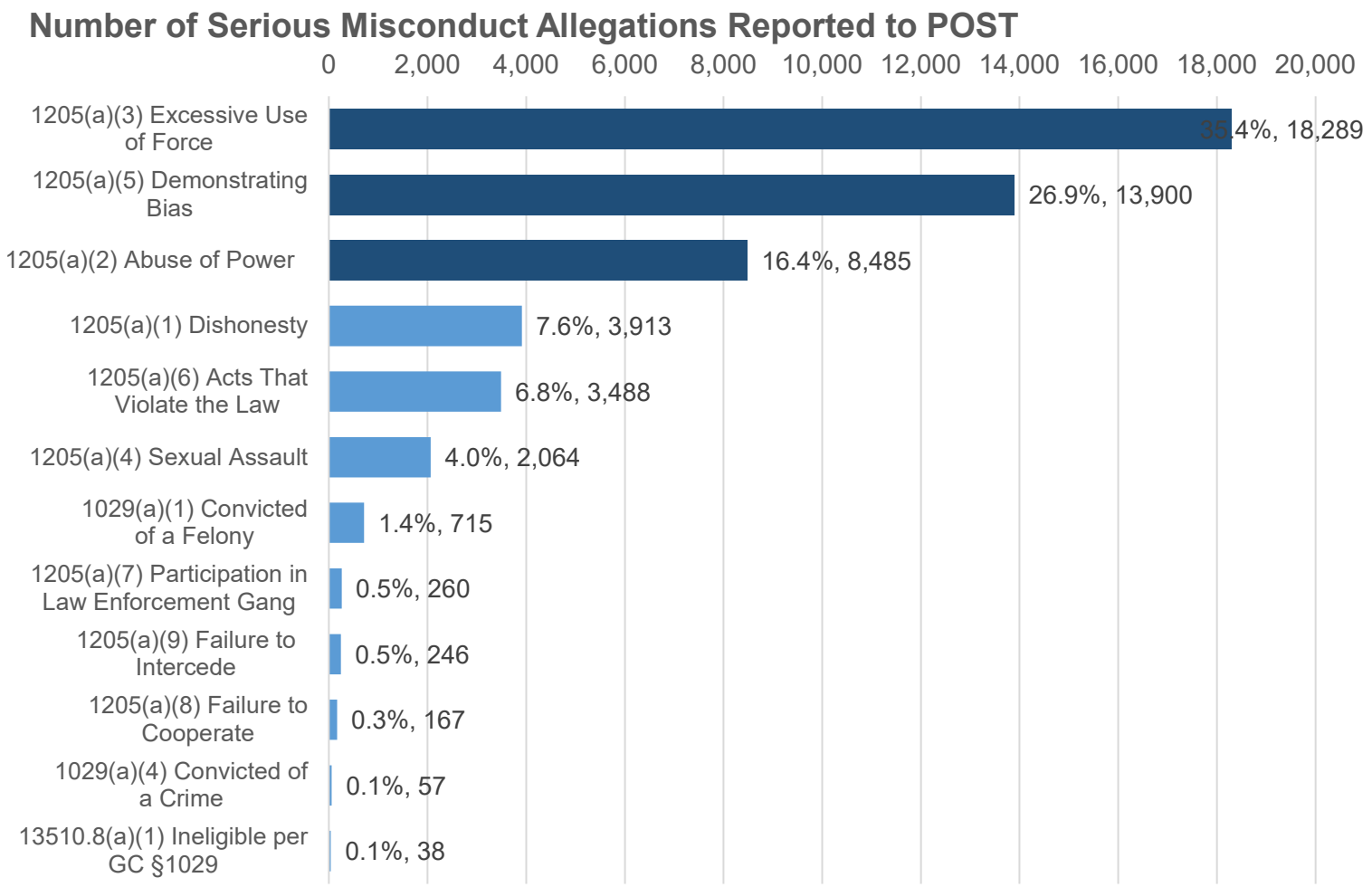
The average timeframe in which an open Agency Misconduct report receives agency findings through an Agency Supplemental report is **255 days**. This timeframe fluctuates when discerning active and retroactive reports.

On average, **retroactive reports** received agency findings in **260 days**. In contrast, **active reports** received agency findings later, within an average of **252 days**.

Average Agency Finding Submission Times By Incident Date



Over 50,000 serious misconduct allegations spanning ~24,000+ officers statewide have been reported to POST; in accordance with statute, only 70% of the allegations are potentially actionable.



A report or complaint may contain multiple allegations.

23,992 unique peace officers (28% of total CA peace officers) received allegations.

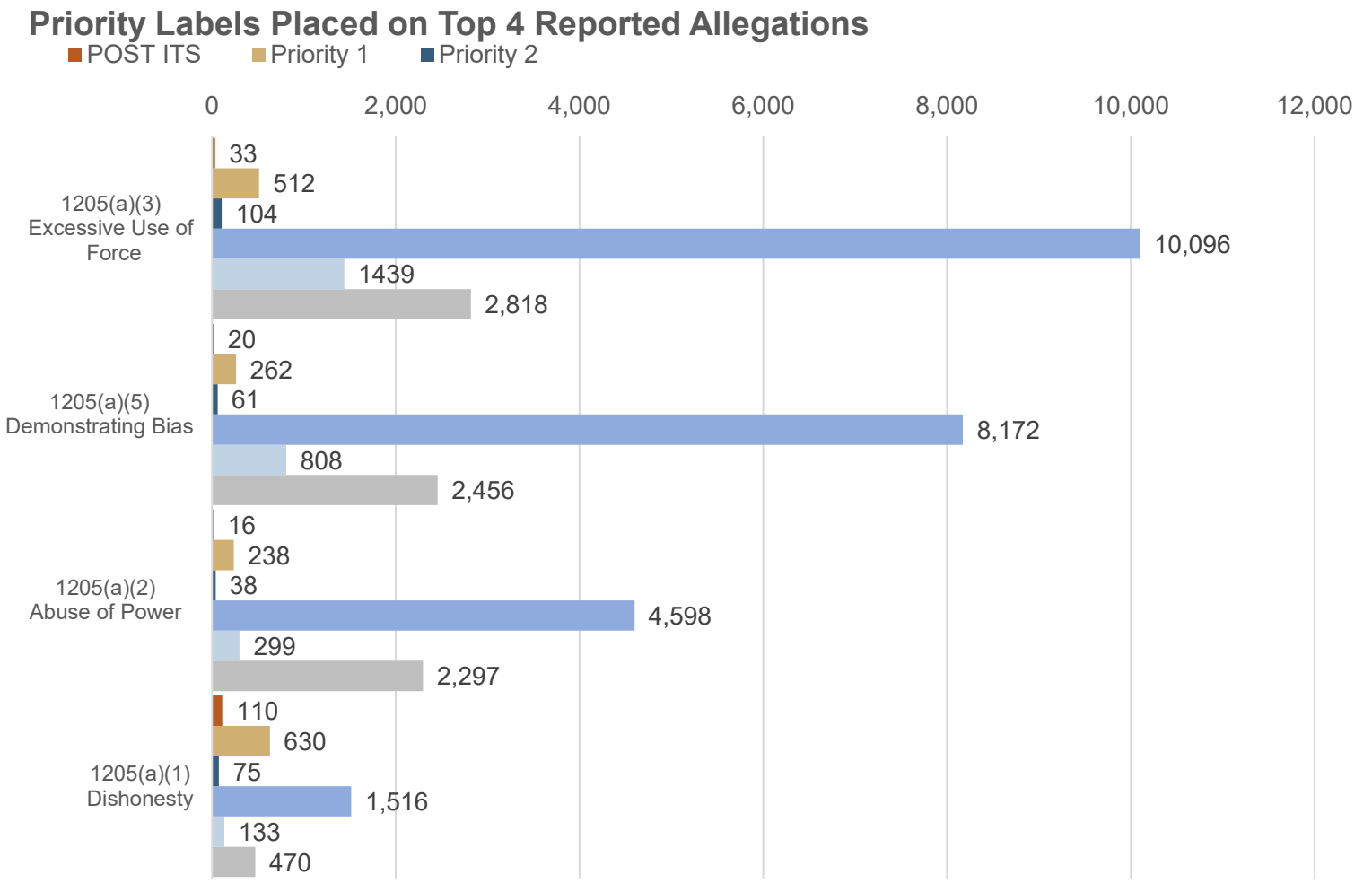
About **30%** of allegations **occurred prior to January 1, 2022**.

POST can only act against conduct that occurred prior to January 1, 2022, **if:**

(1) The subject officer's agency makes a final determination on its investigation **after** January 1, 2022,
or
(2) The allegations include dishonesty, sexual assault, and/or use of deadly force resulting in serious bodily injury or death.

As a result, approximately **34,000** (70%) of the allegations **are considered potentially actionable** by POST.

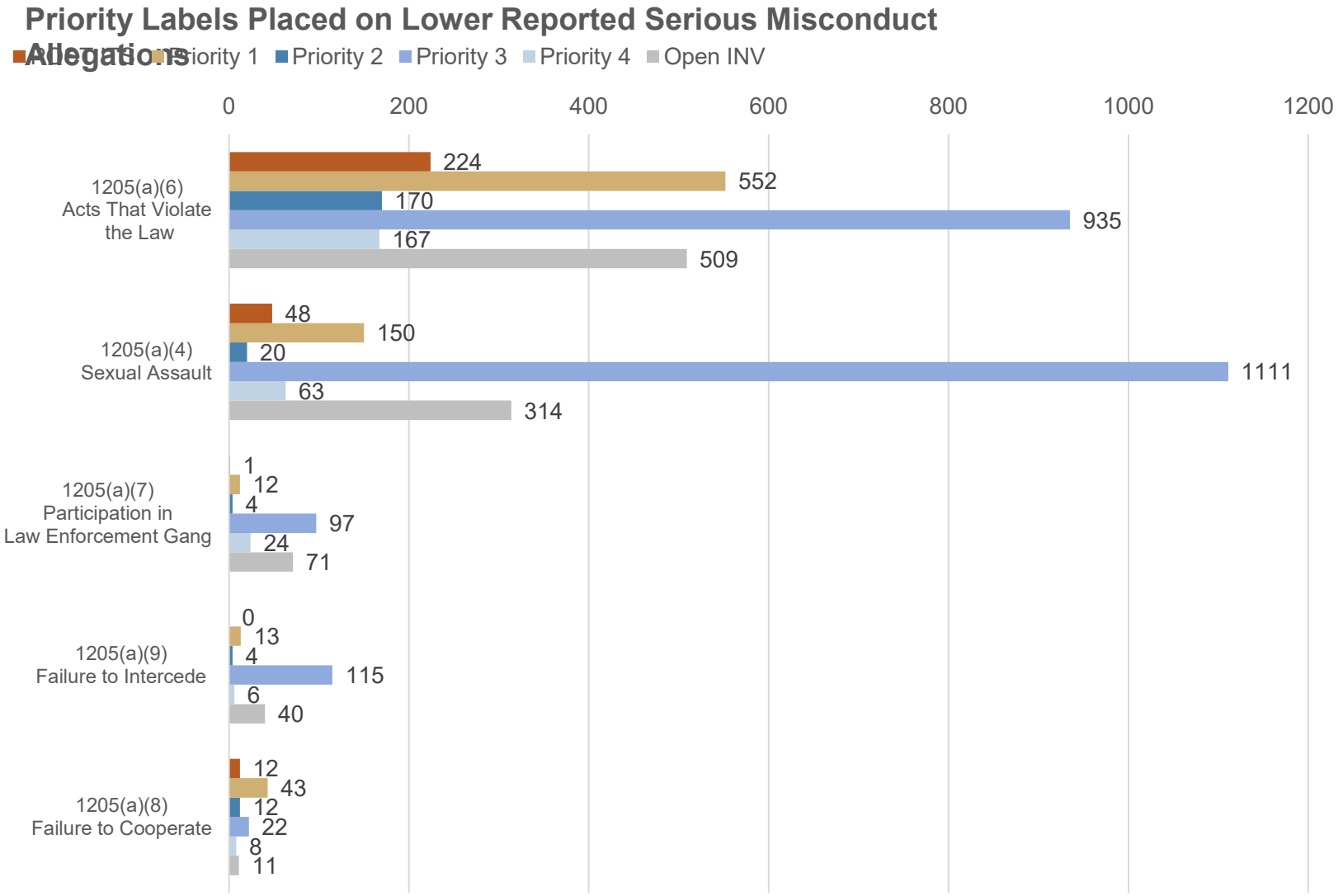
Prioritization of reported allegations to POST: bulk of allegations receive Priority 3 and Open INV labels.



* Labels are assigned upon review by Intake and Disposition Bureau. Prioritization is subject to change when reports

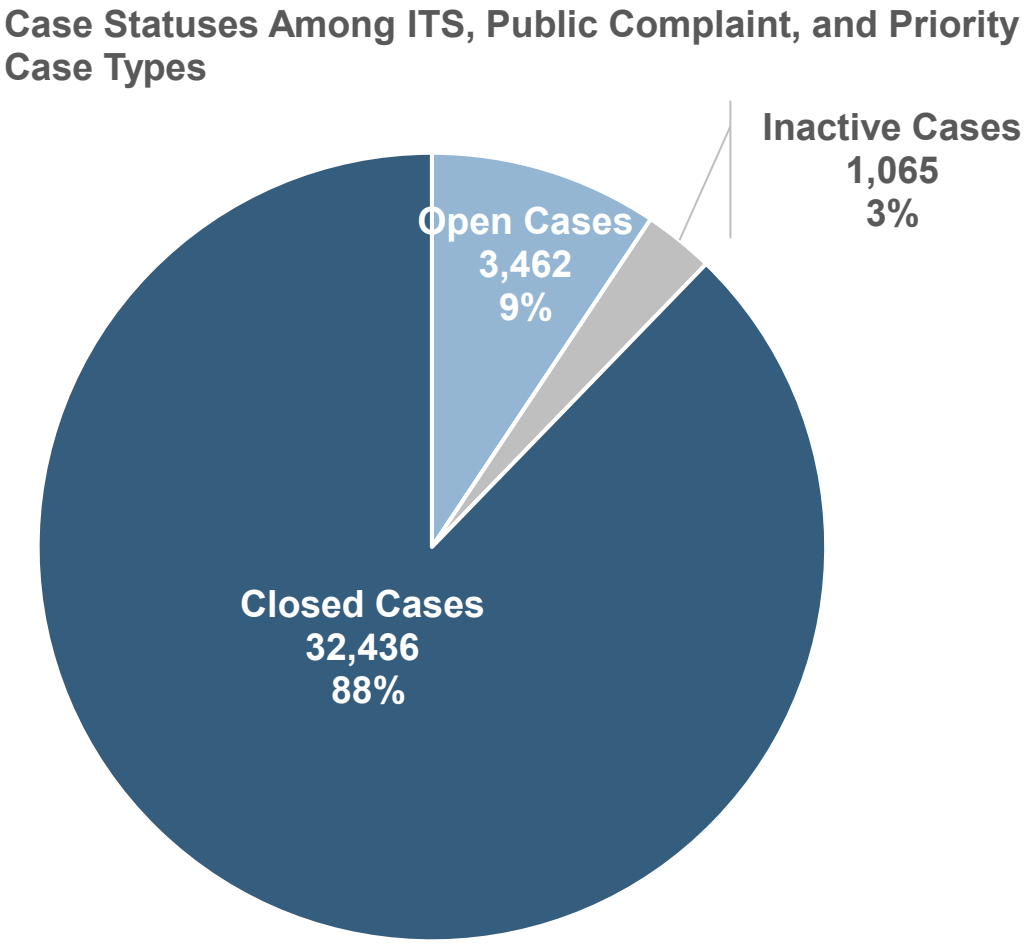
Label	Definition
POST ITS	Contains a potential ITS basis outlined in Penal Code section 13510.8(d).
Priority 1	Contains politically/media-sensitive content or sustained agency findings, regardless of the incident or agency finding date.
Priority 2	Contains sustained agency findings for policy violations that may or may not fall under the definition of serious misconduct.
Priority 3	Contains an unfounded, exonerated, or not sustained finding with an agency finding date that takes place **after** January 1, 2022.
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OPEN INV	Contains an ongoing agency investigation without agency findings.

88% of ITS, Public Complaint, and Priority cases are closed; remaining ongoing caseload is prioritized based on agency findings and potential risk to public safety.



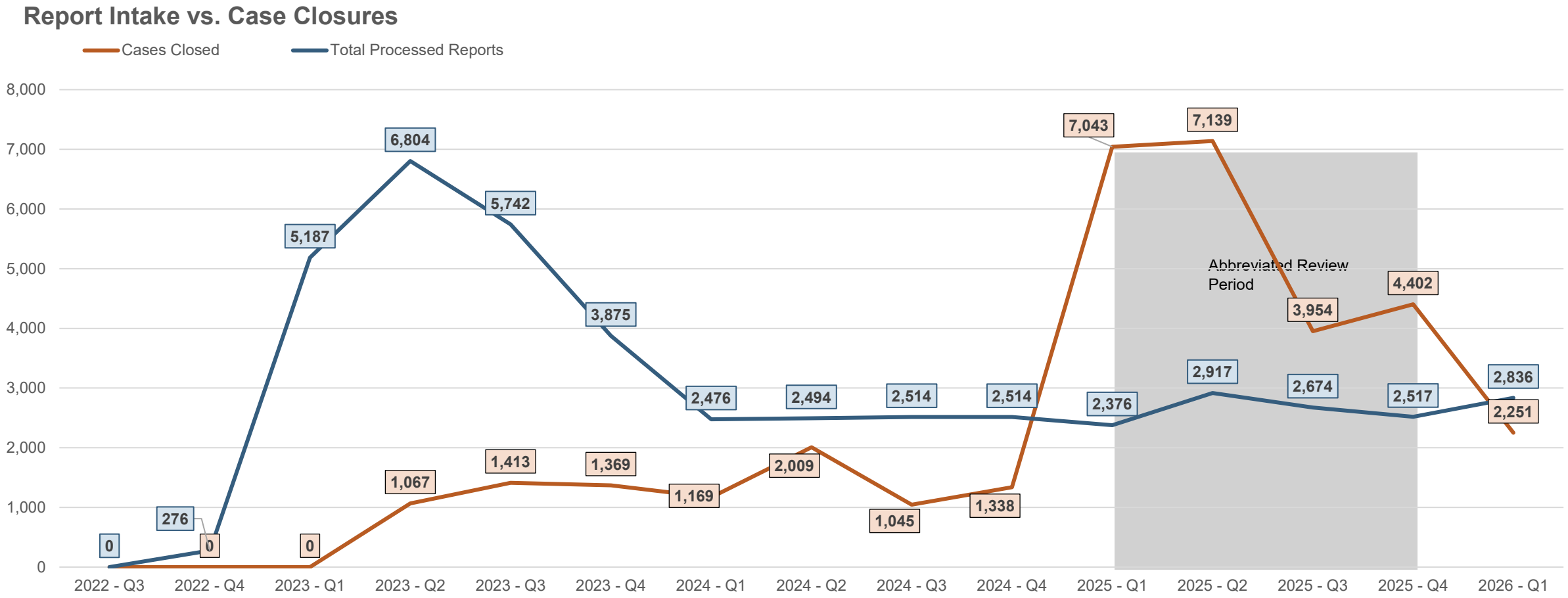
88% of ITS, Public Complaint, and Priority cases were closed following POST's review.

9% of these cases are open for POST's review.

The remaining **3% are considered inactive.**

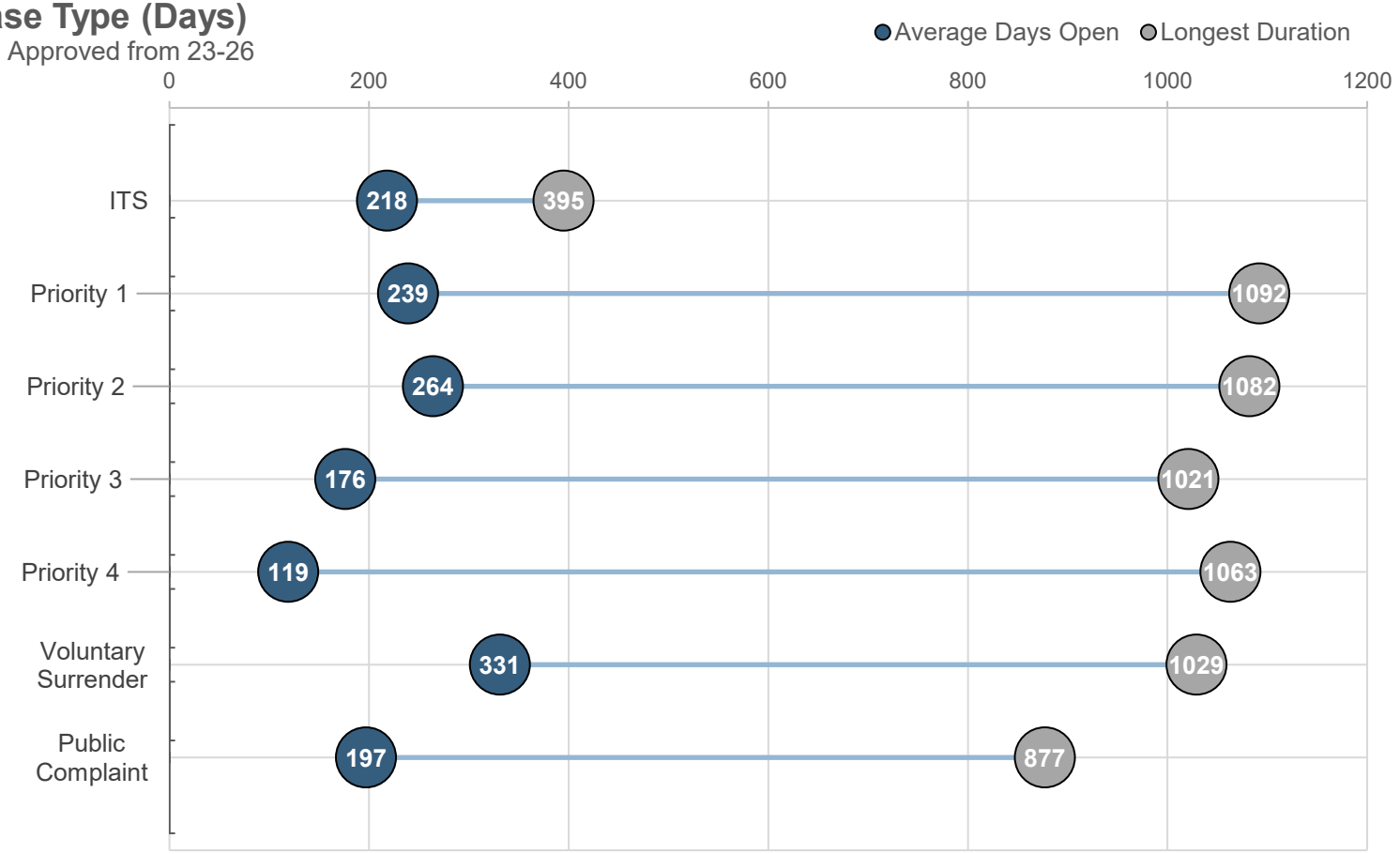
POST's case closures are catching up to its initial report intake; its abbreviated review process is aiding in backlog clearance.

In 2025 Quarter 1, the Division saw a spike in case closures due to a limited-time **Abbreviated Review** process to address the backlog of Priority 3 cases. With most Priority 3 cases now closed under the Abbreviated Review process, the Division has reinstituted the full review of all case types, including Priority 3 cases.



To date, all closed cases have been closed within the 3-year statutory timeframe, with ITS cases accelerated due to public safety risk.

Average vs. Maximum Case Closure Timeframes by Case Type (Days)
Reports Approved from 23-26



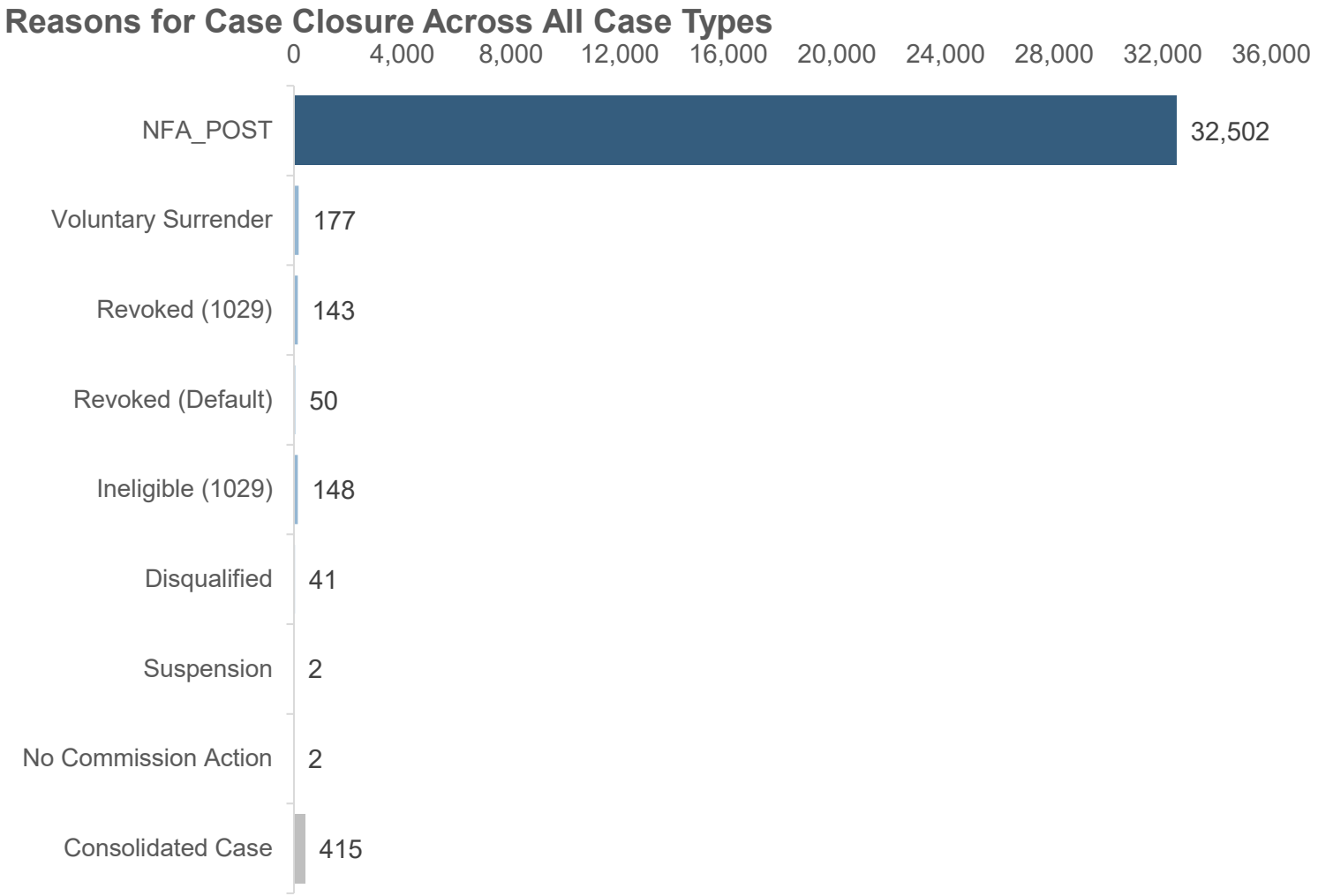
A case is considered open when POST receives the agency's findings up to the point in which POST comes to a determination on the case.

POST has three years upon receipt of the agency's findings to complete its investigation into serious misconduct.

On average, cases are closed within 265 days.

Cases with longer investigation durations comprise of **2.3% of the closed cases**.

Approximately 2% of cases closed by POST resulted in disciplinary action. About 96% of cases were closed without further action.



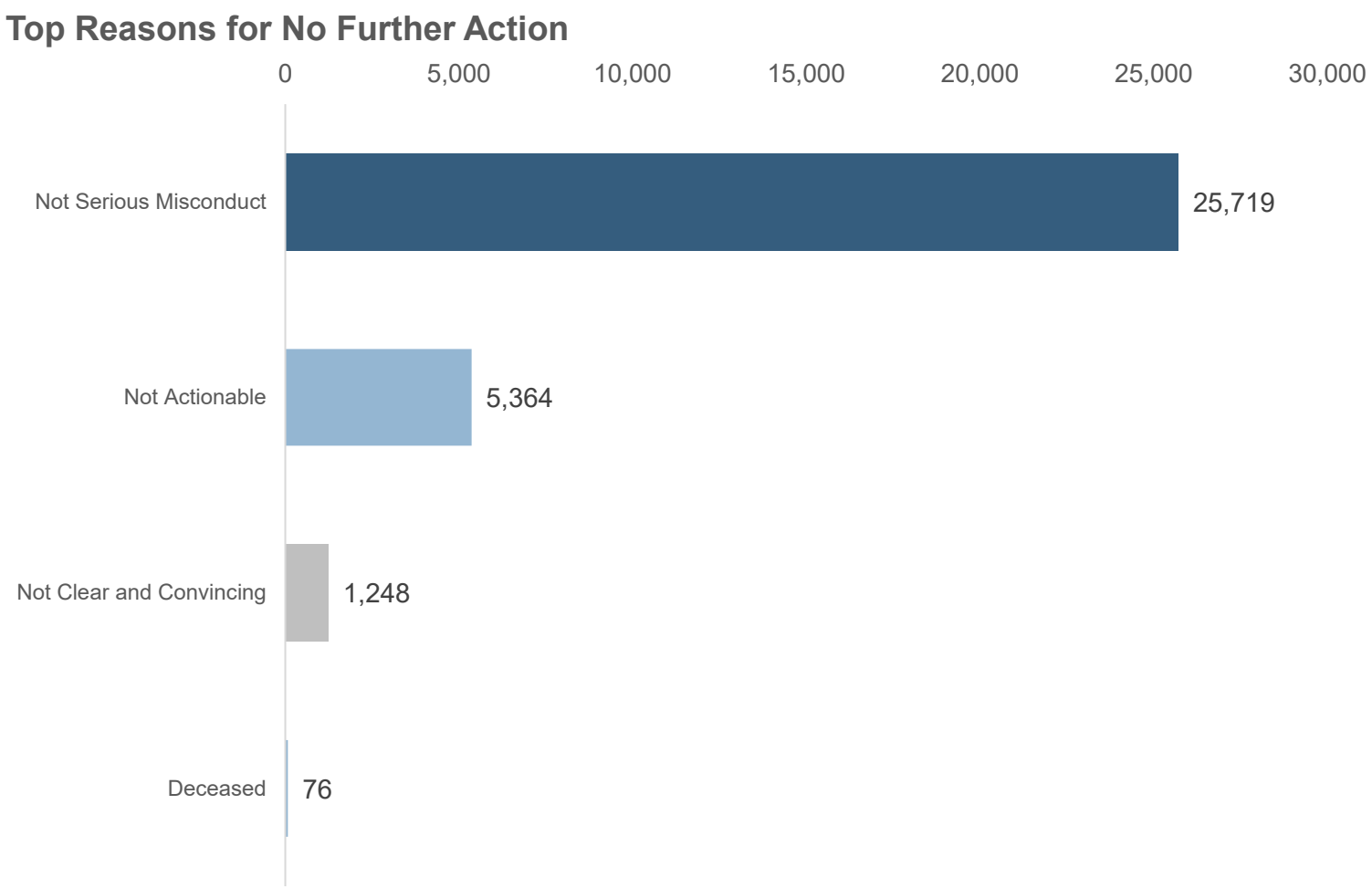
No Further Action (NFA_POST) accounted for **96% of POST's case closures.**

Cases closed due to **revocation, Voluntary Surrender, and Ineligibility** make up **0.6%** of all closures.

There are 40 Disqualification cases for individuals that do not hold a Proof of Eligibility or certificate from POST.

A total of 415 cases were consolidated into other cases due to duplicate submissions from agencies.

Breakdown of No Further Action case closures: 79% considered not serious misconduct, 17% non-actionable, and 4% contained insufficient evidence.

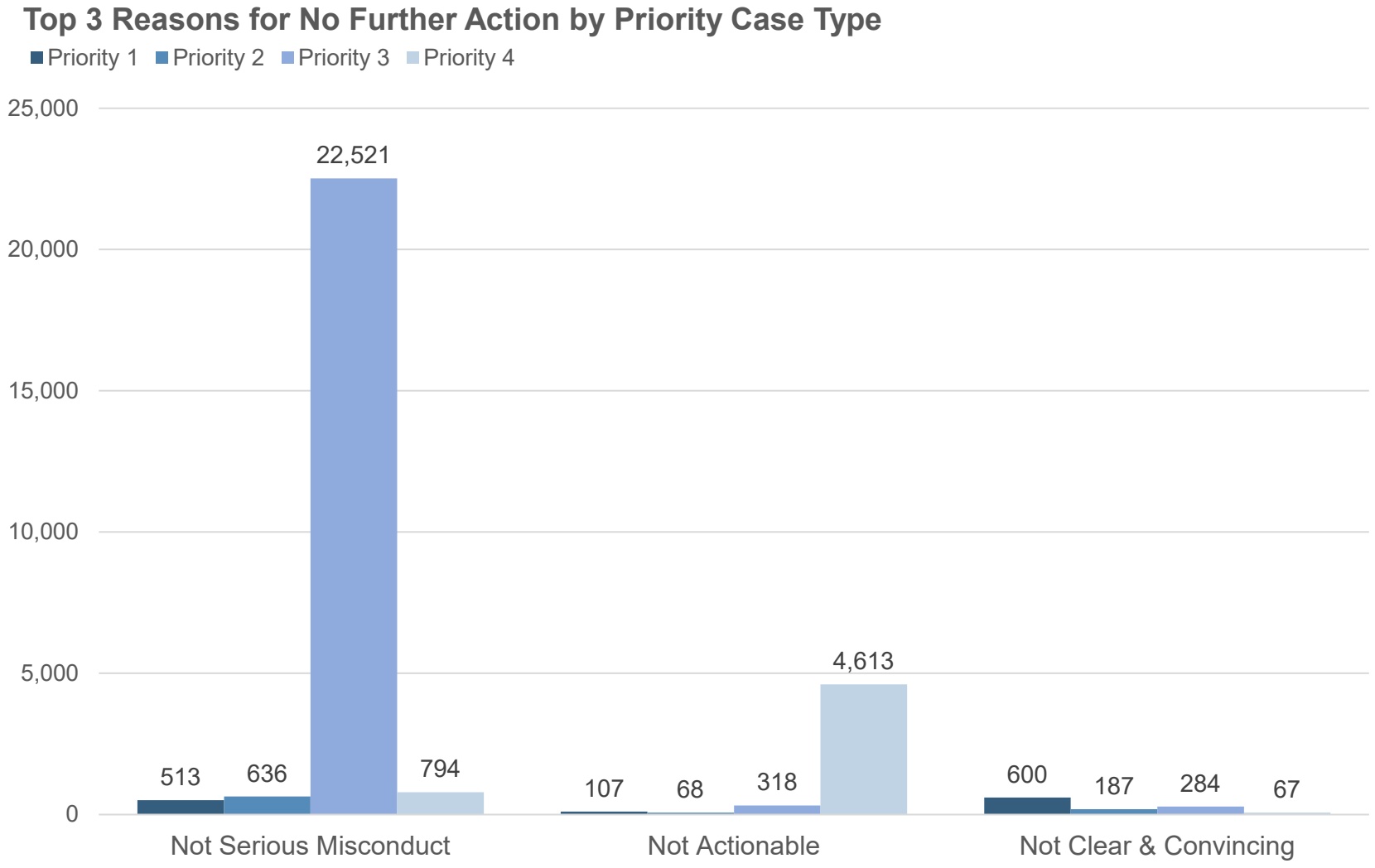


79% of NFA_POST cases were closed because they **did not meet the definition of serious misconduct.**

17% of these cases were closed for being **non-actionable**, meaning POST did not have the statutory authority to act on the case.

Only **4%** of NFA_POST cases were closed because there was **insufficient clear and convincing evidence**. Conduct within these cases may rise to the level of serious misconduct, but POST could not meet the burden of proof.

Closure trends among priority case types: most not serious misconduct and non-actionable cases are Priority 3 and 4, while Priority 1 cases see most evidentiary gaps.



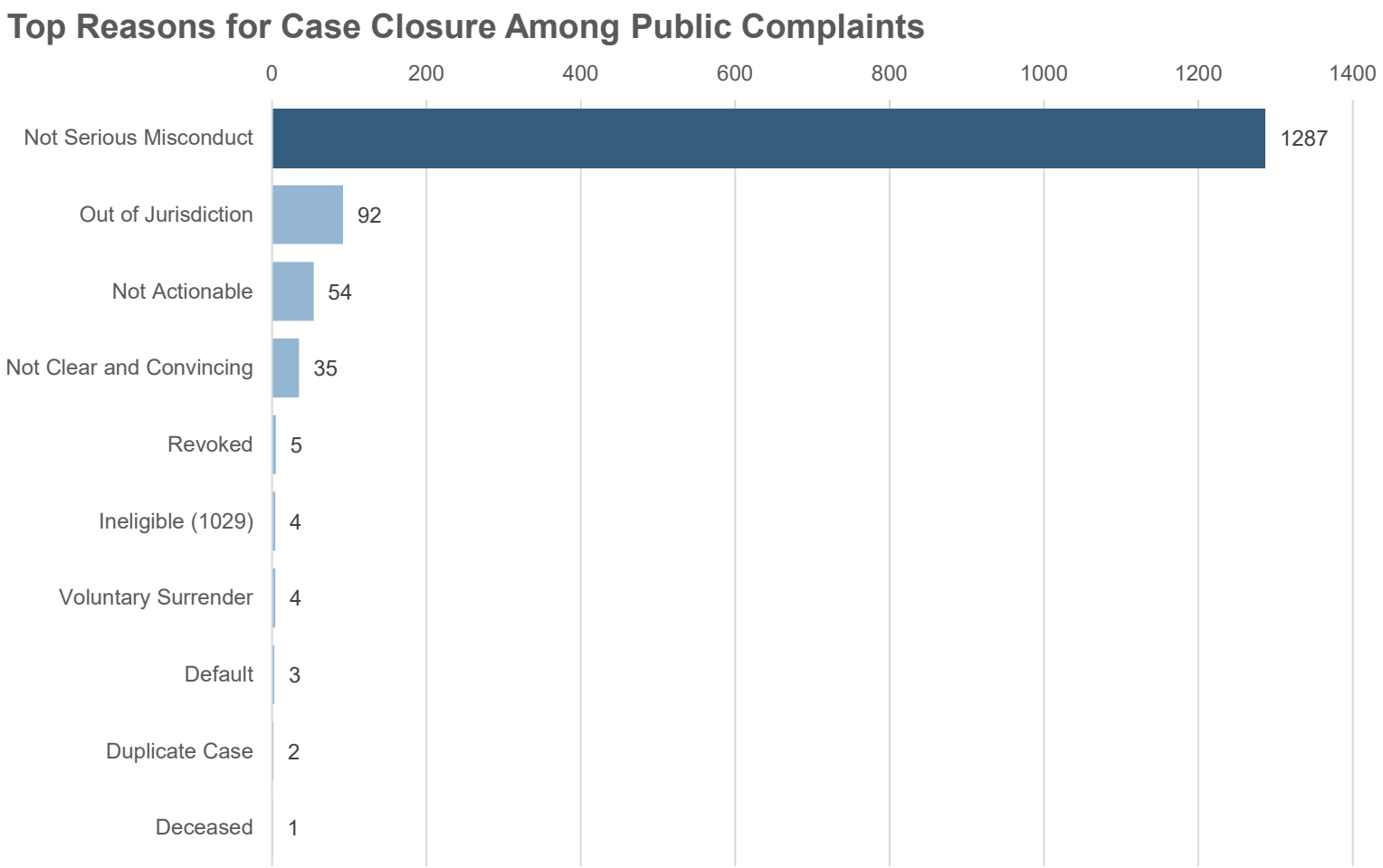
92% of closures for failure to meet serious misconduct were **Priority 3 cases.**

90% of non-actionable closures were **Priority 4 cases**, which aligns with expectations.

53% of cases closed for not meeting the clear and convincing evidentiary standard are **Priority 1 cases**.

Priority 1 and Priority 2 cases combined account for 69% of not clear and convincing closures.

Closure trends among public complaints: most complaints are closed out as not serious misconduct, non-jurisdictional, and non-actionable. A handful have resulted in certification action.



86% of closed cases containing public complaint reports were closed out as **not serious misconduct.**

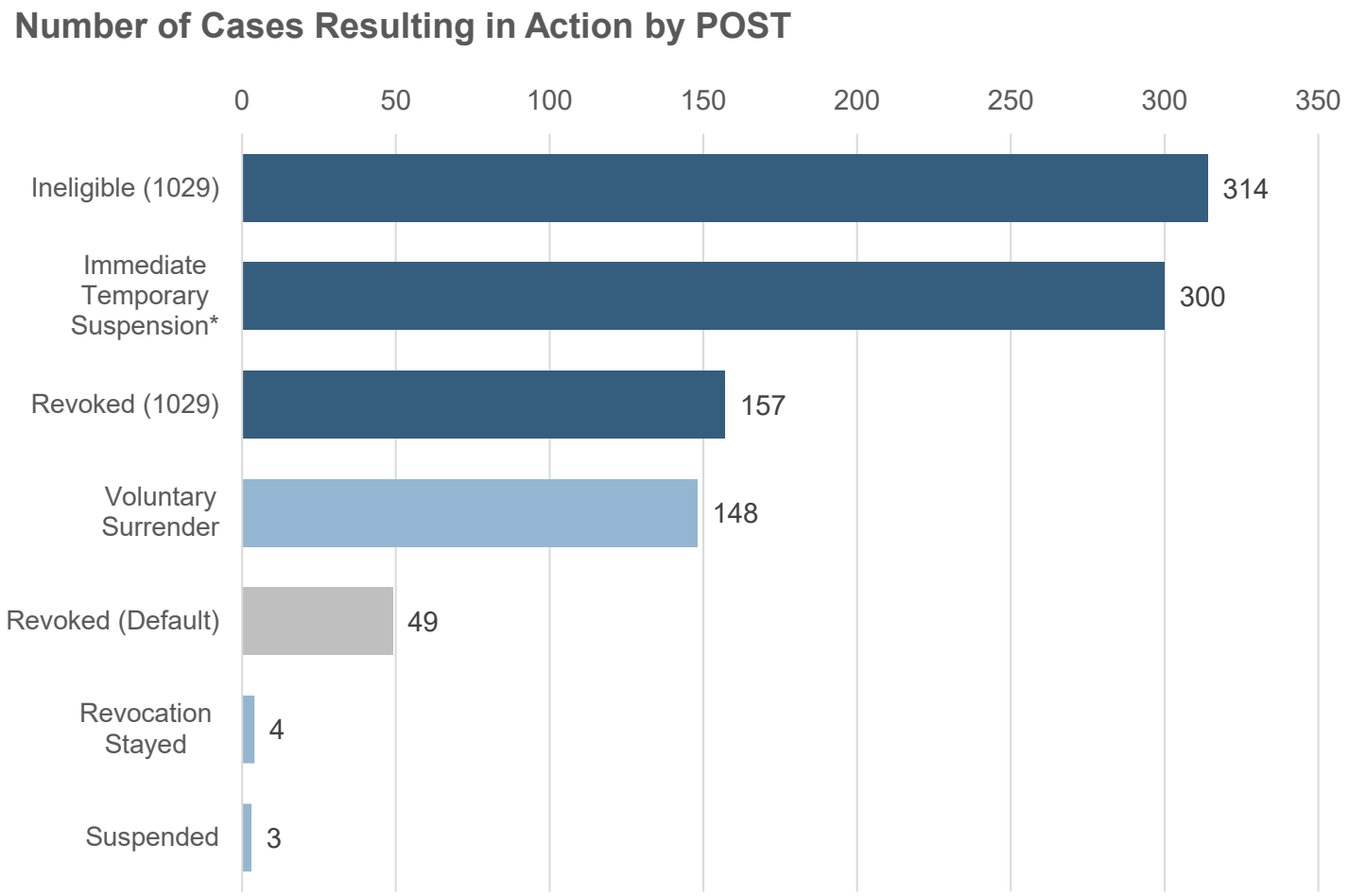
About 6% were closed out as **non-jurisdictional**, which occurs when a complaint indicates a person **not defined within Penal Code section 13510.1(a)**.

4% were closed out as non-actionable.

2% of may have met serious misconduct, but did not meet the clear and convincing evidentiary standard.

1% resulted in certification action.

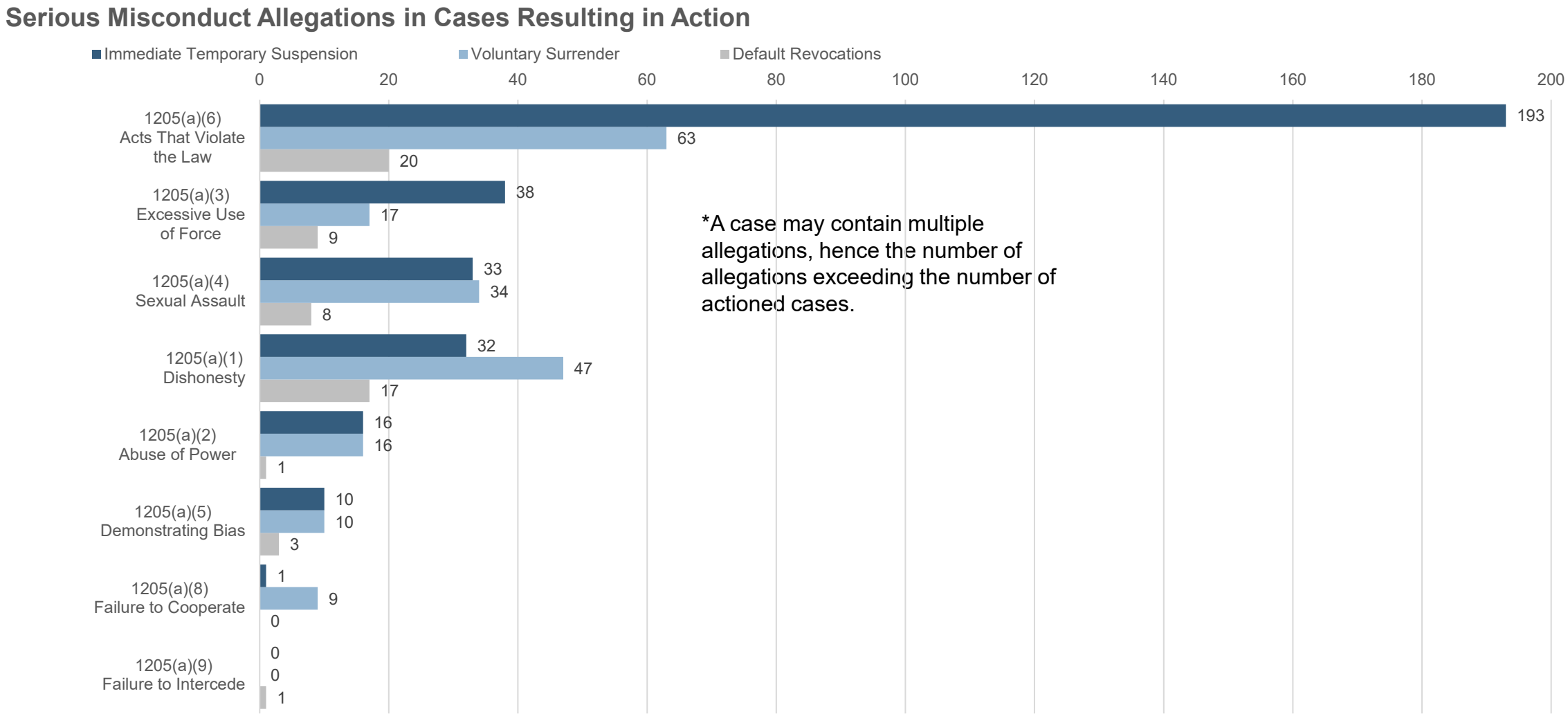
The number of disciplinary actions taken by POST is above average compared to other California regulatory licensing agencies.



*Reflects total number of issued Immediate Temporary Suspensions and those that resulted in subsequent action.

897 disciplinary actions have been imposed by POST. This amounts to **1.1% of actions** on POST's licensee population (~80k) annually.

The top allegations resulting in action by POST are Acts that Violate the Law, Dishonesty, and Sexual Assault.



Arrests and indictments for Government Code section 1029 crimes are the highest basis for issued immediate temporary suspensions, contributing to relatively high revocation outcomes.

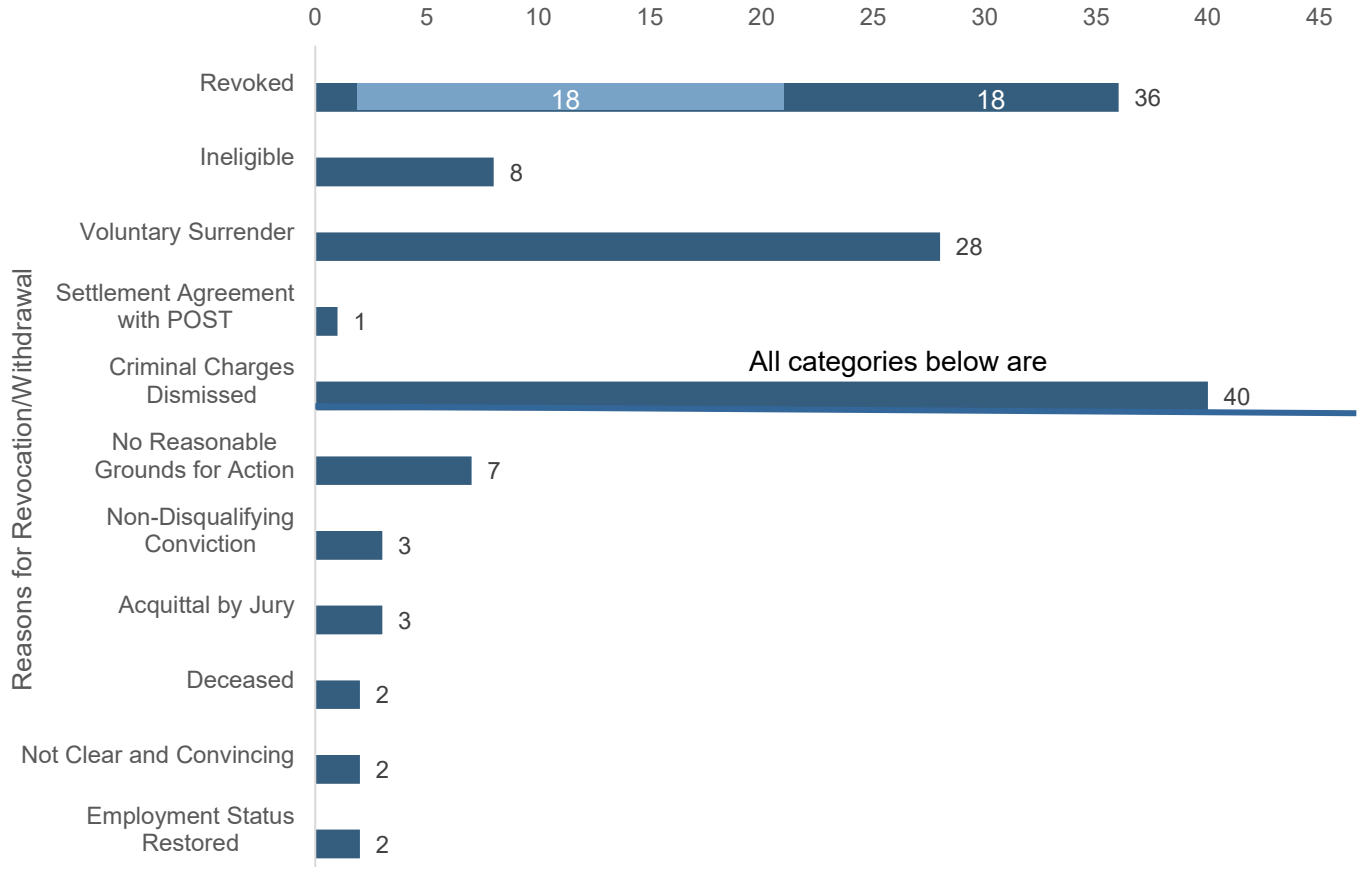
Bases for an immediate temporary suspension (ITS) are outlined in Penal Code section 13510.8(d). An ITS may be issued for one or more basis.

An ITS remains in effect until the Division determines that no serious misconduct occurred, a final determination is made by the Commission, or the Executive Director withdraws the temporary suspension.

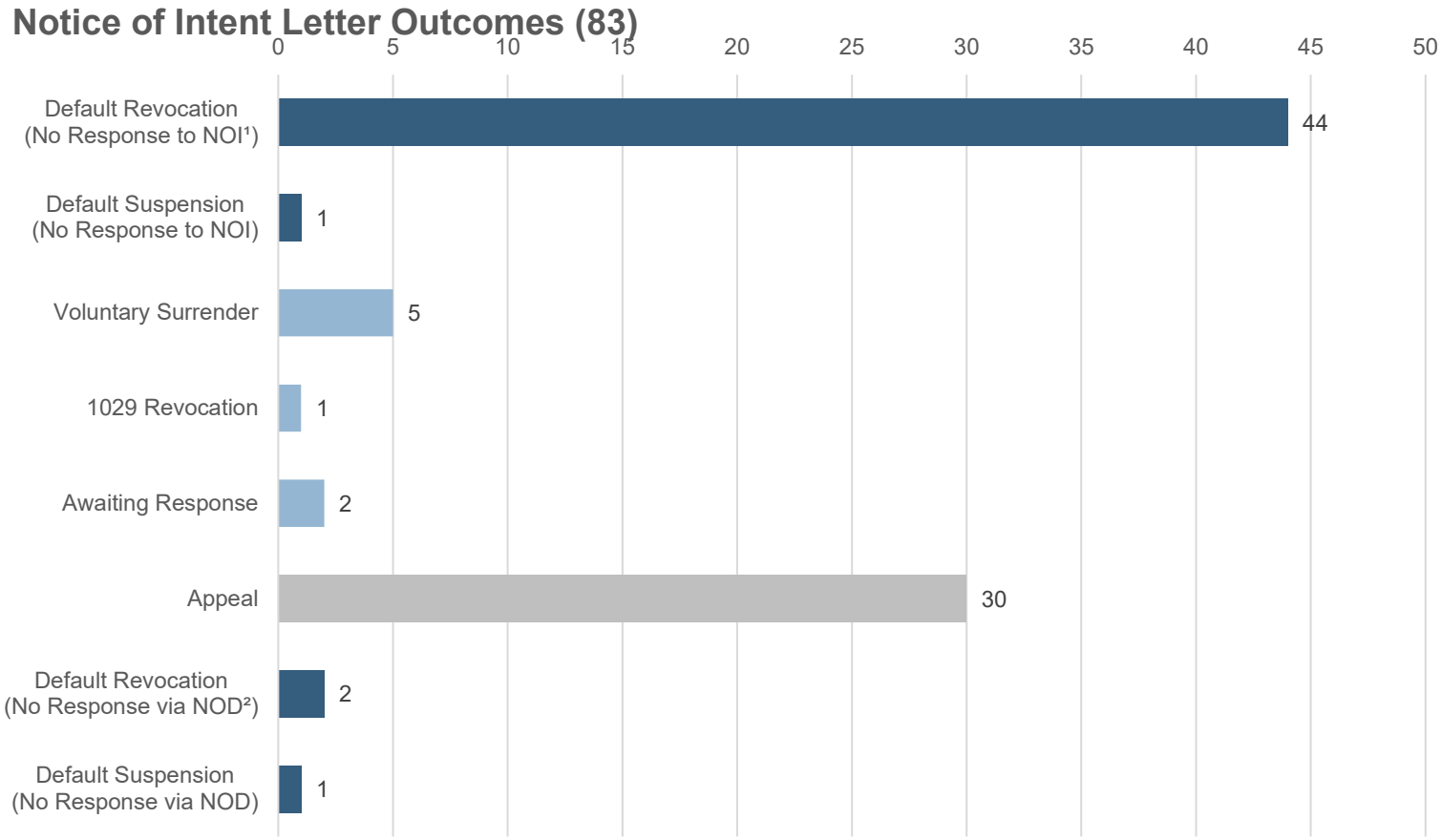
Basis Considered for Issued Immediate Temporary Suspensions



Immediate Temporary Suspensions Resulting in Action or Withdrawal



Over half of subject officers who have received a Notice of Intent letter did not respond, resulting in default outcomes.



A total of 83 Notice of Intent letters have been sent.

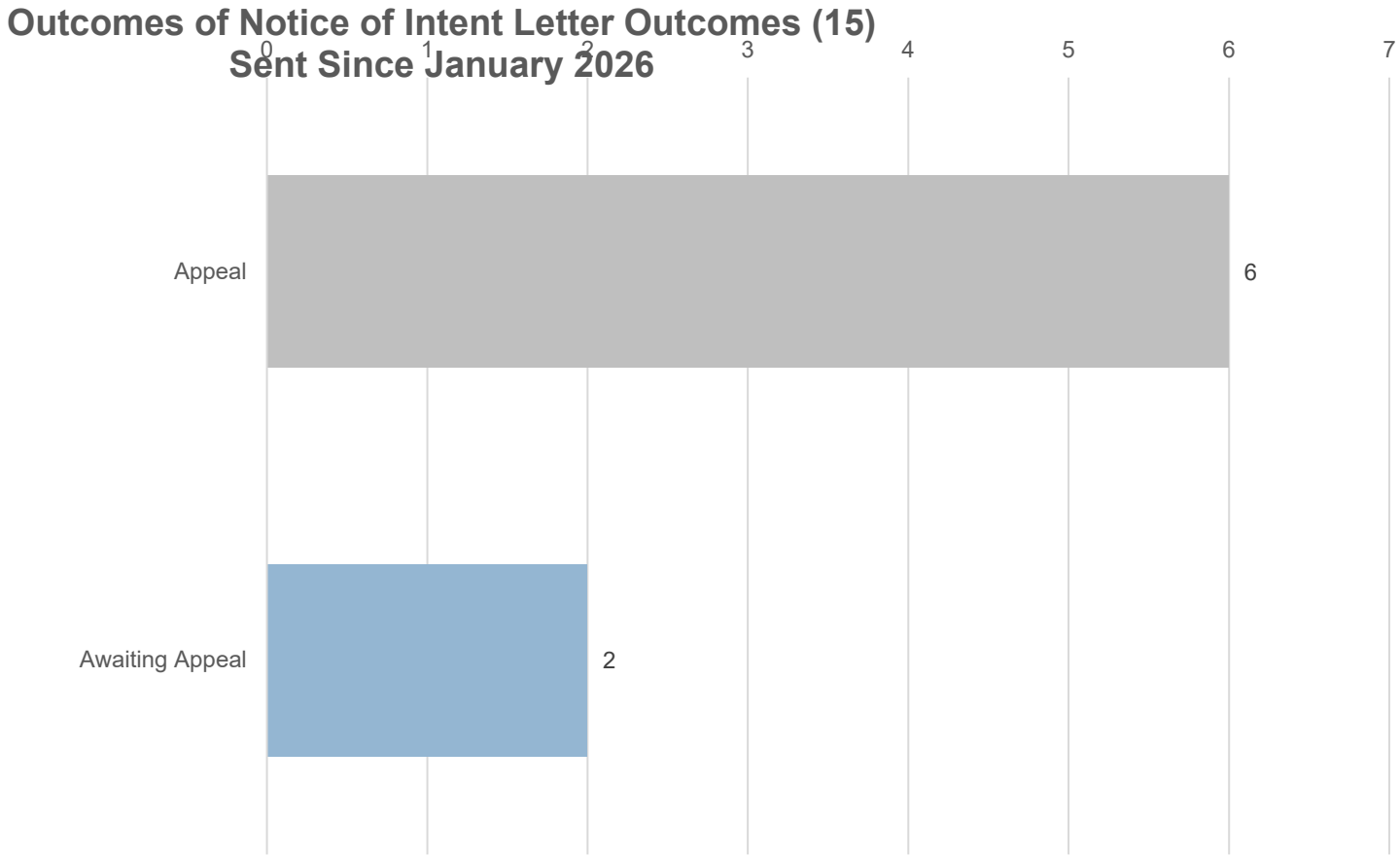
48 Notices resulted in a default decision:

- 45 defaulted from failure to respond to the Notice within the 30-day appeal timeframe
- 3 defaulted after hearing before the Board and Commission due to failure to timely respond to POST's accusation with a Notice of Defense.

30 Notices resulted in appeals; of these appeals, 25 have been heard by the Board and Commission and 5 are still pending hearing.

1. **Notice of Intent to Revoke letter**. Failure to respond within 30 days of the Notice's mailing date results in a default action without any further proceedings.
2. **Notice of Defense**. When the Commission deems that action against a peace officer's certification is warranted, POST works with the Attorney General's Office to file an accusation against the subject officer. In accordance with Government Code section 11520, failure to respond to this accusation with a Notice of Defense within 15 days results in the imposition of the Commission's determination without further proceedings.

Since October, over two-thirds of subject officers who have received a Notice of Intent letter did not respond, resulting in default outcomes.



A total of 8 Notice of Intent letters have been sent since January 2026.

6 Notices resulted in appeals

2 Notices awaiting appeal

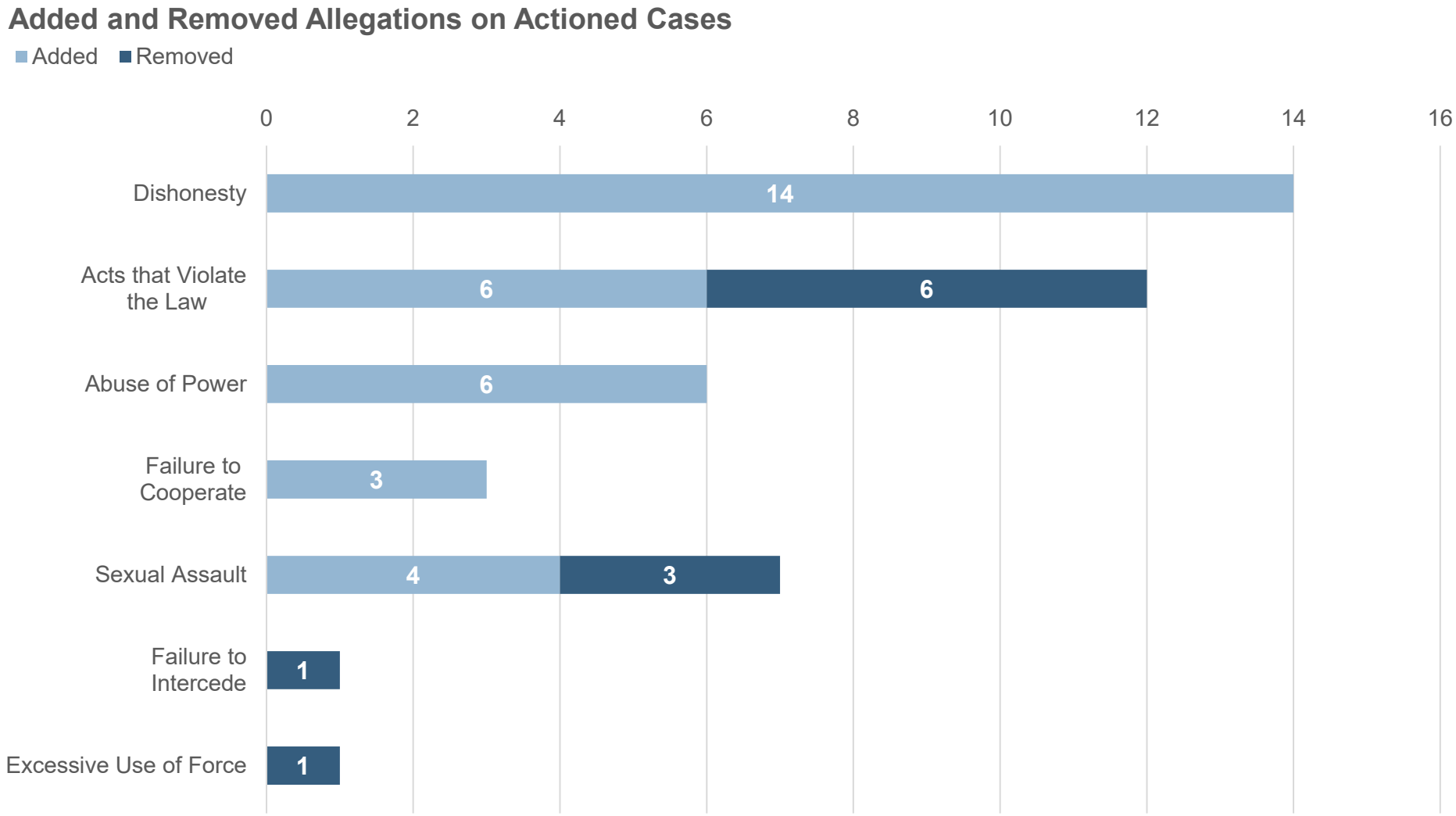
1. **Notice of Intent to Revoke letter**. Failure to respond within 30 days of the Notice's mailing date results in a default action without any further proceedings.
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Almost half of the cases receiving Notice of Intent letters involve POST capturing additional causes for action or amending the agencies' causes for action to align with the regulatory definitions of serious misconduct.

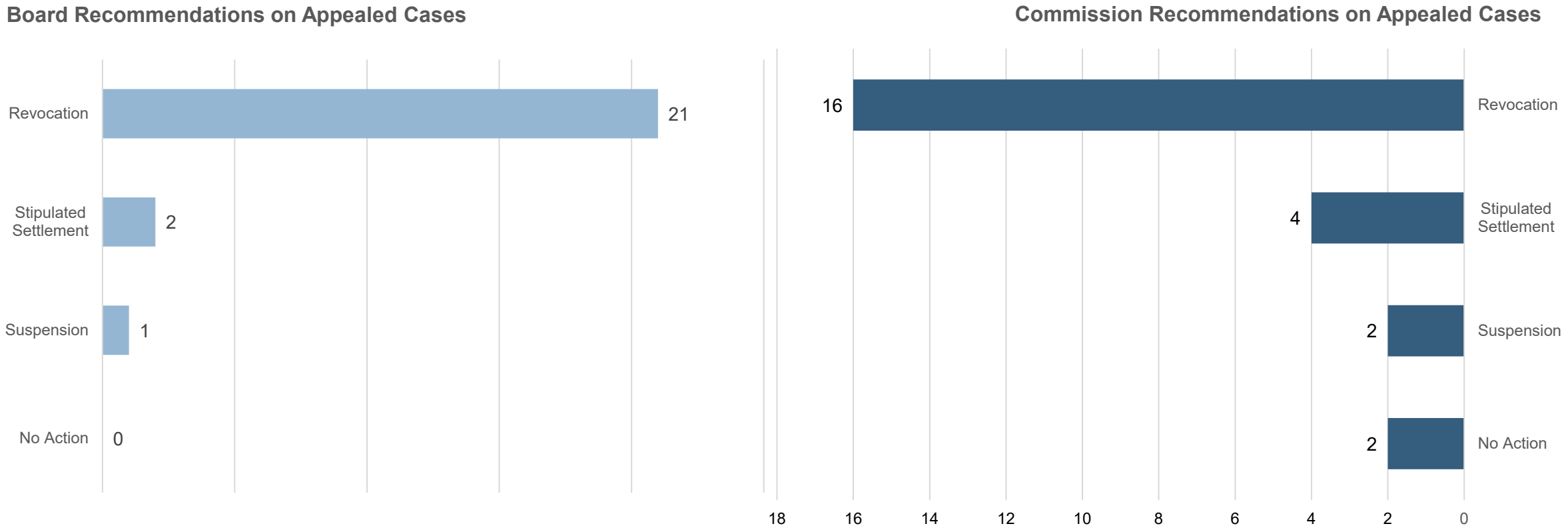
POST revised the original allegations submitted by agencies in **58 of the 83 cases** that received a Notice of Intent letter.

The **most frequent additions** were allegations of **Dishonesty, Abuse of Power,** and **Acts that Violate the Law.**

The **most common removals** were allegations of **Acts that Violate the Law** and **Sexual Assault**.



Comparing Board and Commission recommendations on appealed cases:



The Board has moved to revoke in most cases (21 out of 24), across a range of allegations. The exceptions include cases involving DUIs; one resulted in a suspension, which occurred before awareness of the stipulation process, one defaulted by failing to reply to the Notice of Defense, while two were resolved through stipulated settlements.

The Commission has moved to revoke in nearly two-thirds of cases (16 out of 24). Two cases with Dishonesty allegations resulted in no action. All DUI-related cases reviewed by the Commission (4) were resolved through stipulated settlements. Two cases involving excessive use of force resulted in suspension.

Glossary of Terms, Part One – General Terms

Accusation	A written statement of charges against a respondent. This statement also outlines the agency's jurisdiction and intended discipline over alleged conduct.
Agency Misconduct Report	A report created in Mark43 that provides information about serious misconduct allegations against a peace officer or law enforcement agency.
Agency Supplemental Report	A report created in Mark43 to provide additional information to an Agency Misconduct or Public Complaint report.
Case	When a serious misconduct report is approved, it is created into a case and assigned to POST staff for review. A case will contain at least one Agency Misconduct report or Public Complaint report (or both). It may also contain an Agency Supplemental report if the agency provides POST with further updates on the incident.
Commission	A group of up to 18 commissioners consisting of city and county administrators, law enforcement professionals, educators, and public members which meets at least three times a year to establish standards, regulations, and give direction to POST staff.
Default Revocation/Suspension	Disciplinary action taken against a peace officer's certification after failure to appeal the Division's Notice of Intent letter within 30 days or accusation with a Notice of Defense within 15 days.
Disqualified	An individual that is disqualified from eligibility to be a peace officer based on a disqualifying event as set forth in Government Code section 1029 and does not hold a Proof of Eligibility or certificate from POST.
Ineligible	An individual that is disqualified from eligibility to be a peace officer based on a disqualifying event as set forth in Government Code section 1029 prior to the enactment of SB 2 (January 1, 2022).
Mark43	The secure electronic records management system used by the Division to receive and manage serious misconduct reports and cases.
Notice of Defense	The document submitted by the respondent to preserve their right to a hearing after receiving an accusation. If a Notice of Defense is not timely filed within 15 days of the accusation's service, the agency may impose the outcome by default.
Notice of Intent Letter	Notice that provides the subject officer with a detailed explanation of the decertification procedure and the officer's rights to contest and appeal the Division's intent to take action against their peace officer certification.
Peace Officer Standards Accountability Advisory Board (Board)	An advisory body to the Commission that reviews serious misconduct cases involving peace officers. The Board was created by Senate Bill 2 and is comprised of 9 appointed members.
Peace Officer Standards Accountability Division (Division)	A new division created by Senate Bill 2 that is responsible for the intake and investigation of serious misconduct allegations that may provide grounds for suspension or revocation of a peace officer's certification.
Public Complaint	A complaint of potential serious misconduct from a member of the public.
Public Complaint Report	A report created in Mark43 that provides information about potential serious misconduct allegations from a public complaint.
Revoked	The peace officer has been decertified and may not exercise the duties and powers of a peace officer. A revocation is permanent, and the certification shall not be reactivated.
Immediate Temporary Suspension	The immediate suspension of a peace officer's certification, pending the outcome of an investigation related to allegations of serious misconduct, pursuant to Penal Code section 13510.8(d). The "temporary suspension" may be issued under the following circumstances: When a peace officer is arrested or indicted for a felony or other crime listed in Government Code section 1029, When a peace officer is discharged from a law enforcement agency for serious misconduct, or When a peace officer has separated from employment as a peace officer during a pending investigation into allegations of serious misconduct.
Suspension	A disciplinary action wherein a peace officer certification has been suspended for a specified period of time, not to exceed three years. A peace officer whose certification has been suspended may not be assigned duties which include the exercise of peace officer powers.
Voluntary Surrender (Surrender)	A person who holds a certificate issued by the commission, knowingly and willingly, returns the certificate to the commission, forfeiting all rights and privileges associated with that certificate. A "surrender" has the same effect of a revocation in that it cannot be reactivated.

Glossary of Terms, Part Two – Case Terms and Priority Labels

Case Statuses	
Consolidated Case	Case status applied when a case is consolidated into another case due to multiple cases for the same individual/incident.
Deceased	Case status applied to cases that cannot be actioned due to the peace officer being deceased.
Disqualified	Case status applied to cases that result in an individual being disqualified from eligibility to be a peace officer based on a disqualifying event as set forth in Government Code section 1029 and does not hold a Proof of Eligibility or certificate from POST.
Ineligible	Case status applied to cases that result in an individual being disqualified from eligibility to be a peace officer based on a disqualifying event as set forth in Government Code section 1029 prior to the enactment of Senate Bill 2 (January 1, 2022).
Issued in Error	Case status applied to cases with reports/investigations that are generated in error.
NFA_POST	Case status applied to cases when the Division does not take action against a case due to insufficient evidence, absence of serious misconduct, or statutory limitations, etc.
No Commission Action	Case status applied to cases where the Commission's determines no action against a peace officer's certification following the Commission's review of the Board's recommendation.
Non-Jurisdictional	Case status applied to cases with allegations against an individual **not** appointed pursuant to Penal Code Section 830.1, 830.2 with the exception of subdivision (d), 830.3, 830.32, or 830.33.
Revoked	Case status applied to cases that result in the commission's revocation of a peace officer's certification.
Suspension	Case status applied to cases when the Commission's decision is to suspend the peace officer's certification.
Voluntary Surrender	Case status applied to cases where a peace officer voluntarily surrenders their certification.
Not Actionable	A closure justification for cases that cannot be acted upon due to lack of statutory authority, e.g, conduct and findings took place prior to January 1, 2022.
Not Clear and Convincing	A closure justification for cases where the clear and convincing evidentiary standard could not be established upon review and analysis of case facts.
Not Serious Misconduct	A closure justification for cases that did not involve acts of serious misconduct as defined in Commission Regulation 1205.
Labels	
POST ITS	Contains a potential ITS basis outlined in Penal Code section 13510.8(d).
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OPEN INV	Contains an ongoing agency investigation without agency findings.

Questions?

Thank you!

AGENDA ITEM REPORT

Title: POST2311370 - JOSE ZAVALA (POST ID: C28-A48)
LAST EMPLOYING AGENCY: LOS ANGELES POLICE DEPARTMENT (CURRENT)

REPORT PROFILE

MEETING DATE 04/15/2026	**BUREAU SUBMITTING THE REPORT** Professional Conduct Southern Bureau	
RESEARCHED BY David Sieber	**REVIEWED BY** Christine Ford	
REPORT DATE 04/15/2026	**APPROVED BY** Annemarie Del Mugnaio	**DATE APPROVED**
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE: The matter is before the Peace Officer Standards Accountability Advisory Board (POSAAB) for review and recommendation regarding the Respondent's peace officer certification status.

BACKGROUND: Respondent began his employment with the Los Angeles Police Department on May 26, 2009. At the time of the captioned incident, the Respondent was a police officer with the Los Angeles Police Department, which is a peace officer position as defined under California Penal Code 830.1(a) and is required to be certified pursuant to California Penal Code 13510.1(a). As of the date of this hearing, Respondent remains employed by the Los Angeles Police Department as a police officer.

On December 18, 2021, the Victim walked out of his residence holding a kitchen knife, reportedly threatened members of the community, and then sat idle on the steps of a neighboring residence while holding the knife to his neck. Officers assigned to LAPD’s Newton Patrol Division (NPD) and Newton Gang Enforcement Detail (GED) responded to the “attempt suicide” call for service within minutes and contained the Victim. The Respondent and his partner responded to the incident, established a perimeter position, and were designated by the on-scene incident commander as lethal cover officers.

After approximately 13 minutes of de-escalation efforts, the Victim stood up and took four slow steps forward and then stopped. This movement triggered LAPD's deployment of a less-lethal projectile, which struck Victim in the hip. Nearly contemporaneously (.382 seconds after the less-lethal deployment), from a distance of approximately 25 feet and behind the cover of a police vehicle, Respondent fired three rounds from his service pistol, striking the Victim. Approximately .322 seconds after Respondent discharged his third round, Respondent's partner fired a single round from his service pistol. The Victim was detained but ultimately succumbed to the injuries sustained from the use of force.

LAPD's Force Investigation Division (FID) investigated the Officer Involved Shooting and found that his actions were not objectively reasonable, proportional, or necessary. Ultimately, Respondent received a 10-day suspension with loss of pay and benefits. In July of 2025, the City of Los Angeles settled the resulting wrongful death suit filed by the Victim's family in the U.S. District Court for the Central District of California and paid the family $8,000,000.

As of April 2026, the Los Angeles County District Attorney's Office's Justice System Integrity Division has not reached a charging decision and continues to review the incident with the assistance of an independent police oversight firm. Based on an analysis of the results of the LAPD FID and Complaint Investigations, recommendations of the Use of Force Review Board (UOFRB) and the Chief of Police, and a detailed review of multiple Body Worn Video (BWV) perspectives of the Officer Involved Shooting (OIS), the Division determined that the Respondent engaged in serious misconduct as defined in California Penal Code § 13510.8(b)(3) and Commission Regulation 1205(a)(3) - physical abuse, including, but not limited to, the excessive or unreasonable use of force.

Video Evidence Links:

- **BR14 POST2311370 Zavala Jose Attachment M Quintanella BWC**
- **BR15 POST2311370 Zavala Jose Attachment N Zavala BWC**
- **BR16 POST2311370 Zavala Jose Attachment O Officer 1 BWC**

ANALYSIS: The Division determined there was clear and convincing evidence that Respondent engaged in serious misconduct as defined in California Penal Code § 13510.8(b)(3) and Commission Regulation 1205(a)(3) - physical abuse, including, but not limited to, the excessive or unreasonable use of force. This misconduct is evidenced by Respondent's discharge of three rounds at the Victim, who posed a danger only to himself and did not present an imminent threat to the Respondent or others. Respondent's actions demonstrated a disregard for public safety and were inconsistent with the duties and responsibilities of a peace officer. Accordingly, the Division finds that Respondent's conduct constitutes serious misconduct, warranting revocation or suspension of his POST peace officer certification.

RECOMMENDATION: The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

ATTACHMENT(S):

BR01_POST2311370_Zavala Jose_ISF_Redacted.pdf
BR02_POST2311370_Zavala Jose_Executive Review and Division Recommendation.pdf
BR03_POST2311370_Zavala Jose_POSTProfile_Redacted.pdf
BR04_POST2311370_Zavala Jose_Attachment C - LAPD Report_Redacted.pdf
BR05_POST2311370_Zavala Jose_Attachment D - COP IntradeptMemo_Redacted.pdf
BR06_POST2311370_Zavala Jose_Attachment E - 22-003418 LOT_Redacted.pdf
BR07_POST2311370_Zavala Jose_Attachment F - 22-003757 LOT_Redacted.pdf
BR08_POST2311370_Zavala Jose_Attachment G - LA City Council_Motion to Settle_Redacted.pdf
BR09_POST2311370_Zavala Jose_Attachment H - Federal Civil Complaint_Redacted.pdf
BR10_POST2311370_Zavala Jose_Attachment I - Respondent Interview Transcript_Redacted.pdf
BR11_POST2311370_Zavala Jose_Attachment J - SME Report_Redacted.pdf
BR12_POST2311370_Zavala Jose_Attachment K - LAPD Edged Weapons Policy.pdf
BR13_POST2311370_Zavala Jose_Attachment L - LAPD Use of Force Policy 10.2020 to 08.2022.pdf



INVESTIGATIVE SUMMARY AND FINDINGS

PEACE OFFICER NAME: Jose ZAVALA

POST ID NUMBER: C28-A48

EMPLOYING AGENCY: Los Angeles Police Department (LAPD)

POST CASE NUMBER: POST2311370

WRITTEN BY: LEC Dave Sieber

DATE: 2/12/2026

Contents

I. Executive Summary and Findings 3

II. Investigative Methodology 4

III. Respondent's Background 5

A. Respondent's Peace Officer Certificates and Employment 5

B. Respondent's Service Record 5

IV. Factual Background 10

V. Analysis and Findings 15

A. Does the alleged conduct violate Commission Regulation 1205(a)(3)? 15

B. Summary of Findings 19

VI. Supporting Evidence 20

I. Executive Summary and Findings[1]

On December 18, 2021, Victim, hereinafter Victim, walked out of his residence holding a kitchen knife,[2] threatened members of the community, and then sat idle on the steps of a neighboring residence while holding the knife to his neck. Officers assigned to LAPD's Newton Patrol Division (NPD) and Newton Gang Enforcement Detail (GED) responded to the "attempt suicide" call for service within minutes and contained Victim. Officer Jose ZAVALA, hereinafter Respondent,[3] and his partner, Officer Julio QUINTANILLA, responded to the incident, established a perimeter position to the west of Victim, and were designated by the on-scene incident commander, Sergeant, as lethal cover officers.

After approximately 13 minutes of de-escalation efforts, Victim stood up and took four slow steps forward and then stopped. This movement triggered LAPD's deployment of a less-lethal projectile, which struck Victim in the hip. Nearly contemporaneously (.382 seconds after the less-lethal deployment), from a distance of approximately 25 feet and behind the cover of a police vehicle, Respondent fired three rounds from his service pistol, striking Victim. Approximately .322 seconds after Respondent discharged his third round, QUINTANILLA, from a distance of approximately 28 feet and behind the cover of a police vehicle, fired a single round from his service pistol. Victim was detained but ultimately succumbed to the injuries sustained from the use of force.

LAPD's Force Investigation Division (FID) investigated the Officer Involved Shooting (OIS) and the results were conveyed to the LAPD Use of Force Review Board (UOFRB). The UOFRB was critical of Respondent's and QUINTANILLA's perception of an "immediate threat" and found that their actions were not objectively reasonable, proportional, or necessary. A subsequent Department-initiated Complaint Investigation reached a SUSTAINED finding of "Out of Policy – Administrative Disapproval" regarding Respondent's use of force. The incident was not referred to LAPD's Board of Rights (BOR), as the Chief of Police (COP) did not seek Respondent's and QUINTANILLA's termination. Ultimately, Respondent received a 10-day suspension and QUINTANILLA received a 5-day suspension with loss of pay and benefits.

Later, on February 3, 2023, the Victim's family filed a complaint, which initiated a second Complaint Investigation, alleging Respondent's and QUINTANILLA's excessive use of force. The investigation ultimately reached the finding of UNFOUNDED. In July of

[1] Attachment A (Executive Review and Division Recommendation).

[2] The first officer to arrive on scene described the knife as a *"big butcher knife type meat clever."* LAPD's FID Investigative report described the knife as a "meat clever" with a 6.5-inch blade and a 5.25-inch black plastic handle.

[3] Attachment B (Respondent's EDI Profile).

2025, Victim's family was awarded an $8,000,000 settlement, in connection with a wrongful death lawsuit in the U.S. District Court for the Central District of California.

As of November 2025, the Los Angeles County District Attorney's Office's (LADA's) Justice System Integrity Division (JSID) has not reached a charging decision and continues to review the incident with the assistance of independent police oversight firm, OIR Group.

Based on an analysis of the results of the LAPD FID and Complaint Investigations, recommendations of the UOFRB and COP, and a detailed review of multiple Body Worn Video (BWV) perspectives of the OIS, the Division assesses that Respondent engaged in serious misconduct as defined in California Penal Code section 13510.8(b)(3) and Commission Regulation 1205(a)(3) - physical abuse, including, but not limited to, the excessive or unreasonable use of force. The Division arrived at this assessment because Victim:

- was contained;
- posed a danger only to himself;
- did not pose an imminent threat to officers or others;
- did not possess a demeanor that was particularly threatening;
- was unresponsive to verbal and less-lethal force, signaling a potential mental or physical health condition, cognitive deficiency, or influence of a controlled substance.

Distance and cover were effectively utilized to create time, in conjunction with de-escalation measures; however, Respondent initiated deadly force before exhausting other less-lethal options.

II. Investigative Methodology

This report summarizes the findings related to allegations of serious misconduct. The investigation was conducted in accordance with the regulations and policies of the Commission on Peace Officer Standards and Training (POST). The investigation included a detailed review of LAPD's FID, Complaint Investigations, BWV data and supporting documents, which included interviews of subject and witness officers.

The Division analyzed the information in this investigation using the clear and convincing evidence standard. For purposes of this report, clear and convincing evidence means "evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true. The evidence need not establish a fact beyond a reasonable doubt."

This report is necessarily summary in nature and does not include every fact or issue that might be found in the underlying investigation and attachments. However, it does

contain reference to that evidence that the Division believes establishes the requisite facts and proves the serious misconduct charged by clear and convincing evidence.

III. Respondent's Background

A. Respondent's Peace Officer Certificates and Employment

The following table sets forth Respondent's employment history:

Dates	*Rank*	*Agency*
May 26, 2009	Trainee	Los Angeles Police Department
October 9, 2009	Police Officer	Los Angeles Police Department

Respondent is assigned POST ID C28-A48. He received the following peace officer certificate from POST:

Certificate Type	*Certificate Number*	*Date Issued*
Basic Certificate	143366	January 10, 2011

B. Respondent's Service Record

When evaluating whether suspension or revocation is appropriate, Penal Code section 13510.8(c)(5) and Commission Regulation 1213(a)(5) provide that the Commission must consider Respondent's prior conduct, discipline and service record. The relevance and weight the Commission may choose to assign to a peace officer's prior conduct and service record will depend on the facts in each case.

California Penal Code section 13510.8(c)(5) provides that the Commission "shall consider the peace officer's prior conduct and service record, and any instances of misconduct, including any incidents occurring beyond the time limitation for investigation in evaluating whether to revoke certification for the incident under investigation."

Service Record
Respondent's employment with LAPD began on May 26, 2009, as a full-time Trainee. On October 9, 2009, Respondent was sworn in as a Peace Officer; however, his Peace Officer powers were not conveyed until November 6, 2009, when Respondent completed the Basic Course and was promoted to Police Officer. On January 10, 2011, Respondent received his Basic Course certification. Respondent continues to serve as an LAPD Police Officer today. Respondent does not have any prior law enforcement appointments in the State of California.

Relevant Training

Respondent's POST Electronic Data Interchange (EDI) profile indicates Respondent completed 58 courses prior to the captioned incident, including the following relevant topics:

Date	***Course Title***
October 26, 2021	Firearms/Tactical-Advanced
February 26, 2021	Mental Health Intervention
February 16, 2021	Less Lethal Munitions
December 2, 2020	Crowd Control
June 5, 2019	De-escalation & Tactical Communication
November 5, 2018	Firearms/Tactical-Advanced
May 20, 2018	Ballistic Shield Operator
August 22, 2016	Firearms/Tactical-Advanced
March 25, 2015	Tactical Communications
February 26, 2015	Firearms/Tactical Handgun

Prior Complaints/Discipline

Respondent is the subject of the following eight allegations of serious misconduct with POST:

POST Case ID	***Allegation***	***POST Status***	***Disposition***
POST2306779	Bias	POST (Priority 4) – No Further Action (NFA)	Complaint of racial profiling based on a vehicle stop from March 23, 2020. LAPD determined allegations were unfounded. POST determined the allegations were not actionable because the allegations did not rise to the level of serious misconduct and the reported incident occurred before January 1, 2022, and closed the matter

			with No Further Action. (See Pen. Code § 13510.8(g)(1)(A).)
POST2302633	Bias	POST (Priority 3) - NFA	Complaint of abuse of power and bias based on a traffic stop from January 6, 2021. LAPD investigated and determined that the complaint was unfounded. POST reviewed the LAPD Complaint Investigation and determined the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action. Additionally, the reported incident occurred before January 1, 2022, and therefore was not actionable by POST. (See Pen. Code § 13510.8(g)(1)(A).)
POST2502029	Abuse of Power/Use of Force	POST (Priority 3) – **CLOSED IN ERROR**	DUPLICATE of POST2502030
POST2502030	Abuse of Power/Use of Force	POST (Priority 3) – NFA	Complaint of abuse of power and excessive force from an incident on April 2, 2021, involving Respondent and several other officers. LAPD investigated and determined the complaint was unfounded with the exception of a single use of force by the Respondent. The LAPD determined the Respondent's use of a front kick during the arrest was excessive or unreasonable and rendered SUSTAINED. LAPD imposed a 5-day suspension on Respondent for this violation. POST reviewed the LAPD Complaint Investigation and assessed that the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action.

POST2311370	Physical Abuse	POST (Priority 1) - **CAPTIONED MATTER**	On December 18, 2021, Respondent and his partner used lethal force, resulting in the death of Victim. LAPD's Complaint Investigation SUSTAINED allegations regarding the Use of Force. A second Complaint Investigation found the Officer's Use of Excessive Force UNFOUNDED. The LADA's JSID has not reached a charging decision in this matter. POST seeks to advance this matter to the POST Board and Commission.
POST2308738	Use of Force	POST (Priority 3) – NFA **CAPTIONED MATTER**	On December 13, 2022, a claim for civil damages, associated with POST2311370, was filed by Victim's ([redacted]) family. On June 26, 2025, POST closed the matter with No Further Action.
POST2504854	Abuse of Power	POST (Priority 4) - Unassigned	On March 27, 2024, the case of [redacted] *vs. City of Los Angeles, et al,* for an incident that occurred on December 18, 2019, was settled for $75,000. Clark alleged Officers abused their power. All allegations were determined to be UNFOUNDED. Five Officers, including Respondent, were dismissed from the lawsuit separately, prior to the settlement of the case between defendant City and plaintiff only. Additionally, the reported incident occurred before January 1, 2022, and therefore was not actionable by POST. (See Pen. Code § 13510.8(g)(1)(A).)
POST2407439	Bias	POST - Unassigned	On August 16, 2024, Complainant came to an LAPD station front lobby and interacted

			with Respondent. Complainant alleged Bias and believed Respondent favored "Mexicans" and "Latinos." As of November 12, 2025, LAPD has not completed the associated Complaint Investigation, and the allegation remains unassigned at POST.

POST closed both Bias allegations and the 2021 sustained Use of Force allegation with recommendations of “No Further Action.” The remaining four allegations represent duplicate or unassigned cases or are awaiting POST adjudication.

According to LAPD personnel records, Respondent was the subject of three prior LAPD Complaint Investigations involving:

- Use of profanity
- On-duty traffic collision
- 2015 On-duty Non-Categorical Use of Force (NCUOF). The NCUOF was found to be Out of Policy, resulting in a 15-day suspension. The following summary, based on a review of the LAPD Complaint Investigation and supporting documents, details the Respondent’s 2015 NCUOF incident:

On February 15, 2015, Respondent and his partner were assigned to LAPD’s Foothill Area Patrol when they responded to a radio call of “*Hot prowl suspect there now.”* Upon arrival, officers encountered Complainant, hereinafter CP, who was subsequently arrested for a misdemeanor warrant. CP was transported to the Van Nuys Jail. While at the jail, Respondent strip searched CP. During the search, Respondent asked to see a tattoo on CP's left calf. CP became irritated and refused. Respondent inquired again and CP suddenly and without warning punched Respondent on the right side of his jaw. In response, Respondent engaged in a NCUOF, striking CP eight times with his fists. Other officers in the booking area also responded.

CP received facial bruising and a laceration above his eye and was transported to the hospital for medical treatment. After treatment, officers exited the Emergency Room with CP and walked him to their patrol vehicle, at which point CP attempted to flee, resulting in a second NCUOF. As a result of the collective circumstances and complaint by witness Witness 1, LAPD initiated a Complaint Investigation on Respondent. The investigation resulted in the following allegations of misconduct:

- **ALLEGATION 1 -** The Department alleged on February 15, 2015, Respondent, while on-duty, used unauthorized force against CP during a NCUOF inside Van Nuys Jail - **SUSTAINED**

- **ALLEGATION 2 -** The Department alleged on February 15, 2015, Respondent, while on-duty, utilized tactics that substantially deviated from Department tactical training - **SUSTAINED**

- **ALLEGATION 3 –** Witness Complainant alleged on February 16, 2015, Respondent, while on-duty, inappropriately placed his foot on CP's head - **UNFOUNDED**

- **ALLEGATION 4 –** Witness Complainant alleged Respondent, while on-duty, inappropriately grabbed her identification card from her shirt - **NON-DISCIPLINARY**

- **ALLEGATION 5 –** Witness Complainant alleged Respondent, while on-duty, inappropriately sent a text message to a nurse to inquire about her next working day - **INSUFFICIENT EVIDENCE TO ADJUDICATE**

The Complaint Investigation found that Respondent's UOF was necessary and that his first two punches were within policy; however, the investigation found that Respondent let his emotions lead to excessive force when he followed up with punches three through eight. Ultimately, Respondent received a 15-day suspension with loss of pay and benefits.

In addition, to the 2015 out-of-policy NCUOF incident described above, Respondent was the subject of 24 other in-policy NCUOF incidents; one Categorical Use of Force, deemed in-policy; and 21 vehicle pursuits, two of which were deemed out-of-policy. Respondent was involved in two preventable traffic collisions.

IV. Factual Background

On December 18, 2021, at 1654 hours, Reporting Party 1 called Communications Division (CD) and reported that her brother, Victim (Victim),[4] walked out of their residence, located at Home Address, armed with a 6.5-inch kitchen knife. At approximately 1656 hours, an "Ambulance Attempt Suicide" radio call was generated for the Newton Patrol Division (NPD). According to Reporting Party 2, his son (Victim) had been drinking alcohol and using narcotics since he was 18

[4] Victim was a 22-year-old Hispanic male, 4'9" tall, weighing approximately 98 pounds. Victim's family claimed that Victim was going through a mental health crisis at the time of the incident.

years-old, causing what he described as *"an altered state of mind."* NPD Officers 1 and 2, along with Sergeant[5] responded "Code 3"[6] to the radio call. Newton Gang Detail (GED) Officers Jose ZAVALA (Respondent) and Julio QUINTANILLA responded "Code 2"[7] to the radio call.

At approximately 1654 hours, another bystander called CD reporting Victim was walking near Street 1 gazing at him angrily while swinging a knife in the air. At 1656 hours, RP 1 informed CD that Victim tried to hit someone and was going to attack a person with the knife. At 1657 hours, CD broadcast, "*additional on your attempt suicide,* Home Address*, the subject is now chasing people with the knife in front of* Home Address[8]

As Sergeant arrived on Street 2, a male and female directed Sergeant's attention to Victim. As Sergeant exited his patrol vehicle, Victim sat idle on the steps in front of the apartment building located at Incident Location, holding a knife in his right hand with the blade pressed against his neck. Sergeant attempted to communicate with Victim but failed to obtain compliance. At 1702:05 hours, Respondent and QUINTANILLA arrived and took positions to the west of Victim, behind their patrol vehicle doors, and unholstered their service pistols. QUINTANILLA gave commands to Victim to drop the knife and Respondent requested backup for a "*415 man with a knife*." Respondent also requested a rescue ambulance to stage near Street 2 and Street 1.

At 1702:22 hours, Officers 1 and 2 arrived on scene. In his role as OSC, Sergeant directed O-1 to retrieve his 40mm Less-Lethal Launcher (LLL). O-1 complied and took a position of cover behind the driver's side door, east of Sergeant's patrol vehicle. As depicted on Sergeant's BWV, at 1702:24 hours, Victim held the knife in front of his body at shoulder level, repeatedly moving the blade from side to side. Sergeant directed O-2 to take a position of cover behind the passenger side door, west of his patrol vehicle while unholstering his service pistol and designating Respondent and QUINTANILLA as "lethal cover officers." Sergeant also informed Respondent and QUINTANILLA of O-1's role as the "less-lethal officer" with the LLL.

At 1702:59 hours, as depicted on Respondent's BWV, Respondent told QUINTANILLA that he was going to attempt to communicate with Victim in Spanish. At 1703:02 hours, Victim placed the knife's blade against the side of his throat, prompting multiple officers to yell "*Don't do it!*" Sergeant directed O-1 to deploy the LLL; however, before O-1 could comply, Sergeant withdrew his command. Officer 3, from LAPD's Rampart Patrol

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[5] Sergeant Sergeant assumed On Scene Command (OSC) upon arrival at the incident.

[6] "Code 3" indicates an emergency response requiring the activation of vehicle lights and siren.

[7] "Code 2" indicates urgency but not to the level requiring the activation of vehicle lights and sirens.

[8] LAPD's Force Investigation Division (FID) investigation determined that the CD Radio Transmission Officer (RTO) embellished RP 1's statement that Victim was going to attack someone and broadcast *"the subject is now chasing people with a knife,"* when Victim was not in fact chasing anyone.

Division, arrived on scene in his patrol vehicle. Sergeant directed O-3 to join O-2 as part of the arrest team.

At 1703:35 hours, Sergeant retrieved a ballistic shield from his patrol vehicle and gave it to O-3. Sergeant yelled to Respondent and QUINTANILLA, *"You still got lethal coverage right here."* For the next several minutes, Respondent, QUINTANILLA and Sergeant alternated communicating with Victim. Moments later, Victim stood, held the knife to his throat and gestured the sign of the crucifix across his chest with his left hand. Sergeant directed O-1 to deploy the LLL by announcing, "*Forty stand by!*" At 1704:06 hours, O-1 discharged one 40mm round from his LLL at Victim from a distance of approximately 30 feet. The round struck Victim in the abdomen but did not appear to have any effect. Victim walked down a small flight of steps towards officers and then sat idle on the bottom step while holding the knife to his throat.

At 1705:36 hours, BWV recordings captured officers alerting one another that a bystander was attempting to exit the apartment building behind Victim. Sergeant yelled, *"Hey stay right there, do not come out."* Additional officers warned the bystander to stay inside and to move away from the windows. The bystander complied with the officers' orders and remained inside the building with the door closed. Victim appeared oblivious to the presence of the bystander in the building behind him (south of his position).

Newton GED Officers Meraz and Officer 4 arrived on scene. Meraz deployed a shotgun, positioning himself as a lethal cover officer alongside O-1. O-4 deployed a less-lethal "Beanbag" shotgun and was directed by Sergeant to move to the west side of the containment perimeter, to provide less-lethal cover for Respondent. Sergeant and Respondent continued alternating commands to Victim. Sergeant utilized the patrol vehicle's public address (PA) system to communicate his commands. Sergeant directed O-3 to re-position his vehicle to the southeast corner of Street 2 and Street 1 to block pedestrian traffic. At 1709:44 hours, Sergeant continued to use the PA system to communicate with Victim.

At 1710:17 hours, Victim stood up, removed his hat while holding the knife above his shoulders and looked east toward his family members who were standing behind the containment perimeter. Sergeant announced, *"Get ready,"* while transitioning from the passenger side of his patrol vehicle to the driver's side where O-1 had taken cover. Sergeant announced, *"Forty forty up."* Victim took four slow steps forward, turned to his left (west) and stopped. Contemporaneously, O-1 announced, *"Forty standby,"* as Sergeant instructed O-1 to fire the LLL. O-1 fired one 40mm round from a distance of approximately 22 feet, impacting the lower right side of Victim's torso. Approximately .382 seconds later, Respondent discharged the first of three rounds from his service pistol, from a distance of approximately 25 feet and behind the cover of his police vehicle, striking the Victim. Approximately .322 seconds after Respondent discharged his third round, QUINTANILLA fired a single round from his service pistol, from a distance of approximately 28 feet and behind the cover of his police vehicle. Victim fell

to the ground and was subsequently detained. Victim was provided with medical aid and transported to the hospital where he succumbed to his injuries.

On December 21, 2021, the Los Angeles County Coroner's Office performed a post-mortem examination of Victim.[9] The report indicated that Victim sustained three gunshot wounds, two to the torso and one to the neck. The coroner concluded that Victim's death was a result of a gunshot wound to the torso.

On December 18, 2021, in response to the Officer Involved Shooting (OIS) involving Respondent and QUINTANILLA, LAPD's Force Investigation Division (FID) initiated case FID NO.064-21.[10]

On September 12, 2022, the results of FID NO.064-21 were presented to LAPD's Use of Force Review Board (UOFRB). The UOFRB was critical of Respondent's and QUINTANILLA's perception of an "immediate threat" and found that their actions were not objectively reasonable, proportional, or necessary. Ultimately, the UOFRB arrived at the following findings:

- **Tactics:** Respondent, QUINTANILLA and O-1 - Tactical Debrief
  Sergeant - Administrative Disapproval
- **Drawing/Exhibiting:** Respondent, QUINTANILLA and O-2 – In Policy (No Further Action)
- **Less-Lethal Use of Force:** O-1 - In Policy (No Further Action)
- **Lethal Use of Force:** Respondent and QUINTANILLA - Out of Policy - Administrative Disapproval

On October 5, 2022, LAPD's COP informed the Honorable Board of Police Commissioners that he adopted the above-referenced recommendations of the UOFRB.[11]

On November 8, 2022, an LAPD-initiated Complaint Investigation (CF No. 22-003418)[12] reached a SUSTAINED finding of Out of Policy – Administrative Disapproval regarding Respondent's and QUINTANILLA's use of force; however, the incident was not referred to LAPD's Board of Rights, as the COP did not seek to terminate Respondent or QUINTANILLA. As a result, Respondent received a 10-day suspension with loss of pay

[9] On March 25, 2022, a Forensic Science Laboratories Report was approved by Department of Medical Examiner-Coroner, Los Angeles County. The blood analysis results identified the presence of Benzodiazepines, Cannabinoids and Ethanol in Victim's blood.

[10] Attachment C (LAPD Report FID NO.064-21-Redacted).

[11] Attachment D (COP Intradepartmental Communication).

[12] Attachment E (CF No. 22-003418 Letter of Transmittal).

and benefits and QUINTANILLA received a 5-day suspension with loss of pay and benefits.

Later, in February of 2023, Victim's family filed a complaint with LAPD which initiated a second Complaint Investigation (CF No. 22-003757)[13] alleging Respondent's and QUINTANILLA's Excessive Use of Force; however, the investigation ultimately reached the finding of UNFOUNDED.

In July of 2025, the Victim's family was awarded an $8,000,000 settlement,[14] in connection with a federal wrongful death suit in the U.S. District Court for the Central District of California.[15]

As of February 2026, the LADA Office's Justice System Integrity Division (JSID) has not reached a charging decision, despite the fact that they have a completed independent review of the incident from police oversight firm, OIR Group.

Post OIS Statements

Respondent told investigators the reason he fired the shots was because: "*The suspect gets up very rapidly with the -- with the large butcher knife in his right hand. He takes a deep breath, like getting courage, looks at me, looks at my fellow officers. At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified. The suspect then starts advancing towards the officers and turns his body towards myself and my partner. And in fear -- I was afraid, sir. I thought this guy was going to come at me with this butcher knife. He already cut his hand. He cut his throat -- he attempted to cut his throat. He chased pedestrians and civilians around the neighborhood with this large butcher knife. And to protect myself and my partner's life and the citizens nearby from serious bodily injury, imminent threat, I fired approximately two, three rounds to stop the threat, sir."*

QUINTANILLA told investigators the reason he fired was because: *"When he came down, we kept giving him commands and once he hit the sidewalk, I mean, I was scared and he ended up walking towards us -- towards the officers and myself and that's when I -- I had to use deadly force."* QUINTANILLA further stated, *"I had to stop the threat. He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death. And also, there was still civilians just*

[13] Attachment F (CF No. 22-003757 Letter of Transmittal).

[14] Attachment G (Los Angeles City Council (Item No. 34) Motion to Settle).

[15] Attachment H (Federal Civil Complaint, Case No. 2:22-cv-07534-FLA-MAA).

to the right of me, just a few feet away from me.[16] *So he could have caused serious bodily injury or death to them if I didn't do that. I had to do it."*

V. Analysis and Findings

Timeline:

On December 18, 2021, the captioned OIS occurred.

On December 18, 2021, LAPD's Force Investigation Division (FID) initiated an OIS investigation.

On November 8, 2022, an LAPD-initiated Complaint Investigation resulted in a SUSTAINED finding regarding Respondent's and QUINTANILLA's Use of Lethal Force.

On February 3, 2023, a Victim-family-driven Complaint Investigation resulted in an UNFOUNDED finding regarding Respondent's and QUINTANILLA's Use of Excessive Force.

On June 17, 2023, LAPD reported the incident to POST's Professional Conduct Bureau (PCB), alleging a violation of Commission Regulation 1205(a)(3) - physical abuse, including, but not limited to, the excessive or unreasonable use of force.

In July of 2025, Victim's family was awarded an $8,000,000 wrongful death settlement.

On February 6, 2026, Trichief Consulting Services completed an independent review of the incident.

As of February 10, 2026, the LADA's JSID has not reached a charging decision.

A. Does the alleged conduct violate Commission Regulation 1205(a)(3)?

Did Respondent use excessive force when he fired three rounds at Victim? According to Commission Regulation 1205(a)(3), excessive force is defined as:

> Physical abuse, including, but not limited to, the excessive or unreasonable use of force.

The United States Supreme Court recently addressed the issue of a police officer's use of deadly force in *Barnes v. Felix* (2025) 605 U.S. 73, and unanimously reaffirmed that a "police officer's use of deadly force violates the Fourth Amendment when it is not

[16] Based on a review of crime scene diagrams from the LAPD FID report and multiple BWV perspectives, it does not appear that any civilians were positioned inside the LAPD perimeter, nor were any civilians positioned between officers and Victim.

'objectively reasonable.'"[17] The Court also reaffirmed that an "inquiry into reasonableness…requires assessing the 'totality of the circumstances.'"[18]

In issuing its ruling, the Court rejected the "so-called moment-of-threat rule" adopted by lower courts, which "looks only to the circumstances existing at the precise time an officer perceived the threat inducing him to shoot."[19] Rather, the Court reiterated that "all the relevant circumstances, including facts and events leading up to the climactic moment…" must be considered when determining "whether a peace officer acted reasonably in using force."[20]

The *Felix* opinion is consistent with California law. Under Penal Code section 835a, peace officers may use deadly force "only when necessary in defense of human life."[21] Further, although peace officers may use "objectively reasonable force to effect arrest…," prevent escape, or overcome resistance, deadly force is only justified "when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary…" to: 1) "defend against an imminent threat of death or serious bodily injury to the officer or another person…;" or 2) "apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended."[22] However, a "peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person."[23]

In reviewing Respondent's statements regarding his decision to use deadly force, his decision was based primarily on the moments immediately preceding the application of deadly force without appearing to consider all relevant circumstances leading up to that moment. When applying the "totality of the circumstances" as required under *Felix, Graham v. Connor,* and Penal Code section 835a, however,[24] the Division concluded

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[17] *Barnes v. Felix* (2025) 605 U.S. 73, 76 (*"Felix"*), citing *Graham v. Connor* (1989) 490 U.S. 386, 397 ("*Graham v. Connor*") [internal citations omitted].

[18] *Id.*, citing *Graham* at 396.

[19] *Id.*

[20] *Id.*

[21] Pen. Code § 835a, subd. (a)(1).

[22] Pen. Code § 835a, subd. (c)(1)(A)-(B).

[23] Pen. Code § 835a, subd. (c)(2).

[24] Under Penal Code section 835a(a)(2), "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."

that Respondent failed to leverage reasonable and available less-lethal alternatives at the time deadly force was utilized. Accordingly, Respondent's use of deadly force was both unreasonable and excessive.

Under California Penal Code section 835a(a)(2), "peace officers use deadly force only when necessary, in defense of human life. 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." Here, Respondent requested an ambulance upon arrival at the incident but did not request support from LAPD's Mental Evaluation Unit (MEU), despite having completed "Mental Health Intervention" training 10 months prior. Prior to Respondent's use of deadly force, officers fired two rounds from a LLL device, hardly exhausting its potential benefit, and the on scene commander (OSC) had not readied or directed the deployment of other available less-lethal options such as the "Bean Bag" shotgun, Conducted Energy Devices (CED) "taser," or a ballistic shield team equipped with CEDs and/or Oleoresin Capsicum (OC) "pepper" spray. Respondent's use of force did not result from an order from the OSC to employ lethal force. More importantly, the absence of the OSC's order to deploy other less-lethal options does not necessarily mean that the OSC wasn't considering them, nor did it render the threat posed by the Victim more imminent.

During his LAPD Complaint interview,[25] Respondent stated he was afraid Victim was going to come at him with the butcher knife and harm him or his partner. To protect himself, his partner and nearby citizens from imminent serious bodily injury, Respondent said he fired "two to three rounds" to stop the threat. LAPD's Personnel Complaint Investigation SUSTAINED that Respondent's use of lethal force was unreasonable. The subsequent Complaint Investigation initiated by the Victim's family, alleging Respondent's use of excessive force, reached a contradictory finding of UNFOUNDED; however, this investigation also appeared to focus on the moment Respondent used deadly force and did not consider the following relevant circumstances:

- Victim was contained - never closer than approximately 22 feet to any officer;
- Officers were positioned behind the cover of police vehicles;
- Victim only appeared to pose a danger to himself;[26]
- Once contained, Victim did not exhibit a demeanor that was particularly threatening, nor did he exhibit an intent to injure officers/others;
- State of Victim's mental/physical health, cognitive function and/or influence from alcohol or controlled substances;

[25] Attachment I (Respondent's Interview Transcript).

[26] California Penal Code section 835a(c)(2) states that "a peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person."

- OSC's rationale for delaying the deployment of other readily available less-lethal options.

During his LAPD Complaint interview, QUINTANILLA stated that he was scared when Victim walked towards officers, and that's when he decided the threat was imminent and he had to use deadly force. He further stated that Victim was going to cause death and that civilians were in harm's way. The Division opines that QUINTANILLA's statements were not supported by the collective facts at the time he utilized deadly force, nor were they supported in any showing in the FID investigation or subsequent Complaint Investigations. Again, LAPD's investigations collectively failed to consider all the relevant circumstances, starting with the Victim leaving his residence approximately 18 minutes before Respondent and QUINTANILA used deadly force.

At the moment QUINTANILLA chose to use deadly force, Victim was contained and had not exhibited an intent to harm bystanders or officers, attempted to avoid officers by entering the apartment building, nor had he used the knife to meaningfully injure himself. Approximately 13 minutes after responding to the incident, Victim stood up, took a few steps and then stopped. Victim was stationary, yet QUINTANILLA felt the threat was most imminent and required the use of deadly force. QUINTANILLA's use of deadly force appeared to be a sympathetic reaction to Respondent's initial use of deadly force.

Independent Subject Matter Expert Opinion

At the request of POST Executive Management, Rob Handy of Trichief Consulting Services was retained to provide an independent Subject Matter Expert (SME) opinion regarding the UOF incident involving LAPD Officers ZAVALA and QUINTANILLA. Handy is a policing executive with more than 35 years of comprehensive law enforcement experience, currently serving as the Director of Public Security for Grand Canyon University (GCU) in Phoenix, Arizona. Prior to that role, he served as the Chief of Police for the city of San Bernardino, California from December 28, 2011, to December 6, 2013, and the Chief of Police for the city of Huntington Beach, California from December 7, 2013, to October 16, 2020. In addition to reviewing thousands of UOF cases and hundreds of police shooting cases during his policing career, Handy has been retained as a SME to review police UOF incidents and policing practices and procedures nationwide.

On February 12, 2026,[27] based on a review of the reports, documents, audio recordings, photos and other evidence listed in the supporting-evidence section of this report, Handy concluded that given the totality of circumstances, the lethal force used by Officers Zavala and Quintanilla in this incident was not consistent with the requirements for use of deadly force in the California Penal Code, nor police officer training and standards in California. He further opined that the Victim's change in

[27] Attachment J (Trichief Consulting Service's Independent SME Report).

direction toward the two officers did not significantly change the circumstances to warrant a lethal response, and that the use of deadly force did not appear to be in response to an imminent threat as defined by the California Penal Code.

B. Summary of Findings

Based on a careful review of Respondent's, QUINTANILLA's, and other officer's BWV data, LAPD's Tactical Concept No. 11[28] (Edged Weapons), LAPD's Use of Force Policy[29], an evaluation of crime scene documentation, and a review of various sections of California Penal Code section 835a, Commission Regulation 1205(a)(3), in conjunction with recent case law, the Division assesses that both Respondent's and QUINTANILLA's belief that the Victim posed an imminent threat was not reasonable and that their application of deadly force was based solely on a perceived or future threat. BWV recordings depict the Victim standing up, taking four slow steps forward, turning, and then stopping. At no point did the Victim vocalize any intent to harm officer or others, attempt to leave the scene, conceal himself from officers, lunge, rapidly advance, or make any sudden or furtive movements towards officers or others that necessitated the use of deadly force.

While Victim certainly posed a threat to the community when he initially left his residence armed with a kitchen knife, the Division carefully considered all of the relevant circumstances during the approximately 18-minute incident and concluded that the threat was not imminent at the moment deadly force was utilized because the Victim was quickly contained, did not possess a particularly threatening demeanor and/or intent to cause injury to officers or others, and only posed a danger to himself. Officers were positioned between 22 and 30 feet from Victim and behind the cover of police vehicles during the incident. There were no bystanders positioned closer to the Victim than any officer and the occupants located inside the apartment building at [redacted] (behind Victim) had complied with officer's orders to remain inside the building with the door closed. Therefore, Respondent and QUINTANILLA failed to meet the standard set forth under California Penal Code section 835a(c)(2). Specifically, Respondent and QUINTANILLA's use of deadly force against the Victim was based on the danger the Victim posed to himself, not on an objectively reasonable belief that the Victim posed an imminent threat of death or serious bodily injury to themselves or another person.

Based on the totality of the evidence, the Division finds that reasonable grounds exist to refer this case to the Peace Officer Standards Accountability Advisory Board and the POST Commission for consideration of certificate revocation or suspension pursuant to California Penal Code section 13510.8.

[28] Attachment K (LAPD's Tactical Concept No. 11 - Edged Weapons)
[29] Attachment L (LAPD's Use of Force Policy - 10/2020 – 8/2022)

VI. Supporting Evidence

Evidence	Attachment
Executive Review and Division Recommendation	A
Respondent's EDI Profile	B
LAPD Report FID NO.064-21-Redacted	C
COP Intradepartmental Communication	D
CF No. 22-003418 Letter of Transmittal	E
CF No. 22-003757 Letter of Transmittal	F
Los Angeles City Council (Item No. 34) Motion to Settle	G
Federal Civil Complaint (Case No. 2:22-cv-07534-FLA-MAA)	H
Respondent's Interview Transcript	I
Trichief Consulting Service's Independent SME Report	J
LAPD's Tactical Concept No. 11 - Edged Weapons	K
LAPD's Use of Force Policy (10/2020 to 8/2022)	L

Commission on Peace Officer Standards and Training
860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1603
(916) 227-3909 • www.post.ca.gov

EXECUTIVE REVIEW & PEACE OFFICER STANDARDS ACCOUNTABILITY DIVISION RECOMMENDATION

DATE: 11/25/2025

CASE #: POST2311370

PEACE OFFICER: Jose ZAVALA

POST ID#: C28-A48

AGENCY: Los Angeles Police Department

POST CONSULTANT / BC: LEC Dave Sieber / BC Christine Ford

ALLEGATION(S):

California Code of Regulations Title 11 § 1205(a)(3) – Abuse of power/Excessive or Unreasonable Use of Force

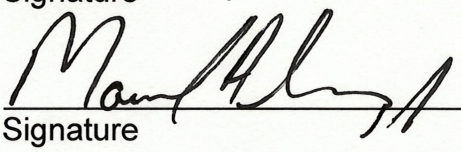
On December 18, 2021, LAPD Officers Jose ZAVALA and Julio QUINTANILLA, responded to an "attempt suicide" call for service. The victim was armed with a 6.5-inch kitchen knife. After approximately 13 minutes of de-escalation efforts, the victim stood up and took four slow steps forward and then stopped. This movement triggered the deployment of a less-lethal projectile, which struck victim. Nearly contemporaneously, from behind the cover of a police vehicle, ZAVALA fired three rounds from his service pistol, striking the victim. Approximately .322 seconds after ZAVALA discharged his third round, QUINTANILLA, from behind the cover of a police vehicle, fired a single round from his service pistol. The victim was detained but ultimately succumbed to the injuries sustained from the use of force. LAPD's Force Investigation Division investigated the Officer Involved Shooting and the results were conveyed to the LAPD Use of Force Review Board (UOFRB). The UOFRB was critical of ZAVALA's and QUINTANILLA's perception of an "immediate threat" and found that their actions were not objectively reasonable, proportional, or necessary. A subsequent Department-initiated Complaint Investigation reached a SUSTAINED finding of "Out of Policy – Administrative Disapproval" regarding both officer's use of force. The incident was not referred to LAPD's Board of Rights. Ultimately, ZAVALA received a 10-day suspension and QUINTANILLA received a 5-day suspension with loss of pay and benefits.

The Peace Officer Standards Accountability Division, Certification Executive Review Panel has reviewed the above referenced case involving alleged serious misconduct and has determined the following:

☒ There are reasonable grounds for suspension or revocation of a peace officer's certification.

POST determined clear and convincing evidence exists to show Respondent committed serious misconduct as defined in Penal Code §13510.8(b)(3) and Title 11, California Code of Regulations 1205(a)(3) - Physical abuse when he used excessive or unreasonable force resulting in the death of the Victim.

☐ There is insufficient evidence to support a recommendation of revocation or suspension of certification.

William Darden Chief Legal Counsel	 Signature	2/11/26 Date
Annemarie Del Mugnaio Assistant Executive Director	 Signature	2-11-2026 Date
Manny Alvarez Executive Director	 Signature	02/17/2026 Date

cc: Bureau Chief Christine Ford

cc: Jason Morlock

cc: Chandler Knapp

cc: _____

POST PROFILE NAME:

ZAVALA, JOSE

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

AKA: N/A

DATE: 08/20/2025

PERSONAL IDENTIFICATION

POST I.D.	Agency	Birth Date	Gender	Race/Ethnicity
C28-A48	LOS ANGELES PD	[redacted]	[redacted]	[redacted]

CERTIFICATES AWARDED

Cert No.	Type	Awarded	Education	T	T+	Comments
143366	B	01/10/2011		46.00		

Total Number of Certificates: 1

EMPLOYMENT

Hired From	To	R*	Rank	Rank Date	Agency	Agency Name	F/P	P/U	Seas
05/26/2009	10/09/2009	6	TRN	05/26/2009	19420	LOS ANGELES PD	F	P	
10/09/2009			PO	10/09/2009	19420	LOS ANGELES PD	F	P	

***Reason for Separation: 6 = Other**

POST CERTIFIED TRAINING

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
06/23/2009	K	4890-23272-08-144	8		Y	19420	M TOLERNCE		CULT. DIV.-TOOLS FOR TOLERANCE (MOT ONLY)
10/27/2009	K	1850-31771-09-008	8	X	Y	19420	LAPD		WMD L.E. RESPONSE ACTIONS (LERA)
11/06/2009	A	1850-00100-08-013	912	R	Y	19420	LAPD		BASIC COURSE-INTENSIVE
12/09/2009	K	1850-21647-09-032	8		Y	19420	LAPD	*	FIREARMS/TACTICAL-ADVANCED
06/08/2010	K	1850-20147-09-210	10		Y	19420	LAPD		MACTAC BASIC
06/19/2010	K	1850-29503-09-120	4	X	Y	19420	LAPD	*	ARSTCTL(PSP)
06/19/2010	K	1850-29502-09-152	4	X	Y	19420	LAPD	*	DRIVING(PSP)
06/19/2010	K	1850-21065-09-204	4		Y	19420	LAPD	*	FORCE OPTION-SIMULATOR
06/19/2010	K	1850-29000-09-013	2	X	Y	19420	LAPD	*	COMMUNICATION: KEEPING YOUR EDGE
04/12/2011	K	1850-23161-10-028	8		Y	19420	LAPD		GANGS-CAL GANG COMPUTER SYSTEM
05/02/2011	K	1850-20662-10-031	4	X	Y	19420	LAPD		CRIMINAL RECORDS SYSTEM
05/09/2011	K	1850-22435-10-018	2	X	Y	19420	LAPD		OFFICER SAFETY/FIELD TACTICS UPDATE-PLAINCLOTHES
05/13/2011	K	1850-32651-10-004	40		Y	19420	LAPD		NARC INVESTIGATION - 40 HOUR
09/13/2011	K	1850-31789-11-035	8	X	Y	19420	LAPD		WMD UPDATE
07/10/2012	K	1850-21752-12-001	10		Y	19420	LAPD	*	CROWD MANAGEMENT/CONTROL-PATROL
07/18/2012	K	1850-21065-12-003	4		Y	19420	LAPD	*	FORCE OPTION-SIMULATOR
07/30/2012	K	1850-21647-12-002	10		Y	19420	LAPD	*	FIREARMS/TACTICAL-ADVANCED
09/27/2012	K	1850-23161-12-006	16	R	Y	19420	LAPD		GANGS-CAL GANG COMPUTER SYSTEM
02/21/2013	K	1850-29502-12-048	4	X	Y	19420	LAPD	*	DRIVING(PSP)
04/03/2013	K	9180-25554-12-277	2	X	Y	19420	POST	*	COMMUNICATION: KEEPING YOUR EDGE (WEB)
05/13/2013	K	1850-22435-12-016	2	X	Y	19420	LAPD		OFFICER SAFETY/FIELD TACTICS UPDATE-PLAINCLOTHES
05/17/2013	K	1850-32651-12-004	40		Y	19420	LAPD		NARC INVESTIGATION - 40 HOUR
06/18/2013	K	1850-21065-12-121	4		Y	19420	LAPD	*	FORCE OPTION-SIMULATOR
07/21/2013	K	1850-31789-13-001	8	X	Y	19420	LAPD		WMD UPDATE
01/16/2014	K	1850-22405-13-017	32		Y	19420	LAPD	*	OFFICER SAFETY/FIELD TACTICS UPDATE
02/24/2014	K	1850-29000-13-233	2	X	Y	19420	LAPD		HUMAN TRAFFICKING UPDATE
04/03/2014	K	1850-20167-13-017	6	X	Y	19420	LAPD		MAC TAC UPDATE
10/21/2014	K	1850-29000-14-255	2	X	Y	19420	LAPD		MENTAL HEALTH UPDATE

POST CERTIFIED TRAINING *continued*

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
02/26/2015	K	1850-32095-14-086	4		Y	19420	LAPD	*	FIREARMS/TACTICAL HANDGUN
03/25/2015	K	1850-29000-14-161	2	X	Y	19420	LAPD	*	TACTICAL COMMUNICATIONS
03/26/2015	K	1850-29503-14-099	4	X	Y	19420	LAPD	*	ARSTCTL(PSP)
03/26/2015	K	1850-29502-14-111	4	X	Y	19420	LAPD	*	DRIVING(PSP)
03/30/2015	K	1850-31789-14-068	8	X	Y	19420	LAPD		WMD UPDATE
07/23/2015	K	1850-22680-15-001	8		Y	19420	LAPD		P.R.O.A.C.T.
08/03/2015	K	9180-25559-15-034	12	X	Y	19420	POST		FIRST AID/CPR (WEB)
08/22/2016	K	1850-21647-16-017	4		Y	19420	LAPD	*	FIREARMS/TACTICAL-ADVANCED
03/22/2018	K	1850-22435-17-004	2	X	Y	19420	LAPD		OFFICER SAFETY/FIELD TACTICS UPDATE-PLAINCLOTHES
05/10/2018	K	4890-23287-17-034	4	X	Y	19420	M TOLERNCE		RACIAL PROFILING UPDATE
05/10/2018	K	4890-23289-17-023	6		Y	19420	M TOLERNCE		CUL. DIVERSITY/INTEGRITY TOOL (MOT ONLY)
05/16/2018	K	1850-23216-17-004	8	X	Y	19420	LAPD		GANG INTERVENTION, INTRO
05/20/2018	K	1850-10207-17-078	3	X	Y	19420	LAPD		BALLISTIC SHIELD OPERATOR
05/20/2018	K	1850-29502-17-201	4	X	Y	19420	LAPD	*	DRIVING(PSP)
10/11/2018	K	1850-32592-18-001	8	X	Y	19420	LAPD		UNDERCOVER OPS/TACTICAL RESP.
11/05/2018	K	1850-21647-18-033	10	X	Y	19420	LAPD	*	FIREARMS/TACTICAL-ADVANCED
12/18/2018	K	1850-21954-18-071	9	X	Y	19420	LAPD	*	CROWD CONTROL
01/03/2019	K	9180-25586-18-187	8	X	Y	19420	POST		FIRST AID/CPR/AED (WEB)
01/09/2019	K	9180-25587-18-193	2	X	Y	19420	POST		VEHICLE PURSUIT POLICY (WEB)
05/17/2019	K	1850-21515-18-001	40		Y	19420	LAPD		HUMAN TRAFFICKING INVESTIGATIONS (ICI)
06/05/2019	K	1850-20799-18-027	8	X	Y	19420	LAPD	*	DE-ESCALATION & TACTICAL COMMUNICATION
09/18/2019	K	1850-23214-19-001	24		Y	19420	LAPD		GANG AWARENESS, BASIC
12/31/2019	K	9180-25587-19-184	2	X	Y	19420	POST		VEHICLE PURSUIT POLICY (WEB)
12/02/2020	K	1850-21954-20-011	9	X	Y	19420	LAPD	*	CROWD CONTROL
02/16/2021	K	1850-30986-20-046	4		Y	19420	LAPD		LESS LETHAL/MUNITIONS
02/21/2021	K	1850-29000-20-248	2	X	Y	19420	LAPD		POST TRAUMATIC STRESS DISORDER & TRAUMATIC BI
02/21/2021	K	1850-29000-20-264	2	X	Y	19420	LAPD		HOMELESSNESS AND POLICING: A COLLABORATIVE APPROAC
02/26/2021	K	1850-20911-20-026	36		Y	19420	LAPD	*	MENTAL HEALTH INTERVENTION TRAINING
10/01/2021	K	1850-23090-21-240	4	X	Y	19420	LAPD		ELECTRONIC WEAPONS
10/26/2021	K	1850-21647-21-043	4	X	Y	19420	LAPD	*	FIREARMS/TACTICAL-ADVANCED
04/21/2022	K	1850-32078-21-026	4	X	Y	19420	LAPD	*	FIREARMS/TACTICAL RIFLE UPDATE
04/21/2022	K	1850-32075-21-005	36	X	Y	19420	LAPD	*	FIREARMS/TACTICAL RIFLE
08/31/2022	K	1850-33886-22-006	6	X	Y	19420	LAPD	*	USE OF FORCE AND DE-ESCALATION
09/25/2022	K	1850-29502-22-070	4		Y	19420	LAPD	*	DRIVING(PSP)
09/25/2022	K	1850-29503-22-073	4		Y	19420	LAPD	*	ARSTCTL(PSP)
10/05/2022	K	9180-25586-22-097	8	X	Y	19420	POST		FIRST AID/CPR/AED (WEB)
12/08/2022	K	9180-25595-22-161	4	X	Y	19420	POST		BEYOND BIAS:RACIAL & ID PROFILING UPD- SELF PACED
12/08/2022	K	1850-22405-22-003	32		Y	19420	LAPD	*	OFFICER SAFETY/FIELD TACTICS UPDATE
12/13/2022	K	1850-32078-22-084	4	X	Y	19420	LAPD	*	FIREARMS/TACTICAL RIFLE UPDATE
01/10/2023	K	1850-22680-22-002	8	X	Y	19420	LAPD		P.R.O.A.C.T.
02/15/2023	K	1850-28008-22-025	8	X	Y	19420	LAPD	*	MASS-VIOLENCE TACTICAL RESPONSE
04/04/2023	K	1850-32078-22-121	4	X	Y	19420	LAPD	*	FIREARMS/TACTICAL RIFLE UPDATE

POST PROFILE NAME:

ZAVALA, JOSE

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

AKA: N/A

DATE: 08/20/2025

POST CERTIFIED TRAINING *continued*

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
05/01/2023	K	9180-25575-22-305	3	X	Y	19420	POST		SEARCH WARRANT FUNDAMENTALS (WEB)
05/26/2023	K	1850-26011-22-003	40		Y	19420	LAPD		GANG INVESTIGATIONS (ICI)
08/11/2023	K	1850-10738-23-023	8	X	Y	19420	LAPD		ACTIVE BYSTANDER FOR LAW ENFORCEMENT
09/05/2023	K	1850-32078-23-010	4	X	Y	19420	LAPD	*	FIREARMS/TACTICAL RIFLE UPDATE
05/20/2024	K	1850-32078-23-130	4	X	Y	19420	LAPD		FIREARMS/TACTICAL RIFLE UPDATE
05/31/2024	K	1850-34490-23-025	8	X	Y	19420	LAPD		LEADERSHIP DEVELOPMENT PROGRAM
05/31/2024	K	1850-33886-23-040	6	X	Y	19420	LAPD	*	USE OF FORCE AND DE-ESCALATION
06/04/2024	K	1850-29503-23-297	4		Y	19420	LAPD	*	ARSTCTL(PSP)
06/12/2024	K	9181-25586-23-348	8	X	Y	19420	CAPLP		FIRST AID/CPR/AED (WEB)
08/27/2024	K	1850-29502-24-080	4		Y	19420	LAPD	*	DRIVING(PSP)
08/28/2024	K	1850-21954-24-011	8	X	Y	19420	LAPD	*	CROWD CONTROL
10/07/2024	K	1850-32078-24-025	4	X	Y	19420	LAPD		FIREARMS/TACTICAL RIFLE UPDATE
11/08/2024	K	1850-21772-24-005	8	X	Y	19420	LAPD		TACTICAL EMERG. FIRST AID/TRAUMA CARE
02/21/2025	K	1487-29580-24-236	4		Y	19420	PLI	*	USE OF FORCE (PSP)
03/01/2025	K	1487-29540-24-244	2		Y	19420	PLI	*	STRATEGIC COMMUNICATIONS (PSP)

***Meets Perishable Skills**

FOOTNOTES

NO FOOTNOTE ON FILE.

PLEASE REFER TO THE ENCLOSED EXPLANATION SHEET FOR ADDITIONAL INFORMATION.

COMMISSION ON POST – PROFILE REPORT

The Profile Report contains confidential information.

EXPLANATION SHEET

PERSONAL IDENTIFICATION: Subject's personal information as indicated in POST database (EDI system)	
POST ID:	Unique identification number assigned to subject by POST.
Agency:	Indicates the agency (or one of the agencies) where subject is currently employed. An "*" indicates that the subject is employed in more than one position within the same agency.
Birth Date/Gender:	Self-explanatory.
Race/Ethnicity:	**A** = Asian **B** = African American (Black) **N** = Native American **S** = Spanish/Hispanic **W** = White **O** = Other

CERTIFICATES AWARDED	
Cert:	Certificate serial number.
Type:	**B** = Basic **I** = Intermediate **A** = Advanced **S** = Supervisory **M** = Management **E** = Executive **R** = Reserve **D** = Public Safety Dispatcher **SX**= Specialized X (example: SA = Specialized Advanced)
Awarded:	Date certificate was issued.
Education:	Educational points or degree used for earning a certificate.
T:	Training points used for awarding the certificate.
T+:	Additional training points.
Comments:	Comments regarding training or institute(s) where subject received education.
Total Number of Certificates:	Number of certificates awarded to subject as indicated in POST database.

EMPLOYMENT: Subject's employment history as indicated in POST database	
Hired From:	Date subject was hired or sworn into the agency.
To:	Date subject left agency (if applicable).
R*:	Reason for separation as indicated by number in the Report description.
Rank / Rank Date:	Indicates rank as translated by POST database and date subject made rank.
Agency / Agency Name:	Agency code number and name where subject is currently working or previously worked.
F/P:	Time base: **F** = Full time **P** = Part time
P/U:	Wage status: **P** = Paid **U** = Unpaid
Seas:	Provisional or seasonal employment.

POST TRAINING: Courses attended or completed as indicated in POST database	
Comp Date:	Date course ended.
Cat:	General course category (for POST use only).
CCN:	Course Control Number.
Hrs:	Hours completed in course.
Rmb:	Reimbursement indicator: **R** = Reimbursed *(before FY 83/84 reimbursable agency not necessarily reimbursed)* **J** = Job specific * = Job specific, SALARY NOT PAID **Blank** = None or no data available
Cmp:	Completion indicator: **Blank or Y** = Course completed **N** = Course not completed **?** = Prior to 1979
Agency:	Agency where subject was employed at time of course enrollment.
School:	Training institute offering the course.
Course Name:	Course name as shown in POST database.

NON-CERTIFIED COURSES
This section will only appear if applicable.

FOOTNOTES
This section reserved for additional information.

CONFIDENTIAL REPORT

THE CHIEF OF POLICE CONSIDERS THIS REPORT CONFIDENTIAL. ADMINISTRATIVE USE IS LIMITED TO CONCERNED STAFF AND COMMAND PERSONNEL OF THE LOS ANGELES POLICE DEPARTMENT. THIS REPORT CONTAINS INFORMATION OBTAINED FROM COMPELLED STATEMENTS. ANY OTHER USE OF THIS REPORT IS FORBIDDEN BY THE LOS ANGELES CITY ATTORNEY.

THIS REPORT IS NOT TO BE REPRODUCED OR COPIED

FORCE INVESTIGATION DIVISION REPORT NUMBER

F064-21

DO NOT RETURN THIS REPORT TO FORCE INVESTIGATION DIVISION. WHEN FINISHED, PLEASE ENSURE THIS REPORT IS SHREDDED.

Force Investigation Division
F064-21
OFFICER-INVOLVED SHOOTING



Force Investigation Division Investigators

Administrative Team:

DII T. Brown
Serial No. 34045

DIII K. Huff
Serial No. 34099

Criminal Team:

DIII N. Pikor
Serial No. 35384

DII S. Carrillo
Serial No. 35791

Criminal Apprehension Team

DIII T. Lee
Serial No. 32870

DII J. Chavez
Serial No. 27375

Date and Time of Incident:	**December 18, 2021, 1710 Hours**
Location of Incident:	[redacted]
Area of Occurrence:	**Newton Area, RD 1323**
Suspect(s):	Victim **Male, Hispanic, 22 years of age**
Injuries:	**Gun Shot Wounds to the chest, neck and torso (Deceased)**
Criminal Activity:	**Assault with a Deadly Weapon on a Peace Officer**
DR Nos.	**2113-20675 and 2113-20677**
Involved Officer(s):	**PO II Jose Zavala** **Serial No. 40197** **Newton Area Gang Enforcement Detail** **PO II Julio Quintanilla** **Serial No. 42454** **Newton Area Gang Enforcement Detail**

CONFIDENTIAL

This report is for the confidential use of the Chief of Police

F064-21
TABLE OF CONTENTS

Section	**Page**
Synopsis	1
Investigative Summary	1
Scene Description	26
Canvass for Witnesses	26
Suspect Information	27
Injuries	28
Evidence	28
Coroner's Investigation	29
Weapons	29
Firearms Analysis	31
Visual Documentation	32
Notifications	34
Personnel at Scene	34
Communications	34
Justice System Integrity Division	34
Investigators' Notes	35

Transcribed Statements

[redacted] (Pages 1-32)
[redacted] (Pages 1-23)
Sergeant [redacted] (Pages 1-55)
Police Officer II Julio Quintanilla (Pages 1-54)
Police Officer II Jose Zavala (Pages 1-56)
Officer 1 [redacted] (Pages 1-46)
Officer 2 [redacted] (Pages 1-24)
Officer 3 [redacted] (Pages 1-32)
[redacted] (Pages 1-33)
Officer 4 [redacted] (Pages 1-43)

F064-21
TABLE OF CONTENTS

Police Officer II Enrique Meraz (Page 1-45)
Sergeant I Arnold Castellanos (Pages 1-16)
Sergeant I Victor Cruz (Pages 1-16)

Addenda

Addendum No. 1 — Los Angeles Fire Department, Pre-Hospital Care Summary Report, for [redacted] Victim, dated December 18, 2021, Call No. 1212.

Addendum No. 2 — Los Angeles Police Department, Newton Area, Watch Commander's Daily Report, Watch 3 and 5, Lieutenant I Celina Robles, Serial No. 38064, dated December 18, 2021.

Los Angeles Police Department, Sergeant's Daily Report, Sergeant [redacted], Serial No. [redacted], dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I Victor Cruz, Serial No. 38632, dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I Gabriel Gaxiola, Serial No. 35056, dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I Jason Adkins, Serial No. 35881, dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I Stephen McClean, Serial No. 37049, dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I Phillip Scallon, Serial No. 31318, dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I James Lee, Serial No. 38328, dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I Dominic Santiago, Serial No. 34994, dated December 18, 2021.

Los Angeles Police Department, Revised Sergeant's Daily Report, Sergeant I Arnold Castellanos, Serial No. 40402, dated December 18, 2021.

Addendum No. 3 — Los Angeles Police Department, Interdepartmental Correspondence 15.2, Assessment of Supervisory Response to a Categorical Use of Force, FID Case No. F064-21, dated February 8, 2022.

F064-21
TABLE OF CONTENTS

Addendum No. 4	Los Angeles County, Consolidated Criminal History Reporting System (CCHRS) printout for [redacted], dated December 18, 2021.
Addendum No. 5	Los Angeles Police Department, Investigative Report, for Assault with A Deadly Weapon, DR Nos. 2113-20675 and 2113-20677, dated December 18, 2021.
Addendum No. 6	Los Angeles Police Department, Follow-Up Investigation Report, DR Nos. 2113-20675 and 2113-20677, dated March 29, 2021.
Addendum No. 7	Los Angeles Police Department, Forensic Science Division, Laboratory Report, Evidence Collection, dated May 11, 2022.
Addendum No. 8	Los Angeles Police Department, Property Report, DR No. 2113-20675, dated January 5, 2022.
Addendum No. 9	Department of Medical Examiner-Coroner, County of Los Angeles County, Autopsy Report, dated June 1, 2022.
Addendum No. 10	Department of Medical Examiner-Coroner, County of Los Angeles County, Forensic Science Laboratories, Analysis (Toxicology) Report, dated March 25, 2022.
Addendum No. 11	Los Angeles Police Department, Forensic Science Division, Laboratory Report, Firearms-Test Fire Firearm, for Officer Zavala, dated January 12, 2022.
Addendum No. 12	Los Angeles Police Department, Forensic Science Division, Laboratory Report, Firearms-Test Fire Firearm, for Officer Quintanilla, dated January 12, 2022.
Addendum No. 13	Los Angeles Police Department Training Division, Ordnance Unit, Weapon Discharge Inspection Report, dated December 21, 2021.
Addendum No. 14	Los Angeles Police Department, Forensic Science Division, Laboratory Report, Firearms-Bullet Path Analysis, dated May 11, 2022.
Addendum No. 15	Los Angeles Police Department, Forensic Science Division, Laboratory Report, Firearms-Type and Caliber, dated April 7, 2022.
Addendum No. 16	Los Angeles Police Department, Forensic Science Division, Laboratory Report, Serology/DNA - STRI, dated May 12, 2022.

F064-21
TABLE OF CONTENTS

Addendum No. 17	Los Angeles Police Department, Department Operations Center, Incident Notification Log, dated December 18, 2021, Incident No. 21121800002616.
Addendum No. 18	Los Angeles Police Department, Communications Division, Incident Recall Report, Incident No. 21121800002616, dated December 18, 2021.
Addendum No. 19	Los Angeles Police Department, Police Sciences and Training Bureau Inservice Training, Training Division, Notice 12.1.2, Distribution "A."

FORCE INVESTIGATION DIVISION
REPORT OF AN OFFICER INVOLVED SHOOTING
F064-21

The following report in its digital form contains video links that can be viewed during the review of the report. All addenda, diagrams, investigators' notes, and video can be viewed by clicking on the colored link.

TO: MICHEL R. MOORE, CHIEF OF POLICE

SIR:

Synopsis: On Saturday, December 18, 2021, at approximately 1710 hours, Newton Area Gang Enforcement Detail (GED) Officers, responded to a suicidal male, armed with a knife radio call. While at scene, the officers contacted the suspect and an Officer-Involved Shooting (OIS) occurred. The suspect sustained multiple gunshot wounds and was transported to Los Angeles County, University of Southern California Medical Center (LAC+USCMC) for treatment; where he succumbed to his injuries.

The following Investigative Summary is based upon Body Worn Video (BWV), witness statements, officer statements as well as physical evidence. Any discrepancies are noted in an intended note.

INVESTIGATIVE SUMMARY

On December 18, 2021, at 1654 hours, [redacted] called 911 and Communications Division (CD) Radio Telephone Operator (RTO) Larry Gates, Serial No. N2995, answered the call.[1] [redacted] reported that [redacted] Victim was [redacted] and just walked out of the house armed with a knife (Audiolink).[2] At approximately 1656 hours, an *"Ambulance Attempt Suicide"* radio call was generated for Newton Patrol Division, Incident No. 21121800002616 (Audiolink) (Investigators' Note No. 1).

According to [redacted] when Victim walked away from his residence, he removed a knife from his pocket and held it in his hand. Victim walked west through the rear alley to the south sidewalk in front of [redacted][3]

Witness [redacted] told investigators that [redacted] had begun to drink beer and smoke drugs when he turned 18 years old.[4] [redacted] further stated about [redacted] that, *"He's a very hyper boy. He's very, very -- how do you say it? When he drinks -- because of the beer and the drugs, he's in an altered state of mind."*[5]

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[1] [redacted] PII - Civ. Code secs. 1798.3 & 1798.24 .
[2] Victim male Hispanic, 22 years of age, 4 feet 9 inches tall, 98 pounds.
[3] Communications Division recording, audio play time stamp, 0 minutes and five seconds of the recording. The audio was recorded at approximately 1654 hours.
[4] [redacted] statement, Page No. 4, Lines 5-17.
[5] [redacted] statement, Page No. 5, Line 21-24.

Newton Patrol Division, uniformed Police Officers II Officer 1 Serial No. [redacted], passenger, and Officer 2, Serial No. [redacted], driver, were assigned to unit 13A13, Watch Two.[6] The officers activated their BWV cameras and responded Code Three to the call.[7]

Newton Gang Enforcement Detail (GED), uniformed Sergeant, Serial No. [redacted], was assigned to [redacted].[8] Sergeant activated his BWV camera and responded Code Three to the call. According to Sergeant, *"It follows edge weapons protocols, so with that being said, a supervisor has to respond with the unit. They requested a supervisor to respond. Again, being the only field supervisor available, I responded to the call."*[9]

According to Sergeant, earlier that day during roll call, he discussed tactics regarding men with knives with the officers assigned to GED. Sergeant further stated, he and the officers assigned to GED regularly discuss tactics and how to handle different scenarios.[10]

Sergeant stated, *"When we came in, there wasn't a lot of resources to handle the radio. So we volunteered -- I volunteered our unit to go -- to help out, because there was a lot of calls dropping. [redacted] Myself -- I was the only supervisor out in the field. I had my units log on, start replying to radio calls."*[11]

Newton GED, uniformed Police Officers II Jose Zavala, Serial No. 40197, and Julio Quintanilla, Serial No. 42454, were assigned to [redacted].[12] The officers responded Code Three to the call.

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[6] Officer Officer 1, four years and seven months, with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 [redacted]. Officer Officer 2, 3 years with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 [redacted]. The Officers were wearing ballistic vests and had Department-approved handguns, handcuffs, TASERs, canisters of Oleoresin Capsicum (OC) spray and flashlights attached to their Sam Browne equipment belts. The officers had a Hobble Restraint Device (HRD) in their sap pockets. The officers were equipped with Body Worn Video (BWV) cameras. The officers were in a marked black and white police vehicle, Shop No. 81511, equipped with emergency equipment and a Digital In-Car Video System (DICVS). The officers had side-handled batons and a 40mm Less Lethal Launcher stored inside their police vehicle.

[7] Los Angeles Police Department Manuel, Volume 4, Section No. 120.40, defines Code Three, as a radio transmission code, indicating a unit is responding to an emergency call, with lights and sirens activated.

[8] Sergeant Sergeant, 18 years and 11 months with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 [redacted] Sergeant was wearing a ballistic vest and had Department-approved handgun, handcuffs, canister of OC spray, and a flashlight attached to his Sam Browne equipment belt. Sergeant was equipped with a BWV camera. Sergeant was driving a marked black and white police vehicle, Shop No. 81552, equipped with emergency equipment and a DICVS. Sergeant had a side-handled baton stored inside his police vehicle.

[9] Sergeant's statement, Page No. 7, Lines 18-23.

[10] Sergeant's statement, Page No. 18, Lines 14-25 and Page No. 19, Lines 1-6.

[11] Sergeant's statement, Page No. 7, Lines 9-14.

[12] Officer Jose Zavala, 12 years and five months, with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 [redacted]. Officer Julio Quintanilla, five years and 10 months, with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 PII - Civ. Code secs. 1798.3 & 1798. The officers were wearing ballistic vests and had Department-approved handguns, handcuffs, TASERs, canisters of OC spray and flashlights attached to their Sam Browne equipment belts. The officers were equipped with their BWV cameras. The officers were in a marked black and white police vehicle, Shop No. 87982, equipped with emergency equipment and a DICVS. The officers had HRD's and side-handled batons stored inside their police vehicle. Officers Quintanilla and Zavala did not activate their BWV cameras while driving Code Three to the call.

At approximately 1654 hours, witness [redacted], called 911 and reported to the RTO that Victim had a large knife.[13] [redacted] gave the RTO Victim's description and location.

According to [redacted] he was walking from Street 2 and Street 3 to catch the 53 Line bus on South Central. [redacted] stated he stopped at [redacted] to rest, when he saw Victim looking at him and walking toward him, while holding a knife. [redacted] stated that Victim looked angry and he was swinging the knife in the air, which caused him to be scared.[14] [redacted] also stated, *"There were families crossing, and when they saw him, they also got scared."*[15] *"And in that direction, there was also a family who was already calling the police. They said, 'are you calling, too?'"*[16] [redacted] stated he called the police because he believed that Victim was dangerous.[17] [redacted] further stated, he saw the police arriving and he walked away to catch the bus.[18]

At approximately 1656 hours, on the CD 911 call recording, [redacted] was heard telling the RTO that Victim tried to hit someone and was going to attack a person with the knife (Audiolink) (Investigator's Note No. 2).

At 1657 hours, CD broadcast an information update, *"additional on your attempt suicide, [redacted] the subject is now chasing people with the knife in front of [redacted]* (Audiolink).

> **Note:** Investigators' review of the 911 call recording noted that [redacted] did not say that Victim was chasing people with the knife; as stated by the RTO in the radio broadcast. Investigators heard [redacted] tell the RTO that Victim was going to attack a man with the knife.

Referring to the radio call, Sergeant stated, *"Then it upgraded stating that he was outside of the location, chasing people down the street with a knife. Okay. Once I heard that, I knew it was serious. So I responded Code Three to the location due to the fact that I believed that, you know, this individual was a danger to the community and a danger to the public based on the upgraded radio call."*[19]

At approximately 1700 hours, as Sergeant drove west on [redacted] toward the [redacted] block, [redacted]. Officers assigned to GED [redacted] were [redacted].[20] Sergeant told investigators,

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[13] [redacted], male Hispanic, [redacted]
[14] [redacted] statement, Page No. 5, Lines 4-16 and Page No. 7, Lines 6-13.
[15] [redacted] statement, Page No. 4, Lines 22-24.
[16] [redacted] statement, Page No. 4, Lines 24-25 and Page No. 5, Line 1.
[17] [redacted] statement Page No. 17, Lines 22-24.
[18] [redacted] statement, Page No. 6, Lines1-8.
[19] Sergeant s statement, Page No. 8, Lines 1-8.
[20] Los Angeles Police Department Manuel, Volume 4, Section No. 120.40, defines Code Six as a radio designation term indicating that a unit is at a location, for enforcement activity or an investigation.

based on edge weapons protocol and that he was the only Newton Patrol supervisor in the field, he did not respond to [redacted].[21]

According to Sergeant, as he drove west on [redacted] a male Hispanic and a female Hispanic were flagging him down and pointing to Victim sitting on the stairs in front of [redacted].[22] Sergeant further stated he, *"Identified him based on the comments of the radio call, what he was wearing and the fact that I observed right away he was holding like a big butcher knife type meat cleaver."*[23]

According to Sergeant's BWV, at 1701:31 hours, he parked the police vehicle facing southwest toward the south curb, activating the vehicle spot light and illuminating the area around Victim. According to Sergeant, *"At that point, I didn't go Code Six initially right away. I knew that we had 13-Adam-13 was en route and one of my George units was en route also, [redacted]. Simultaneously, as we were responding, one of my other units [redacted] I was already committed to this call. Obviously I didn't want to tie up the air, and I knew other units were en route.*[24] *I just didn't want to tie up the air, because we had a dangerous situate -- they actually subsequently [redacted]"*[25]

As Sergeant exits his vehicle, Victim is depicted sitting on the exterior stairs of the apartment building located at [redacted] Victim was holding a knife in his right hand with the blade pressed against his neck (Photolink).

Sergeant can be heard telling Victim to, *"Just drop that, you're going to be good! Drop the knife alright, hey bro, just drop the knife."* Victim did not appear to respond to or acknowledge Sergeant. According to Sergeant, he unholstered his pistol, held it in a single hand grip, with his trigger finger along the slide, at a low-ready position as he stood behind the open driver side door of his vehicle (Videolink).

According to Sergeant, he unholstered his pistol, *"Due to the fact based on the comments of the radio call, based on my observations of him -- seeing him with a meat cleaver, large butcher knife, I believed that the situation may escalate to the use of deadly force. I drew my firearm and to protect myself in the event that he may try to charge at me."*[26]

According to Officers Zavala and Quintanilla's BWV at 1702:05 hours, the officers arrived at [redacted] Officer Zavala parked the police vehicle facing southeast toward the south curb and turned on the spotlight illuminating the area around Victim, who was still seated on the stairs.

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[21] Sergeant's statement, Page No. 7, Lines 18-23.
[22] Sergeant's statement, Page No. 8, Lines 9-11, Page No. 20, Lines 18-25 and Page No. 21, Line No. 1.
[23] Sergeant's statement, Page No. 8, Lines 16-19.
[24] Sergeant's statement, Page No. 8, Lines 21-25, and Page No. 9, Lines 1-5.
[25] Sergeant's statement, Page No. 20, Lines 12-15.
[26] Sergeant's statement, Page No. 9, Lines 7-12.

According to Officer Quintanilla, he did not broadcast that they were Code Six, *"Because at the same time that we were responding to this man with a knife call,* [redacted] *and the radio was tied up. So I didn't -- you know, yeah, I didn't push the button and I didn't show myself on the radio code six, but my partner did put out an RA request. So I assume that they were -- they knew that we were there already because of the request of the RA."*[27]

Officer Quintanilla's BWV depicts him exit the vehicle and take a standing position behind the vehicle passenger door. Officer Quintanilla unholstered his pistol with his right hand as he simultaneously turned on and positioned the vehicle spotlight with his left hand. Officer Quintanilla is depicted transitioning to a two-hand grip on the pistol, as he held it in a low-ready position. According to Officer Quintanilla, he had his trigger finger along the frame and his sights were aligned toward the suspect.[28] According to Officer Quintanilla, he unholstered his pistol, *"When I came out the vehicle, I took my firearm out because based on the tactical situation and just by the radio call saying that he had a butcher knife and he was chasing people in an attempt to hurt them. I believe that, you know, it could escalate to the point where deadly force may be justified, so I drew my firearm out."*[29] Officer Quintanilla further stated, regarding Victim, *"At the time we began to give commands to the suspect who was sitting there at the time with this big ol' butcher knife and, you know, there was civilians around the area too. So, you know, we wanted to make sure that he wouldn't go and chase other civilians, because he was -- he had already done that."*[30]

According to Officer Quintanilla's BWV, at 1702:12 hours, his BWV was recording in buffer mode, when he pressed the record button, activating the audio. Officer Quintanilla can be heard speaking to Victim in English and then in Spanish, giving commands to drop the knife. According to Officer Quintanilla, *"I noticed that he's not really responding to it. He seemed a little -- kind of like if he was under the influence of a narcotic. So I'm like, you know what, I'll just try talking to him in Spanish. So I start talking to him in Spanish. I start kind of, you know, letting him know that we're here to help him out and that we wanted to help him. We didn't want to hurt him. And whatever it was, just to drop the knife, you know, because we're here to help him out"* (Videolink).[31]

Simultaneously, Officer Zavala made a radio broadcast, "*Let me get a Back-up on a 415 man with a knife."* Officer Zavala also broadcast a request for a Rescue Ambulance (RA) to respond and stage at [redacted]. According to Officer Zavala, *"So my intent to request the RA, if the incident would escalate to the point where deadly force may be justified, I want to render aid as soon as possible to this suspect and save his life."*[32]

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[27] Officer Quintanilla's statement, Page No. 18, Lines 6-13.
[28] Officer Quintanilla's statement, Page No. 25, Lines 8-24.
[29] Officer Quintanilla's statement, Page No. 9, Lines 21-25 and Page No. 10, Lines 1-2.
[30] Officer Quintanilla's statement, Page No. 10, Lines 3-10.
[31] Officer Quintanilla's statement, Page No. 11, Lines 2-10.
[32] Officer Zavala's statement, Page No. 18, Lines 10-13.

As the officers arrived at [redacted] was still on the phone telling the RTO that the officers had arrived, and [redacted] was holding the knife to his throat.[33]

According to Officers 1 and 2 's BWV at 1702:22 hours, Officer 1 parked the police vehicle in front of [redacted], facing west in the east lanes, east of Sergeant [redacted] 's vehicle. Sergeant yelled to the officers to, *"Get that forty out!"* According to Sergeant , *"Then 13-Adam-13 arrived. I knew that unit was equipped with a 40. I had them -- directed them to come up to my vehicle, positioned the 40 on the driver side. I positioned the partner officer as lethal on the passenger side."*[34]

According to Officer 1 's BWV, he retrieved the 40mm Less Lethal Launcher (40mm LLL) from the vehicle gun rack and loaded a sponge round into the launcher, as he walked to Sergeant [redacted] 's location.

According to Sergeant 's BWV, at 1702:24 hours, Victim held the knife in front of himself, at shoulder level and rotating the blade back and forth, from left to right repeatedly. Sergeant directed Officer 1 to take a cover position behind the driver's door of his vehicle. Sergeant directed Officer 2 to take a cover position behind the passenger side door of the vehicle. At 1702:36 hours, Sergeant holstered his pistol and told Officers Zavala and Quintanilla, *"He's got less lethal right here, you guys got cover, you guys got lethal, good to go, alright."* Officer 1 is depicted with the 40mm LLL shouldered and pointed toward Victim (Videolink).

According to Officer 1 , *"At this point I can see the subject. He's got a knife to his neck. He's motioning that he's cutting his neck with the knife. At one point he puts the knife on his hand and looks like he's cutting his hand open."* [35] Officer 1 further stated Victim appeared to be sweaty and visibly crying.

Simultaneously, Officer 2 took a position behind the open passenger door of Sergeant [redacted] 's vehicle. According to Officer 2 's BWV, at 1703:02 hours, it captures Victim [redacted] placing the blade of the knife against his left palm and making a slicing motion.

Officer 2 unholstered his pistol and held it in a two-hand grip, at a low-ready position. According to Officer 2 , *"When I got there, I saw him holding -- he was sitting down holding the knife."*[36] According to Officer 2 , he unholstered his pistol, *"Because the suspect was armed with a knife and due to the comments of the call, it said that he was chasing people with that knife. The knife can be used as a -- as a deadly weapon."*[37] Officer 2 further stated, he held his firearm in a two-hand low-ready position with his finger on the frame (Videolink).[38]

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[33] Communications Division recording, audio play time stamp, 9 minutes and 53 seconds of the recording. The audio was recorded at approximately 1701 hours.
[34] Sergeant 's statement, Page No. 9, Lines 22-25 and Page No. 10, Lines 1-2.
[35] Officer 1 's statement, Page No. 8, Lines 13-17.
[36] Officer 2 's statement, Page No. 11, Lines 7-8.
[37] Officer 2 's statement, Page No. 6, Lines 19-23.
[38] Officer 2 's statement, Page No. 12, Lines 4-12.

According to Officer Quintanilla's BWV, at 1702:40 hours, Quintanilla can be heard acknowledging Sergeant 's direction, replying, *"Got it DCO, DCO."*[39]

According to Officer Quintanilla, *"And then I remember hearing my name saying, 'You're lethal, lethal.' So, I had that assignment. You know, it's a tough assignment, but you're protecting your brothers or sisters that are there. Because, you know, obviously when someone's lethal and if deadly force needs to be used to transition to that, that's going to be a tough job. So it's on me to protect not only myself, but my partners and the people around there."*[40]

According to Officer Zavala, *"So* Sergeant *was to my left -- the vehicle to my left, sir, and I could communicate with* Sergeant . Sergeant *is assigning a less lethal, a shield on his side. And when he looked towards our direction -- at the time we were only two vehicles and an XL car. We looked at each other. He designated me as the lethal officer and my partner as the DCO, designated cover officer, sir."*[41]

> **Note:** According to Sergeant 's BWV, he used his left hand to point to Officers Quintanilla and Zavala and stated, *"You guys got lethal!"*

According to Officer Zavala's BWV, at 1702:42 hours, he unholstered his pistol and held it in a single-hand grip, in a low-ready position and then transitioned to a two-hand grip of the pistol, as he stood behind the open driver's door of his vehicle.

According to Officer Zavala, he unholstered his pistol, *"Based on the tactical situation, I had reason to believe that it may escalate to the point where deadly force may be justified."*[42] According to Officer Zavala, he had his trigger finger *"On the side -- on the side of the rail, sir."*[43]

At 1702:56 hours, Officer Zavala pressed the record button on his BWV camera and the audio microphone was activated. According to Officer Zavala, he *"activated late,"* referring to turning on his BWV camera.[44] Officer Zavala further stated, *"What I mean by that, sir, is when I exited my vehicle, my first -- my first train of thought is to put out a backup. I observed this suspect with a knife. There's pedestrians nearby. Puts the knife on his hand. I request the backup, then I turn on my camera. That was my priority at the time, sir."*[45]

> **Note:** Officer Zavala's BWV camera was recording in buffer mode and the audio microphone was not actively recording sound for the initial 51 seconds that he was at the scene.

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[39] DCO is acronym meaning Designated Cover Officer, which is a term used by police officers to describe an officer whom has been assigned the responsibility of providing lethal cover during an incident.
[40] Officer Quintanilla's statement, Page No. 32, Lines 1-9.
[41] Officer Zavala's statement, Page No. 19, Lines 16-24.
[42] Officer Zavala's statement, Page No. 20, Lines 5-7.
[43] Officer Zavala's statement, Page No. 21, Lines 2-3.
[44] Officer Zavala's statement, Page No. 18, Lines 3-4.
[45] Officer Zavala's statement, Page No. 18, Lines 24-25 and Page No. 19, Lines 1-5.

When describing Victim, Officer Zavala stated, *"He appeared to be under the influence of some unknown controlled substance by the way he was acting."*[46]

Officer Zavala is heard on his BWV directing a responding unit to drive into a position between his vehicle and Sergeant 's vehicle (Videolink).

At approximately 1702:57 hours, the officers that were Code Six at Broadway and 66th Street, made a broadcast of *"Code Four suspects in custody."* Immediately after that broadcast, Sergeant made a radio broadcast that he was Code Six on the 415 man with a knife and requested additional units to respond for traffic control.

According to Officer Zavala's BWV, at 1702:59 hours, Officer Zavala is heard telling Officer Quintanilla that he is going to talk to Victim in Spanish. Officer Zavala took over communications from Officer Quintanilla.

At 1703:02 hours, BWV depicts Victim placing the blade of the knife against his left palm and making a cutting motion once again. Victim then placed the blade against the side of his throat and multiple officers can be heard yelling *"Don't do it."*

According to Sergeant 's BWV, at 1703:22 hours, Sergeant yelled to Victim, *"Don't do it!"* Sergeant then yelled out, *"Forty stand by, forty stand by!"* Sergeant is heard directing Officer 1 to deploy the 40mm LLL. Sergeant abruptly told Officer 1 to *"wait, hold on, hold on,"* as a black and white patrol vehicle maneuvered in between the police vehicles already in position.

That unit was Rampart Patrol Division, uniformed Officer 3 , Serial No. , assigned to unit 2XL14.[47] Officer 3 drove his police vehicle into position between Sergeant 's vehicle and Officer Zavala's vehicle. Officer 3 exited the vehicle and stood behind the open drivers' door.

According to Officer 3 , *"When I showed up, I kind of waited for a lull on the radio traffic and I asked the sergeant, you know, who they were and he told me who they were and so I went code six over the air."*[48]

Sergeant resumed giving commands to Victim , *"Put the knife down bro, you're going to be good! Hey, put the knife down, you're going to be good!"* Sergeant told investigators that he did not tactically disengage from Victim because, *"He was a danger to the community absolutely 100 percent, the crowd to the west, to the east, and there was actually an individual that almost came out of the apartments behind him. So I -- the*

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[46] Officer Zavala's statement, Page No. 9, Lines 21-22.
[47] Officer 3 , 5 years and 3 months with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 . Officer 3 was wearing a ballistic vest and had a Department-approved handgun, handcuffs, a canister of OC spray and a flashlight attached to his Sam Browne equipment belt. Officer 3 was equipped with a BWV camera. Officer 3 was in a marked black and white police vehicle, Shop No. 81975, equipped with emergency equipment and DICVS. Officer 3 had a side-handled baton and an HRD stored inside his police vehicle.
[48] Officer 3 ' statement, Page No. 17, Lines 23-25 and Page No. 18, Lines 1-2.

community no doubt was in danger, and there was no way I was going to tactically disengage from that."[49]

According to Sergeant , *"The way we positioned our vehicles, I was to the east of the location of where he was sitting in a diagonal type position. came from -- they came to the west -- They came. Yeah, eastbound They positioned themselves at a 90-degree position, so we had a triangle position on him."*[50] Sergeant estimated the distance between the officers and Victim to be approximately 20 to 40 feet.[51]

Sergeant further stated, *"I wanted to set containment around him and not give him the opportunity to -- my concern was he was going to charge. We already got comments on the radio call. I was concerned that he was going to charge, start trying to hack at people. I just wanted to contain him in that area."*[52]

According to Sergeant s BWV, at 1703:40 hours, he returned to the passenger side of his vehicle and announced out loud to the officers, *"Hey let me get a team ready to go."* Sergeant yelled to Officers Quintanilla and Zavala, *"Listen you got lethal, stay right here,"* as he pointed at them.

Sergeant directed Officer 3 to join Officer 2 and assigned them to be an arrest team. Officer 3 joined Officer 2 behind the open passenger door of Sergeant s vehicle (Videolink).

According to Witness she saw Victim , *"Trying to cut his neck or try to cut his self."*[53] further stated, *"I went out and saw right there and I was kind of asking him to please put it down, put it down."*[54]

According to Officer Zavala's BWV, at 1703:45 hours, he broadcast another request for an RA to respond and stand by at can be heard on BWV pleading with Victim Victim stood up, holding the knife to his throat. Victim then gestured the sign of the crucifix across his chest with his left hand (Videolink).

According to Sergeant when he saw Victim make the gesture of the cross, he felt *"Like he was -- it was going to be a suicide by cop, you know? Like he was -- he wanted something to happen to him."*[55] *"I was thinking -- in my mind, I was thinking he might run towards , you know what -- you know what I -- that's where I was kind of thinking he may go, you know? He*

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[49] Sergeant s statement, Page No. 45, Lines 15-25 and Page No. 46, Lines 1-4.
[50] Sergeant s statement, Page No. 9, Lines 15-21.
[51] Sergeant s statement, Page No. 23, Lines 19-20.
[52] Sergeant s statement, Page No. 11, Lines 2-9.
[53] statement, Page No. 8, Lines 13-14.
[54] statement, Page No. 9, Lines 1-3.
[55] Sergeant s statement, Page No. 55, Lines 7-9.

might try to make an attempt to run toward [redacted] *So I wanted to get over to the east side and maybe see if we can get -- get a round off to stop that from occurring."*[56]

According to Sergeant [redacted]'s BWV, he went back to Officer 1 [redacted]'s position and simultaneously directed Officer 2 [redacted] to *"put his gun up and be ready to respond."* Sergeant [redacted] announced aloud *"Forty stand by!"* as he directed Officer 1 [redacted] to fire the Less Lethal Launcher. According to Sergeant [redacted], the reason for giving the notification was, *"To make sure that they knew we were firing less lethal. I didn't want -- I didn't want any lethal rounds to be fired, for that to be mistaken to be lethal rounds."*[57] According to Sergeant [redacted] *"That's the point where I directed* Officer 1 [redacted] *to discharge the 40 at him. Reason why I did that was due to the fact that my concern was that at this point he may possibly take off running and go and start, you know, attacking civilians. I was hoping it would end with the one shot to the 40."*[58]

According to Sergeant [redacted] he did not give Victim [redacted] a use of force warning because, *"At that point I believe the situation was -- it was too dangerous with that. I didn't want to -- I didn't want to give him that warning to let him know that we were going to hit him, because that might have had him take off running. So I didn't want -- I didn't want to do that."*[59]

According to Officer 1 [redacted]'s BWV, at 1704:06 hours, he fired the 40mm LLL from an approximate distance of 30 feet. According to Officer 1 [redacted], *"He stands up at one point and I'm aiming at his navel area with the 40-millimeter, and* Sergeant [redacted] *advises me to hit him with the 40-millimeter. I do so, because I'm trying to get him to drop the knife and it's unsafe for us to approach him at this time."*[60]

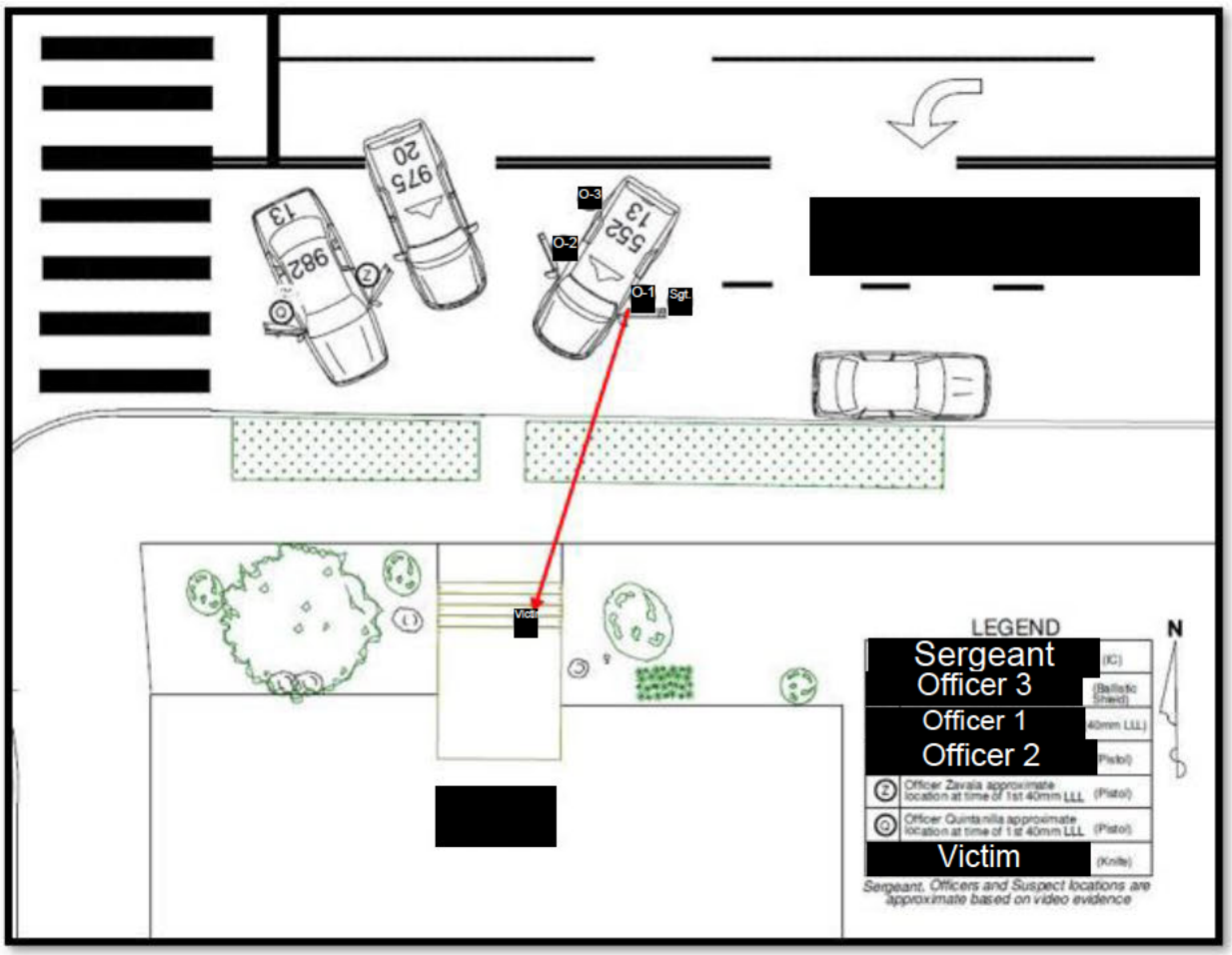
According to Officer 1 [redacted] he did not give a warning that he was going to fire the 40mm LLL because Sergeant [redacted] had already *"gave it for me."*[61]

Officer 1 [redacted] further stated, Victim [redacted] did not react to the shot, *"He didn't make any, like pain gestures, like grabbing his navel area. He just sat back down.*[62] *He continued to put the knife back up to his neck."*[63]

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[56] Sergeant [redacted]'s statement, Page No. 32, Lines 14-21.
[57] Sergeant [redacted]'s statement, Page No. 30, Lines 20-25.
[58] Sergeant [redacted]'s statement, Page No. 12, Lines 2-8.
[59] Sergeant [redacted]'s statement, Page No. 30, Lines 13-18.
[60] Officer 1 [redacted]'s statement, Page No. 8, Lines 18-22.
[61] Officer 1 [redacted]'s statement, Page No. 8, Lines 24-25.
[62] Officer 1 [redacted]'s statement, Page No, 22, Lines 12-13.
[63] Officer 1 [redacted]'s statement, Page No. 22, Lines 19-20.



(Diagram of Officers' position at the time Officer 1 fired the 40mm LLL)

According to Officer Zavala's BWV, at 1704:06 hours, the sponge round struck Victim on the lower right abdomen area. The shot did not appear to effect Victim as he brushed his stomach area with his right hand. Victim then walked down the steps to the side walk, while he continued to hold the knife to his throat. Sergeant yelled commands to Victim to *"Drop the knife. And to put it on the ground."* Simultaneously, Officer 1 reloaded the 40mm LLL and pointed it at a low-ready position in front of Victim. Victim took a seat on the bottom step and continued holding the knife in his right hand (Videolink).

According to Sergeant *"It hit him. It didn't seem like it phased him. He walked down a few more stairs and then he sat. And at that point I was -- I was good with that, because I think, I believed that that made him change his mind from going to run. He hit it. He felt it. Now he sat down, and I think, you know, it gave us some time for him to, you know, maybe in his mind evaluate what was going on. So, I believed that was successful in that aspect, because he didn't take off running, trying to hurt anybody."*[64]

[64] Sergeant s statement, Page No. 29, Lines 21-25 and Page No. 30, Lines 1-6.

According to Sergeant 's BWV, at 1704:35 hours, Sergeant retrieved a ballistic shield from the trunk of his vehicle and gave it to Officer 3 telling him to use the shield if they need to approach the suspect. Sergeant yelled to Officers Quintanilla and Zavala, "*You still got lethal coverage right here."* Sergeant walked back to the drivers' door of his vehicle and stood next to Officer 1 (Videolink).

According to Sergeant, *"So, my plan -- my plan was I wanted to have the shield ready. In case he did drop the knife, we were going to approach with a stick. We utilize the shield and move up on him and take him into custody."*[65]

At approximately 1704:45 hours, Air Support Division, [redacted] manned by Pilot Police Officer II+6 Rutilio Villarreal, Serial No. 35041, and Tactical Flight Officer Police Officer II+5 Jaime Delieuze, Serial No. 37195, arrived overhead and provided aerial support to responding units, directing officers to perimeter and containment positions.

At 1705:03 hours, Sergeant made a second radio broadcast request for more units to respond for traffic control. He provided an update on the status of the incident, advising that Victim was holding the knife to his throat and the officers were talking to him.

Sergeant announced aloud, *"Hey, I got it, I got it, let me talk."* Sergeant began asking Victim if he spoke English. Victim did not acknowledge nor respond to Sergeant. Sergeant told Officer Zavala to speak to Victim in Spanish. Officer Zavala resumed talking to Victim in Spanish.

According to Sergeant 's BWV, at 1705:36 hours, officers can be heard warning that someone was coming out of the building, as a person attempted to walk out of the entry door of the apartment building. Sergeant yelled the command, *"Hey stay right there, do not come out."* Additional officers can be heard warning the person to stay inside and move away from the windows.

Newton Division, GED, uniformed Police Officers II Enrique Meraz Serial No. 41215, passenger, and Officer 4, Serial No. [redacted], driver, assigned to [redacted] responded Code Three to the radio call.[66]

According to Officer 4, prior to arrival he and Officer Meraz monitored the radio transmissions and responded to Sergeant 's request to block traffic and they discussed deploying the less lethal Beanbag Shotgun and the shotgun.[67]

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[65] Sergeant 's statement, Page No. 34, Lines 9-13.

[66] Officer Enrique Meraz, 9 years and 10 months, with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 [redacted]. Officer 4, 8 years and 4 months with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 [redacted]. The Officers were wearing ballistic vests and had Department-approved handguns, handcuffs, TASERs, ASP batons, PR24 side-handled baton canisters of OC spray and flashlights attached to their Sam Browne equipment belts. Officer Meraz had a HRD in his sap pocket. According to Officer 4, he had a HRD on his left chest. The officers were equipped with their BWV cameras. The officers were in a marked black and white police vehicle, Shop No. 87042, equipped with emergency equipment and DICVS.

[67] Officer 4 's statement, Page No. 13, Lines 24-25 and Page No. 14, Lines 1-9.

According to Officer 4 's BWV, at 1706:05 hours, Officer 4 parked the police vehicle across the west traffic lanes of [redacted] to stop vehicle traffic. The officers retrieved the Less Lethal Beanbag Shotgun and the shotgun from the trunk of their police vehicle. Officer Meraz held the shotgun in a port arms position with the barrel pointed up, he racked the slide handle and loaded a round into the chamber.

According to Officer Meraz, he took the shotgun because, *"It's a good tool that we employ whenever there's a threat of serious bodily injury or death. It's a tool that can cover a large area, just like we used it today. We had two less lethal firearms on one side and one shotgun on my side. So, I felt very confident with that tool. We qualify with that tool, and I take one out almost every day. So I knew that that would be a good tool if the situation escalated to a point where lethal force would be necessary."*[68]

Simultaneously, Officer 4 held the Beanbag Shotgun in a port arms position, with the barrel pointed up, as he manipulated the slide handle and cycled a round into the chamber. According to Officer 4 the Beanbag Shotgun was stored in the trunk already loaded with four live rounds in the magazine well.[69]

According to Sergeant 's BWV, at 1706:15 hours, Sergeant walked toward [redacted] and asked, *"Tell me his name, does he speak English?"* A voice was heard on the BWV stating the name Victim " Sergeant returned to his vehicle and yelled aloud *"I got it, he speaks English"* as he called out to Victim by his first name several times. Victim did not respond to Sergeant

According to Officer Quintanilla and Zavala's BWV, at 1706:35 hours, the officers resumed attempts to talk to Victim in Spanish and Victim did not respond.

Officers O-4 and Meraz ran to Sergeant 's vehicle. Officer 4 took a position to the left of Officer 1 and shouldered the Beanbag Shotgun with the barrel pointed at a low-ready. Sergeant advised Officer 4 that a 40mm LLL was already deployed at that position. Officer 4 repositioned the Beanbag Shotgun, pointing the barrel upward as he stepped back away from the driver's door.

Sergeant directed Officer Meraz to provide lethal cover for Officer 1 Officer Meraz took a standing position at the driver's door and to the left of Officer 1 holding the shotgun in a low-ready position, with his trigger finger on the safety. According to Officer Meraz, *"So I decided to place myself there as designated cover officer for that 40 -- that 40 millimeter"*[70] Officer Meraz further stated, *"I think I initially self-deployed and then* Sergeant *confirmed my spot saying, 'Hey, you're going to be DCO for these two guys right here,' which were the two less lethal guys."*[71]

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[68] Officer Meraz' statement, Page No. 20, Lines 2-11.
[69] Officer 4 s statement, Page No. 25, Lines 22-25 and Page No. 26, Lines 1-11.
[70] Officer Meraz' statement, Page No. 11, Lines 12-14.
[71] Officer Meraz' statement, Page No. 20, Lines 15-19.

Sergeant directed Officer 4 to move to the west side of the containment with Officer Zavala to provide less lethal cover at that position (Videolink).

According to Officer 4 's BWV, at 1707:12 hours, he asked Officer Zavala, *"where do you need me?"* as he took a standing position at the driver's door and to the left of Officer Zavala, providing less lethal cover with the Beanbag Shotgun. According to Officer 4 , he held the Beanbag Shotgun at a low-ready position with his trigger finger along the frame, with the safety engaged.[72] Officer Zavala is heard giving commands to Victim in Spanish. According to Officer 4 , Victim was pressing the knife against his neck and he thought Victim was going to cut his own throat (Videolink). [73]

According to Sergeant 's BWV, at 1707:25 hours, he used the Public Address (PA) speaker of his vehicle to communicate with Victim . Sergeant addressed Victim by his first name and requested that he drop the knife and offered him assistance. Victim did not react or respond to Sergeant . According to Sergeant , *"There was a certain point to where he was sitting there, communication -- it was just -- it was like a dead -- like a dead stare. It didn't seem like we were getting through to him. A blank stare."*[74]

According to Officer Zavala's BWV, at 1708:10 hours, he yelled to Sergeant *"Let me talk to him in Spanish!"* Officer Zavala took over attempts to communicate with Victim . Officer Zavala told investigators that he heard [redacted] calling him Junior, so Officer Zavala began to communicate with Victim , addressing him as Junior.[75]

According to Sergeant s BWV, at 1708:36 hours, Officer 3 moved his vehicle to the south east corner of [redacted] to block pedestrian and vehicle traffic. According to Sergeant , *"I moved it over to the southeast corner just to block it. You know, just to have more containment set up. At least we had, like, two corners set up. We had the north side and west side covered for containment."*[76] Officer 3 moved the vehicle and parked it facing south in the crosswalk and north bound curb lane of [redacted]. Officer 3 is heard on BWV directing pedestrians in the area to move to the west side of [redacted]

According to Officer 4 's BWV, at 1708:54 hours, he told Officer Zavala, *"Tell him god doesn't want him to do it."* According to Officer 4 , he saw Victim gesture the sign of the cross, *"I was like, okay, you know myself being Catholic, I'm seeing him and I tell Z, 'Hey, he just -- he just did the sign of a cross. Tell him that God doesn't want him to do it.'"*[77] According to Officers O-4 and Zavala's BWV, Officer Zavala continued speaking to Victim in Spanish.

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[72] Officer 4 's statement, Page No. 31, Lines 13-25.
[73] Officer 4 's statement, Page No. 16, lines 10- 17.
[74] Sergeant 's statement, Page No. 11, Lines 18-21.
[75] Officer 3 ' statement, Page No. 11, Lines 11-17.
[76] Sergeant 's statement, Page No. 11, Lines 2-6.
[77] Officer 4 's statement, Page No. 18, Lines 2-5.

Officer 4 further stated, *"I can see him nodding his head up and down and then Z tells him 'Hey, God doesn't want you to do it.' But it didn't -- it didn't work. He was still -- the subject was still shaking his head, crying, sweating."*[78]

At 1709 hours, Sergeant broadcast a request for responding units to block traffic and set up containment. Sergeant directed [redacted] that were standing in the front yard of [redacted] to go inside. Sergeant walked to Officers Meraz and O-4 and reaffirmed their roles of lethal and less lethal cover.

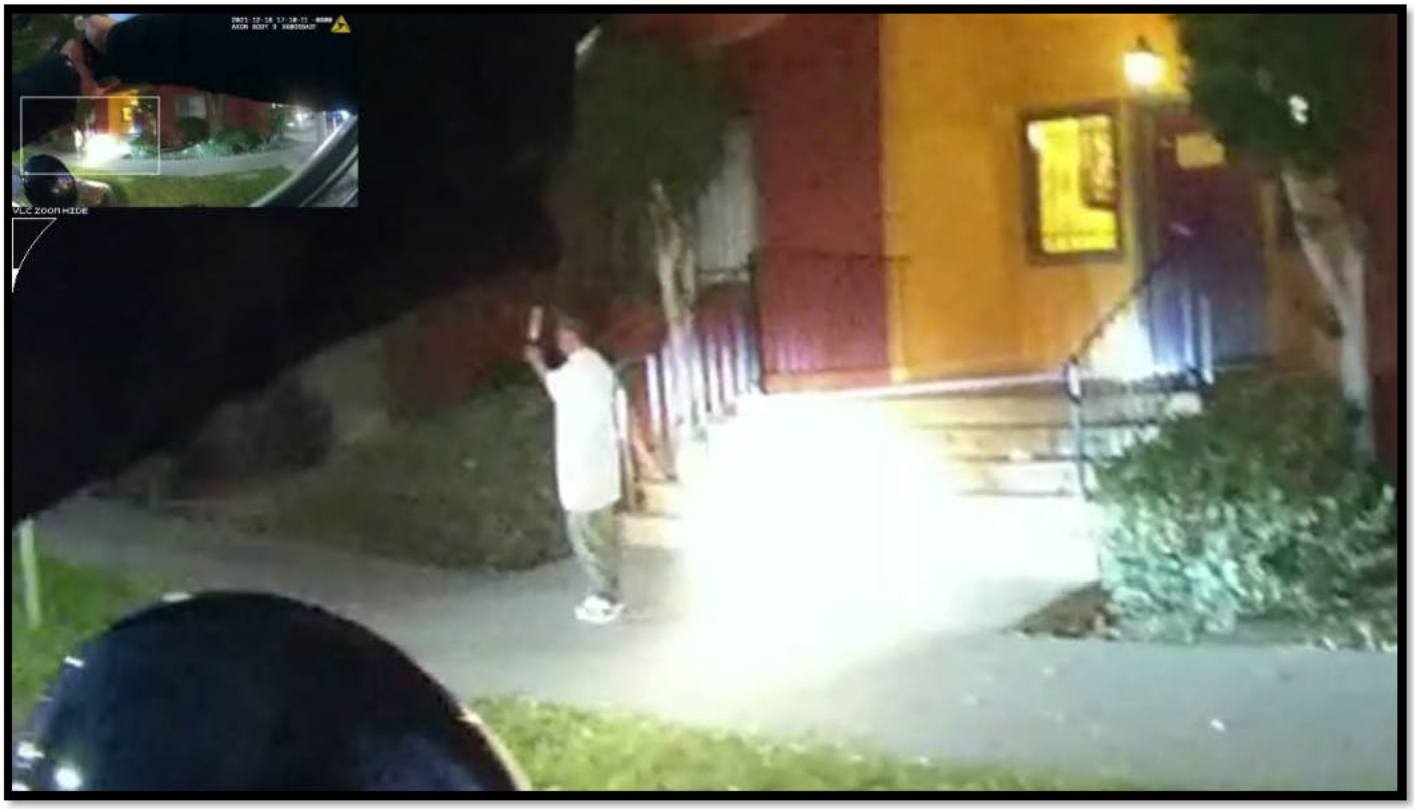
According to Sergeant 's BWV, at 1709:41 hours, he announced to the officers *"I got it, I got it!"* as he again utilized the PA speaker in his vehicle and resumed his attempts to talk to Victim . Sergeant directed Officer 2 to move his vehicle between the two police vehicles in front of Victim and then resumed talking to Victim on the PA speaker.

According to Officer 2 's BWV, at 1709:44 hours, he holstered his pistol and ran to his police vehicle. Officer 2 drove the vehicle to a position between Sergeant and Officers Zavala's vehicle, and parked his vehicle facing south. Officer 2 exited the vehicle, stood behind the open driver's door, unholstered his pistol and held it in a two-handed grip, in a low-ready position. According to Officer 2 , *"And I unholstered because the situation still could have escalated or was still escalating and to the point where deadly point may be justified."*[79]

According to Officer Zavala's BWV, at 1710:17 hours, Victim was sitting on the bottom step with the knife positioned down between his legs as his head is lowered down toward the ground. Suddenly, Victim used his left hand to knock his hat off his head and stood up holding the knife up in front of himself, above his shoulder at head level. Victim looked in the direction of [redacted] gathered in their front yard; approximately 35 feet east of his location. [redacted] can be heard on the officers' BWV yelling, *"Put the knife down Junior!"* and *"Don't do it!"* (Videolink).

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[78] Officer 4 's statement Page No. 18, Lines 10-14.
[79] Officer 2 's statement, Page No. 16, Lines 20-22.



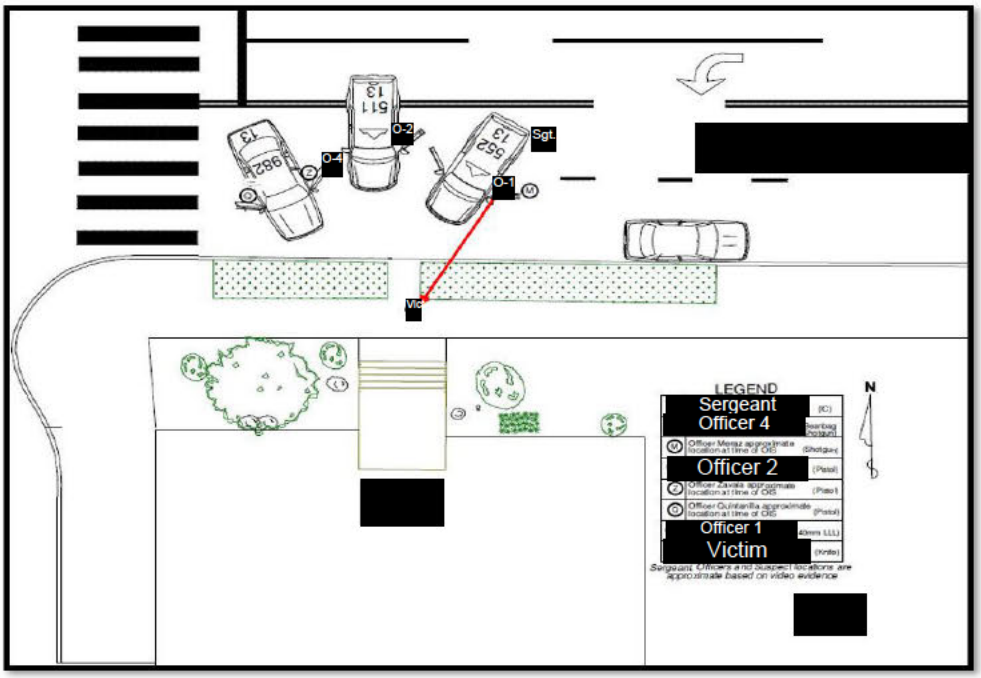
(Enlarged still frame photograph from Officer Quintanilla's BWV)

Sergeant announced, *"Get ready!"* as he simultaneously ran around the back of his vehicle toward Officer 1 's position and announced *"Forty, forty up."* According to Sergeant *"I just had a feeling, based on seeing what he did, that he was going to get up and run. You know, so I wanted to get around. I felt more comfortable with the 40 again."*[80] *"He might try to, make an attempt to run toward So, I wanted to get over to the east side and maybe see if we can get – get a round off to stop that from occurring."*[81]

According to Officer Meraz' BWV, at 1710:19 hours, Victim took four steps forward in a northerly direction toward Officer 1 and then he turned to his left in a westerly direction. At that moment, Officer 1 announced, *"Forty, stand-by"* as Sergeant directed Officer 1 to fire the 40mm LLL giving the command of "*Forty, forty up!*" Officer Meraz' BWV captured Officer 2, Officer 1 firing the 40mm LLL, from an approximate distance of 22 feet and the sponge round impacting Victim on the lower right side of the torso (Videolink).

According to Officer 1 he was aiming at Victim navel area when he fired the 40mm LLL.

[80] Sergeant 's statement, Page No. 32, Lines 11-14.
[81] Sergeant 's statement, Page No. 32, Lines 17-21.



(Diagram of Officers' positions at the time of the second 40mm LLL shot)

According to Officer 1, *"I was thinking -- I mean, once he made the praying gesture, I was thinking that he was going to try to do suicide by cop and he was going to try to attack us with the knife and that's when I fired the 40."*[82] According to Officer 1, Victim was closer to other officers than to him, and he feared that Victim was going to attack his partners.[83]

According to Officer Meraz, *"He stood up and -- man, he stood up and I just saw him, like, look in the direction of Zavala and Quintanilla. And I just saw him, like, move towards them, and honestly I was going to shoot him. I was going to shoot him to stop his movement from hurting my partners or any people that were on that side, because there was a large crowd forming. But before I shot him, I was like, '40, 40.' I wanted the 40 guy to hit him with the 40 and see if that would cause him to drop the knife."*[84] Officer Meraz further stated, *"And obviously I didn't shoot him, because I knew that they had that side covered. You know, although I had that angle on him, I knew that they had that side covered, and this is what we practice and that we -- you know, there's DCO's and they cover their side. We cover our side. And that's obviously, you know, in reverence for all life."*[85]

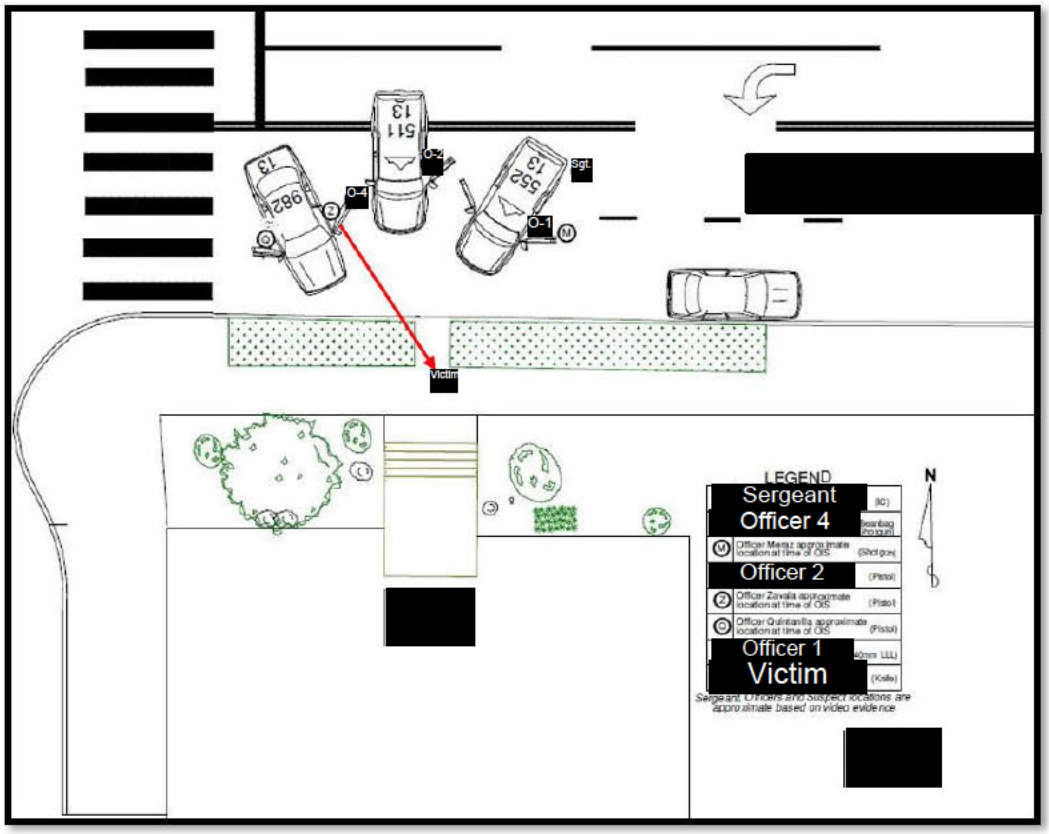
According to Officer Zavala's BWV, Victim turned to his left and Officer Zavala yelled the command to *"Stop, stop, stop!"* followed by the sound of Officer 1 firing the 40mm LLL in the back ground.

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[82] Officer 1 s statement, Page No. 27, Lines 22-25 and Page No. 28, Line 1.
[83] Officer 1 s statement, Page No. 28, Lines 13-24.
[84] Officer Meraz' statement, Page No. 15, Lines 14-23.
[85] Officer Meraz' statement, Page No. 16, Lines 11-17.

Approximately .382 seconds later, Officer Zavala fired three rounds from an approximate distance of 25 feet (Investigators Note No. 3).

The rounds struck Victim in the lateral right side of the chest, the anterior right side of the neck and the anterior right side of the torso. Victim fell to the ground, onto his back and the knife fell from his hand coming to rest on the sidewalk (Videolink).



(Diagram of Officers' positions at the time Officer Zavala fired three rounds)

Officer Zavala told investigators, the reason he fired the shots was because, *"The suspect gets up very rapidly with the -- with the large butcher knife in his right hand. He takes a deep breath, like getting courage, looks at me, looks at my fellow officers. At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified. The suspect then starts advancing towards the officers and turns his body towards myself and my partner. And in fear -- I was afraid, sir. I thought this guy was going to come at me with this butcher knife. He already cut his hand. He cut his throat -- he attempted to cut his throat. He chased pedestrians and civilians around the neighborhood with this large butcher knife. And to protect myself and my partner's life and the citizens nearby from serious bodily injury, imminent threat, I fired approximately two, three rounds to stop the threat, sir."*[86]

[86] Officer Zavala's statement, Page No. 12, Lines 8-25 and Page No. 13, Line 1.

> **Note:** The Coroner's report did not identify any injuries to the hands or throat consistent with an edged weapon.

According to Officer Zavala, *"So when I fired two, three shots, that's when I assess. He was already on the ground."* [87] Officer Zavala stated, *"So at the time I fired, there was the steps behind and there was that lobby in the back. So -- so it was just the steps and the lobby in the back, sir, and it was clear. Nobody was back there."*[88]

According to Officer Quintanilla's BWV, Victim stood up and walked in a northerly direction. [redacted] are heard in the background repeatedly yelling *"Don't do it!"* Officer Quintanilla yelled the commands *"Don't walk over here!"* as Victim held the knife up above his shoulder at head level. Victim turned to his left, facing Officer Quintanilla when the sound of the 40mm LLL is heard being fired, followed by the sound of Officer Zavala firing three rounds. Victim is depicted falling to the ground onto his back.

Approximately .322 seconds after Officer Zavala fired his third round, Officer Quintanilla fired one round from an approximate distance of 28 feet (Videolink).

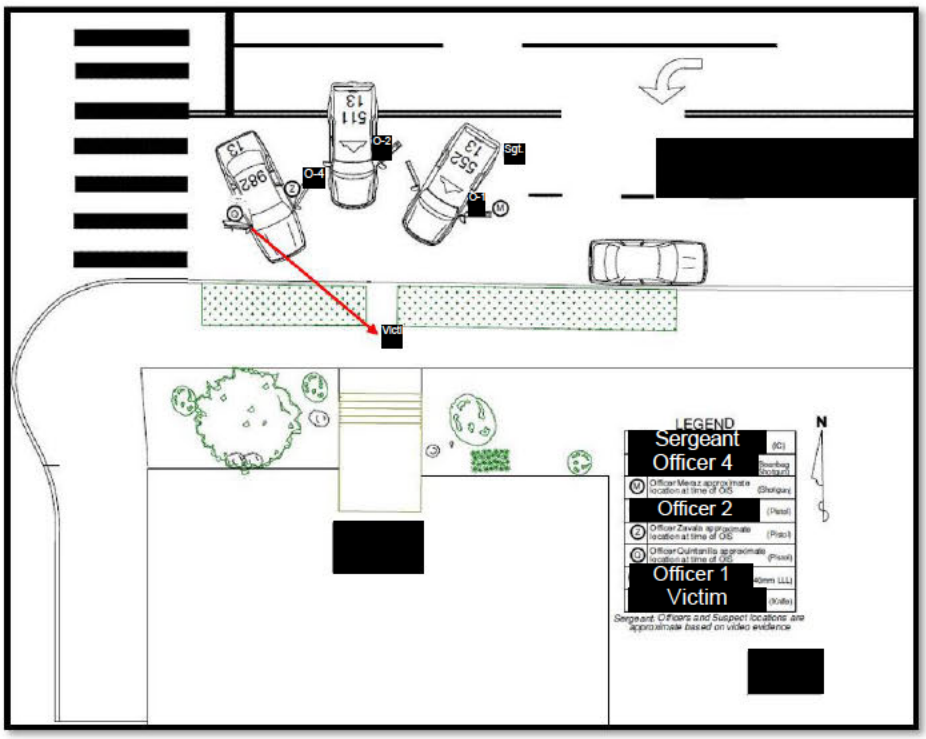
According to Officer Quintanilla, he aligned his sights on Victim' chest, when he fired. Officer Quintanilla told investigators the reason he fired was because, *"When he came down, we kept giving him commands and once he hit the sidewalk, I mean, I was scared and he ended up walking towards us -- towards the officers and myself and that's when I -- I had to use deadly force."*[89] Officer Quintanilla further stated, *"I had to stop the threat. He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death. And also, there was still civilians just to the right of me, just a few feet away from me. So he could have caused serious bodily injury or death to them if I didn't do that. I had to do it."*[90]

Officer Quintanilla further stated, *"So the background to where the suspect was and where I was pointing my firearm, there's an apartment building that was behind him. However, the apartment building is elevated. There's a stairway where he comes down from, which is below where the apartment is."*[91] According to Officer Quintanilla, *"And when he went down, I stopped shooting. I stopped.* [92]

> **Note:** Officer Quintanilla told investigators that he fired two shots. Investigators' review of BWV and the post OIS magazine count determined that Officer Quintanilla fired a single shot.

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[87] Officer Zavala's statement, Page No. 28, lines 24-25 and Page No. 29, Line 1.
[88] Officer Zavala's statement, Page No. 29, Lines 16-19.
[89] Officer Quintanilla's statement, Page No. 14, Lines 13-15.
[90] Officer Quintanilla's statement, Page No. 31, Lines 4-10.
[91] Officer Quintanilla's statement, Page No. 26, Lines 3-8.
[92] Officer Quintanilla's statement, Page No. 32, Lines 13-14.



(Diagram of Officers' positions at the time Officer Quintanilla fired a round)

According to Officer 4, he saw Victim stand up and *"He takes one or two steps, and I go up at, like, on target and the he – I remember him pivoting slowly towards our direction. I remember just looking at him like, oh, my God. And then right when I was about to discharge my beanbag, I hear -- I hear what sounded like three -- to me sounded like three 40 rounds, just boom boom boom."*[93] Officer 4 told investigators he intended to shoot the beanbag stating, *"I had every intention to. I remember looking at it, looking downrange, and right when I was about to just -- I heard what sounded like sequential just multiple 40's going off."*[94]

According to Sergeant 's BWV, at 1710:30 hours, he broadcast, *"We got shots fired, officer needs help, shots fired* Street 2 *and* Street 1 *suspect is down."*

According to Sergeant 's BWV, at 1710:42 hours, he moved to Officer Zavala's location and gathered officers for an arrest team.

According to Sergeant , *"He was laying on his back. I was comfortable the knife was a good distance away. I could tell he was injured pretty bad based on the white shirt, it was red. He was on his back semi-conscious the knife is a good distance."*[95]

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[93] Officer 4 's statement, Page No. 19, Lines
[94] Officer 4 's statement, Page No. No. 33, Lines 10-14.
[95] Sergeant 's statement, Page No. 35, Lines 12-15.

Sergeant stated, *"I wanted to push forward and take him into custody, so we did that."*[96] Sergeant further stated, *"I could tell that [redacted] were -- they were being held back. They were going to advance towards him. I didn't want -- I didn't want them to try to lynch him or for them to try and grab the knife from where he was at."*[97]

Sergeant directed Officers Meraz and O-1's attention to [redacted], who had exited the gate of the property and were gathering on the sidewalk. Officers Meraz and O-1 told [redacted] to stay back (Investigators' Note No. 4).

Sergeant began assigning specific roles to individual officers, directing Officer Zavala as lethal cover, Officer 4 as less lethal and Officers O-2 and Quintanilla were assigned as the arrest team. The officers formed together and moved forward. Officer Zavala held his pistol in a two-hand grip pointed at a low-ready as he walked forward. Officer 4 held the beanbag shotgun at a low-ready position as he walked beside Officer Zavala (Videolink).

According to Officer 1's BWV, at 1710:55 hours, Officer 1 placed the 40mm LLL into Sergeant 's vehicle. [redacted] was visibly agitated and emotional as they ignored the officers' direction and walked toward Victim laying on the ground.

> **Note:** Officer 1 told investigators that he had slung the 40mm LLL and then he responded to the approaching [redacted].[98] Investigators' review of Officer Meraz' BWV at time stamp 1711:25 hours, depicts Officer 1 without the 40mm LLL slung as he engaged with [redacted] on the sidewalk.

Officer 1 took a position on the south sidewalk in front of [redacted] and gave the command to *"stay back."* A female adult wearing a blue sweater and yellow shirt did not comply with his direction. Officer 1 stepped in front of the female and attempted to block her movement. The female yelled [redacted] Officer 1 took a hold of the female's arms and pulled her back away from Victim and the officers. Simultaneously, a second female Hispanic, wearing a gray sweater and tan pants, attempted to walk past Officer 1 and a shirtless male Hispanic simultaneously confronted Officer 1 (Videolink).

According to Officer 1 he held a female back and grabbed hold of a male's arm to prevent them from approaching.[99] Officer 1 stated, as he attempted to hold [redacted] back, his BWV camera was knocked loose from the chest plate mount.[100]

According to Officer 1, a male Hispanic spat on his face and uniform, as he attempted to block [redacted] approach.[101] As the two female adults walked past Officer 1, Officer Meraz stepped in front the females to prevent their advance.

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[96] Sergeant 's statement, Page No. 35, Lines 17-18.
[97] Sergeant 's statement, Page No. 36, Lines 20-24.
[98] Officer 1 's statement, Page No. 31, Lines 13-25 and Page No. 32, Lines 1-4.
[99] Officer 1 's statement, Page No. 35, Lines 3-12.
[100] Officer 1 's statement, Page No. 33, Lines 10-25 and Page No. 34, Lines 1-25.
[101] Officer 1 's statement, Page No. Page No. 9, Line 25 and Page No. 10, Lines 1-2.

According to Officer Meraz, *"And I didn't -- the knife was still in play. It was still on the ground next to him and the last thing I wanted is for any more people to get hurt, you know?"*[102] The officers blocked [redacted] approach. According to Officer Meraz, *"And I just kept the rest of [redacted] away and tried to de-escalate them, you know, to prevent any more people from getting hurt or even getting arrested or any, you know, further action."*[103]

According to Sergeant 's BWV, at 1711:15 hours, as the officers approached Victim [redacted], the knife was visible laying on the sidewalk next to Victim. Officer Zavala used his left foot to slide the knife away from Victim to the west. Officer Zavala stated he "kicked" the knife, *"Due to the fact that the suspect was still moving around, and the knife was right by him, sir, and it was unsafe."*[104]

Officer 2 holstered his pistol and walked behind the officers toward Victim. Officer Quintanilla holstered his pistol and moved forward behind Officer 2. Sergeant moved forward with the arrest team directing the officers to roll Victim over and handcuff him.

According to Officer 2 's BWV, at 1711:15 hours, he took a hold of Victim' left forearm with his left hand and Victim' left bicep with his right hand. Officer 2 lifted Victim' left arm up and rolled him onto his stomach. Officer 2 placed his left knee on Victim' buttock area. Officer Quintanilla took hold of Victim' left wrist, as Officer 2 transitioned his left hand to Victim' right wrist. Officer 2 used his left hand to pull Victim' right arm out from under his body, while simultaneously retrieving his handcuffs from his Sam Browne handcuff case using his right hand. Officer 2 secured Victim' wrists behind his back with the handcuffs. Officer 2 [redacted] rolled Victim onto his right side, into a recovery position, as he and Officer Quintanilla then searched Victim' waistband and pockets for weapons. The officers checked Victim for injuries. Officer Quintanilla directed Officer 2 to retrieve his medical kit from the trunk of his vehicle. After Victim was handcuffed, Officer Zavala holstered his pistol (Videolink).

At 1711:33 hours, Sergeant broadcast, *"We have a Code Four suspect is in custody, get an RA to respond to [redacted] for a male, approximately 20 years old, suffering from gun shots wounds to his chest."* Sergeant asked Officer Zavala, *"How many shooters?"* and Officer Zavala replied, *"Me!"* Sergeant asked Officer Quintanilla, *"Did you shoot?"* and Officer Quintanilla replied, *"Yes!"* (Videolink).

Sergeant turned his attention to [redacted] that were moving toward Victim. According to Sergeant, *"They started running towards him while he's was down as we made our approach. So I know Officer Meraz, he utilized some physical force to restrain a woman that was making an advance towards the suspect while he was on the ground."*[105] Sergeant further stated, *"There was a little non-cat with Meraz based on my recollection. He used*

[102] Officer Meraz' statement, Page No. 17, Lines 11-13.
[103] Officer Meraz's statement, Page No. 17, Lines 18-22.
[104] Officer Zavala's statement, Page No. 43, Lines 17-19.
[105] Sergeant 's statement, Page No. 15, Line 1-5.

physical force just to stop that from occurring."[106] *"And I think once he did that,* [redacted] *came out, took ahold of her, and then (Unintelligible) handled that situation."*[107]

> **Note:** Sergeant advised he only observed Officer Meraz use physical force and did not see any other officers involved in a use of force. According to Officer Meraz, he placed a C-grip on an unknown female's wrists and pulled her away and prevented her from reaching Victim

According to Sergeant 's BWV, at 1711:56 hours, an unknown person in the crowd threw a black and yellow dust pan in the direction of Officer Zavala (Photolink) (Photolink). Sergeant broadcast a request for additional units to respond, advising, *"We have a 415 crowd, forming over here, go outside, let's get some more units here."* Sergeant advised that they were taking rocks and bottles, and wanted to set up a skirmish line.

Sergeant gave the command for a skirmish line to form and Officer Zavala repeated the command, yelling "skirmish line." According to Sergeant , *"My -- at this point it was -- I wanted to save the crime scene. I didn't want anybody to jump in the crime scene or do anything, like move any evidence or anything. So requested a skirmish line."*[108]

In the interim, Officer 4 positioned himself on the south sidewalk between the arrest team and [redacted]. According to Officer 4 's BWV, at 1712:03 hours, Officer 4 can be heard talking to [redacted] in Spanish. [redacted] bent down, picked up a broom from the sidewalk and he held it in his right hand as he yelled in Spanish. Officer 4 pointed the Beanbag Shotgun at a low-ready position in front of [redacted] as he gave commands in Spanish. According to Officer 4 when asked if he felt threatened by the man with the broom, he responded, *"I think -- yes. I mean, it was a potential for someone being struck, either myself or other officers that were there."*[109] Officer 4 further stated, he pointed the Beanbag Shotgun at the male and disengaged the safety.[110]

According to Officer 4 's BWV, [redacted] tossed the broom to the ground and Officer 4 then repositioned the Beanbag Shotgun to a port arms position and continued to talk to [redacted]. At that time [redacted] ceased their advance toward Victim [redacted] Officer Meraz continued to talk to [redacted], directing their attention to the RA that was arriving (Videolink).

On Officer 4 's BWV, he is heard directing Officer 1 to pick up the broom and move it away from the area. Officer 4 told investigators that his intent was, *"Just to eliminate it as a potential tool for anybody to use against us or anyone there at the scene."*[111] Officer 1 placed the broom on the ground next to Sergeant 's vehicle.

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[106] Sergeant 's statement, Page No. 36, Lines 4-5.
[107] Sergeant 's statement, Page No. 40, Lines 6-8.
[108] Sergeant 's statement, Page No. 16, Lines14-18.
[109] Officer 4 's statement, Page No. 36, Lines 21-23.
[110] Officer 4 's statement, Page No. 36, Lines 24-25 and Page No. 37, Lines 1-12.
[111] Officer 4 's statement, Page No. 37, Line 25 and Page No. 38, Lines 1-2.

Sergeant walked to the south east corner of [redacted] and directed the officers to take a position on the sidewalk and keep the crowd at the intersection away from the crime scene.

At 1712:15 hours, officers' BWV capture Officer Quintanilla directing Officer 2 to retrieve a medical kit from the trunk of his vehicle to render aid to Victim. Officer 2 went to Officer Quintanilla's vehicle and retrieved the medical kit. As Officer 2 attempted to locate the medical kit in the trunk, LAFD, RA No.1, which was staffed by Firefighter/Paramedics (FF/PM) Craig Shubsda and Matthew Farris, arrived at scene.

According to Officer Quintanilla's BWV, at 1713:18 hours, Officer Quintanilla is heard telling the paramedics that Victim had gunshot wounds, directing their attention to a wound on Victim's chest. Officer Quintanilla removed the handcuffs from Victim at the paramedic's request. The RA transported Victim to LAC+USCMC, Emergency Room (ER), [redacted] (Addendum No. 1).

At 1714 hours, Newton Patrol Division, uniformed Police Officers II Adrian Guzman, Serial No. 42654, and Ricardo Huerta, Serial No. 43801, assigned to unit 13X31, arrived and took a position at the southwest corner of [redacted] to control the crowd of pedestrians gathering at the intersection. Sergeant approached Officers Guzman and Huerta and directed them to go with the RA to the hospital. Sergeant directed Officer 2 [redacted] to retrieve his PR 24 baton and assist with crowd control at the southeast corner. Sergeant [redacted] approached Officers Quintanilla and Zavala and advised them they needed to separate and to leave their BWV cameras on.

According to Officer Quintanilla's BWV, at 1714:10 hours, he turned on the DICVS of his police vehicle. Officer Quintanilla walked back and retrieved Victim's hat from the stairs. Officer Quintanilla picked up an expended 40mm sponge round from the sidewalk, looked at it and dropped it back on the ground. Sergeant and Officer Zavala told Officer Quintanilla to leave the items where they were and advised him not to move the knife.

According to Officer Quintanilla, he picked up the hat because, *"Every time something -- somebody gets transported with the fire department or the RA, we want to make sure, that all their belongings are with him or her. So in my head so much going on, I wanted to make sure that he had his belongings going with him to the hospital. So I picked up his hat in an attempt to make sure he gets it. But then I was told, 'Oh, no. You have to leave it,' and I remembered that's right to an OIS. I'm going to leave it here, so I threw it back -- I tossed it back to -- to the direction where I had picked it up."*[112]

According to Sergeant's BWV, at 1714:58 hours, he directed Officer 1 to secure the crime scene with crime scene tape.

[112] Officer Quintanilla's statement, Page No. 40, Lines 7-18.

According to Sergeant 's BWV, at 1715:16, he directed Officers Quintanilla and Zavala to leave their BWV cameras on, due to the situation being tactical. Sergeant directed the officers to separate from each other and take a seat in separate police vehicles.

At 1716:05 hours, Sergeant broadcast a request for additional supervisors for separation and monitoring of the involved officers.

At 1716:24 hours, Newton GED Sergeant I Gabriel Gaxiola, Serial No. 35056, and Newton Patrol Sergeant Victor Cruz, Serial No. 38632, arrived at [redacted] and Sergeant briefed them. Sergeant Gaxiola took control and managed the skirmish lines. Sergeant Cruz initiated monitoring of Officers Zavala and Quintanilla.

Sergeant Gaxiola set up a skirmish line and blocking forces at the intersection of [redacted] Sergeant Gaxiola directed the officers on the skirmish line to move the crowd to the west side of the intersection as the blocking forces moved and set up skirmish lines on the north and south side of the intersection. Upon establishing control of the intersection, Sergeant Gaxiola directed officers to secure the outer perimeter with crime scene tape.

At 1717 hours, Sergeant broadcast himself as the Incident Commander and requested the response of five additional supervisors to the scene. At approximately 1718 hours, Central Patrol Sergeant I Arnold Castellanos, Serial No. 40202, arrived at [redacted] and assisted with managing the skirmish line on [redacted], east of the OIS scene.

At approximately 1720 hours, Sergeant Castellanos took over monitoring of Officer Zavala. Sergeant Castellanos and Officer Zavala turned off their BWV cameras and Sergeant Castellanos took a Public Safety Statement (PSS).

At approximately1720 hours, Sergeant Cruz directed Officer Quintanilla to turn off his BWV camera. Sergeant Cruz took a PSS from Officer Quintanilla.

At 1722 hours, Sergeant gathered Officers O-4 O-3 Meraz and O-1 for separation and monitoring. Sergeant directed the officers to turn off their BWV cameras at that time.

On December 18, 2021, at approximately 1739 hours, Sergeant notified the Department Operations Center (DOC) that a Categorical Use Of Force, Officer Involved Shooting occurred, Incident No. 21121800002616, at [redacted]

At approximately 1744 hours, the DOC contacted FID Commanding Officer, Captain III Richard Gabaldon, Serial No. 31356, and notified him of the OIS.

Force Investigation Division Detective II Thomas Brown, Serial No. 34045, reviewed all documents and circumstances surrounding the separation, monitoring and the admonition not to discuss the incident to officers prior to being interviewed by FID investigators (Addendum No. 2).

Force Investigation Division received the Assessment of Supervisory Response to a Categorical Use of Force on February 8, 2022 (Addendum No. 3).

During a review of BWV, multiple officers were seen not wearing face coverings during this incident. This was brought to the attention of the Newton Area Commanding Officer.

SCENE DESCRIPTION

The OIS occurred on the public sidewalk in front of the apartment building located at [redacted]

The incident occurred during hours of darkness, at approximately 1710 hours. The weather conditions were dry and clear. Vehicle and pedestrian traffic on Street 2 was very heavy.



CANVASS FOR WITNESSES

On December 18, 2021, Newton Patrol Division officers conducted a canvass of the immediate area of the intersection of [redacted]. On December 20, 2021, investigators conducted a canvass for witnesses at [redacted] On February 22, 2022, investigators canvassed the area of [redacted] for witnesses. No additional witness were identified during the canvass. All witness statements were digitally recorded and stored in the TEAMS II system.

SUSPECT INFORMATION

Victim

Victim, a male Hispanic with black hair and brown eyes. At the time of the incident, he was 4 feet 9 inches tall, weighed approximately 98 pounds, with a date of birth of [redacted] Victim was identified by Criminal Information Index (CII) No. [redacted] and California Department of Motor Vehicle Identification Card No. [redacted]

[redacted] (Addendum No. 4).

Two Investigative Reports (IR) titled Assault with a Deadly Weapon on a Peace Officer, DR No. 2113-20675, Victim Officer Zavala and DR No. 2113-20677, Victim Officer Quintanilla, were completed (Addendum No. 5).

On May 11, 2022, Detective Brown completed a Follow-Up Report for Assault with a Deadly Weapon, for DR Nos. 2113-20675 and 1213-20677, listing the Case Status as Cleared Other (Addendum No. 6).

[redacted]

[redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted]

Note: According to [redacted] Victim had [redacted] and [redacted].[113]

According to [redacted] had [redacted][114]

INJURIES

At 1715 hours, LAFD RA No. 1, staffed by FF/PM's Tannor Agor, Matthew Farris, Eric Lazar and Craig Shubsda transported Victim to LAC+USCMC. Victim was assigned [redacted] and was treated by Doctor Knipp for [redacted]. Doctor Bryan Knipp provided [redacted]. At 1809 hours, Victim succumbed to his injuries and was pronounced deceased.

EVIDENCE

On December 18, 2021, Forensic Science Division, Firearms Analysis Unit (FSD/FAU), Supervising Criminalist III Marissa Biraimah, Serial No. N3136, Criminalists II Mathew Saucedo, Serial No. N4688, and Andrea Munoz, Serial No. N6276, arrived at scene and conducted an examination for ballistic evidence, projectiles and associated evidence (Addendum No. 7).

A total of 12 items of evidence were collected from the crime scene and booked as evidence in conjunction with this investigation. Included in those items, were a knife (**Item No. 1**), four discharged 9mm caliber casings (**Item Nos. 3-6**), one fired bullet (**Item No. 7**), one bullet jacket fragment **(Item No. 8)**, two discharged 40mm sponge round cartridge casings (**Item Nos. 9-10**), one 40mm sponge round plastic base (**Item No. 11**), two fired 40mm sponge "baton" rounds (**Item Nos. 12-13**), clothing **(Item Nos. 14-16),** cell phone with battery and a sim card (**Item Nos. 17-19**) (Addendum No. 8).

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[113] [redacted] statement, Page No. 2, Lines 8-22.
[114] [redacted] statement, Page No. 4, Lines 21-25 and Page No. 5, Lines 1-11.

CORONER'S INVESTIGATION

On December 21, 2021, at approximately 1000 hours, Los Angeles County Department of Coroner Forensic Attendant Eric Azeredo responded to LAC+USCMC (Coroner's Case No. 2021-13845). Victim' remains were subsequently transported to the Los Angeles County Forensic Science Center (LACFSC).

Autopsy
On December 22, 2021, the Department of Medical Examiner-Coroner, County of Los Angeles, Deputy Medical Examiner Doctor Brice Hunt, performed a post-mortem examination of Victim' remains. Force Investigation Division Detectives Stephanie Carrillo, Serial No. 35971, Jose Olmedo, Serial No. 32391, and Los Angeles County District Attorney's Office Investigator Oscar Rodriguez, were present during the examination. Doctor Hunt completed an Autopsy Report, No. 2021-13845, dated June 1, 2022. Doctor Hunt determined Victim sustained three gunshot wounds. One being to the neck and two to the torso. Doctor Hunt concluded Victim' death was a result of a gunshot wound to the torso and the manner of death was determined to be homicide (Addendum No. 9).

- A nonfatal gunshot entered the soft tissue of the anterior right side of the neck from front to back, right to left and exited the soft tissue of the posterior of the neck.

- The fatal gunshot entered the lateral right side of the chest, traveling from front to back, right to left and in a downward path. The bullet penetrated the soft tissue, perforating the right No. 7 rib bone, travelled into the right thoracic cavity, continued through the right lung, transected the T8 vertebra and spinal cord, into the left thoracic cavity, through the left lung, through the posterior left rib No. 8 and exited the soft tissue of the left side of the back.

- A nonfatal gunshot entered the soft tissue of the anterior side of the right chest from front to back, left to right, in an upward direction, which did not enter the thoracic cavity and exited the soft tissue of the posterior of the right shoulder.

Toxicology
On March 25, 2022, a Forensic Science Laboratories Report was approved by Department of Medical Examiner-Coroner, Los Angeles County, Supervising Criminalist, Sarah Buxton de Quintana. The blood analysis results identified the presence of Benzodiazepines, Cannabinoids and Ethanol in Victim' blood (Addendum No. 10).

WEAPONS

Victim was armed with a knife (meat clever). The knife had a 6 and 1/2 inch blade and a 5 and 1/4 inch black plastic handle. On December 18, 2021, Criminalist Saucedo recovered the knife from the ground in front of [redacted] (Photolink).

Officer Zavala was armed with his Department-approved Glock, Model 17, 9mm caliber, semi-automatic pistol, [redacted]. The pistol was carried in a Department approved Safariland, Level I retention holster on his Sam Browne utility belt. According to Officer Zavala, at the time of the OIS, his pistol was loaded with 20 rounds. One round in the chamber and 19 rounds in the magazine. Officer Zavala further stated, he had two additional magazines each loaded with 17 rounds of Department-authorized ammunition (Photolink) (Investigators' Note No. 5).[115]

On December 18, 2021, at approximately 2230 hours, Detective Brown conducted a post-incident examination of Officer Zavala's pistol. Detective Brown observed that the pistol was loaded with Speer Gold Dot G2, 9mm Smith & Wesson, 180 grain, of Department approved ammunition. There was one round in the chamber and 16 rounds in the magazine. This information was consistent with Officer Zavala having fired a total of three rounds during the OIS. An inspection of the two additional magazines that Zavala had in the magazine pouch on his utility belt, determined that both magazines were loaded to Department standards with 17 rounds each of Speer Gold Dot G2, 9mm Smith & Wesson, 180 grain ammunition to manufactures capacity (Photolink) (Photolink).

On January 12, 2022, FSD/FAU Criminalist Antoinette Woiwode, Serial No. N4427, completed a report documenting the test-firing of Officer Zavala's pistol. The pistol was found to be functional and the trigger pull value for this pistol was within the Departments established range (Addendum No. 11).

Officer Quintanilla was armed with his Department-approved Smith and Wesson, Model M&P, 9mm caliber, semi-automatic pistol, [redacted]. The pistol was carried in a Department approved Safariland, Level III retention holster on his Sam Browne utility belt. According to Officer Quintanilla, at the time of the OIS, his pistol was loaded with 18 rounds. One round in the chamber and his two additional magazines were loaded with 17 rounds of Department-authorized ammunition (Photolink).[116]

On December 18, 2021, at approximately 2230 hours, Detective Brown, conducted a post-incident examination of Officer Quintanilla's pistol. Detective Brown observed that the pistol was loaded with Speer Gold Dot G2, 9mm Smith & Wesson, 180 grain, of Department approved ammunition. There was one round in the chamber and 16 rounds in the magazine. This information was consistent with Officer Quintanilla having fired a total of one round during the OIS. An inspection of the two additional magazines that Quintanilla had in the magazine pouch on his utility belt, determined both magazines, were loaded to Department standards with 17 rounds of Speer Gold Dot G2, 9mm Smith & Wesson, 180 grain Ammunition (Photolink) (Photolink).

[115] Officer Zavala's statement, Page 51, Lines 5-25 and Page No. 52, Lines 1-5.
[116] Officer Quintanilla's statement, Page No. 51, Lines 19-25 and Page No. 52, Lines 1-6.

On January 12, 2022, FSD/FAU Criminalist II Lawrence Iwaki, Serial No. N4687, completed a report documenting the test-firing of Officer Quintanilla's pistol. The pistol was found to be functional and the trigger pull value for this pistol was within the Departments established range (Addendum No. 12).

Officer 1 deployed his Department issued 40mm LLL, Serial No. FW17512 (Photolink).

On December 21, 2021, the Los Angeles Police Department Training Division, Ordinance Unit inspected, and test fired the 40mm LLL. The launcher's trigger pull met Department specifications. The Eotech optic was in working condition and the launcher shot at point of aim and impact at the twenty-five foot range (Addendum No. 13).

FIREARMS ANALYSIS

On May 11, 2022, Criminalist Saucedo, completed a Bullet Path Analysis Report. Criminalist Saucedo documented two bullet pathways that were identified as pathway A and pathway B (Addendum No. 14).

Pathway A (including impacts A and A1) is consistent with a bullet traveling from north to south, west to east, and in a downward direction, deflecting at impact A in a south to north direction and continuing to impact A1. The bullet jacket fragment **(Item No. 8) (Photo ID 12)** is associated with this pathway.

- Impact A was documented as a non-penetrating impact, located on the north facing surface of the stairs, on the third step up (Photolink).
- Impact A1 was documented as a non-penetrating impact, located on multiple branches of a bush in the planter to the east of the stairs (Photolink).

Pathway B (including impacts B and B1) is consistent with a bullet traveling from north to south, west to east, and in a downward direction. The fired bullet **(Item No. 7) (Photo ID 11)** is associated with this pathway (Photolink).

- Impact B was documented as a non-penetrating impact, located on the west facing surface of a tree in the planter east of the stairs (Photolink).
- Impact B1 was documented as a non-penetrating impact, located on the west facing surface of a tree in a planter east of the stairs (Photolink).

On April 7, 2022, Criminalist II Trisha Ariyasu, Serial No. N4729, completed a Type and Caliber Laboratory Report that identified **(Item No. 7)** a fired bullet and **(Item No. 8)** a bullet jacket fragment exhibited general rifling characteristics consistent with **(Item No. 26)** the bullet test fired from Officer Zavala's pistol.

The Laboratory report further indicated that **(Item Nos. 7 and 8)** did not exhibit general rifling characteristics consistent with **(Item No. 21)** the bullet test fired from Officer Quintanilla's pistol.

The Laboratory Report concluded that the fired bullet **(Item No. 29)**, recovered by the Los Angeles County, Coroner's Medical Examiner, during the autopsy lacked sufficient information to make a type and caliber determination (Addendum No. 15).

On May 12, 2022, Criminalist II Gabriel Mueck, Serial No. N4632, completed a Serology/DNA-STRI Laboratory Report that identified **(Item No. 7)** a fired bullet was processed and a deoxyribonucleic acid (DNA) sample was extracted **(LIMS #3-1-1)**. Short Tandem Repeats (STR) analysis of the sample identified the presence of [redacted] Victim ' DNA on the fired bullet recovered from the scene.

Evidence **(Item No. 8)** bullet jacket fragment was processed for DNA sample **(LIMS #3-2-1)** and did not contain enough DNA for STR analysis (Addendum No. 16).

Evidence **(Item No. 29)** bullet recovered by the Medical Examiner during the autopsy was not submitted for DNA analysis.

VISUAL DOCUMENTATION

Digital In-Car Video System (DICVS)
There were three DICVS videos related to this incident. Each video was reviewed in its entirety by FID investigators. The DICVS videos captured the officers' response to the scene and post OIS activity. The DICVS of Officers Zavala and Quintanilla's vehicle was not activated during the UOF and did not capture audio or videos of the OIS. Officer Quintanilla activated the DICVS after the OIS, which captured post OIS activity.

Body Worn Video (BWV)
There were 10 BWV recordings related to this incident. Each video was reviewed in its entirety by FID investigators.

[redacted] Sergeant had his camera on in buffer mode as he initiated his response to the radio call. [redacted] Sergeant 's BWV recorded three videos, one was 21 minutes and 55 seconds, a second was 3 minutes and 6 seconds and a third was 1 minute and 27 seconds in length. [redacted] Sergeant 's BWV captures his Code Three response, his arrival to [redacted] drawing and exhibiting, tactical planning, tactics, the OIS and post OIS activity. [redacted] Sergeant turned off the BWV camera when he initiated administrative duties post OIS.

Officer Zavala did not activate his BWV while responding Code Three to the call. Officer Zavala had his BWV camera in buffer mode, as he arrived at [redacted] The BWV audio microphone was not actively recording sound for the initial 51 seconds he was at the scene. Officer Zavala's BWV recorded 19 minutes and 9 seconds of video, which captured the officers' arrival, contact with [redacted] Victim, drawing and exhibiting, tactics, the OIS and post OIS activity. Zavala turned off the BWV camera when he was directed to do so by [redacted] Sergeant .

Officer Quintanilla did not activate his BWV while responding Code Three to the call. Officer Quintanilla had his BWV camera in buffer mode, as he arrived at [redacted]

The BWV audio microphone was not actively recording sound for the initial 10 seconds that he was at the scene. Quintanilla's BWV recorded 20 minutes and 9 seconds of video, which captured the officers' arrival, contact with Victim, drawing and exhibiting, the OIS and post OIS activity and handcuffing. Quintanilla turned off the BWV camera when he was directed to do so by Sergeant.

Officer 1 had his BWV camera in buffer mode as he initiated response to the radio call. Officer 1 's BWV recorded 26 minutes and 2 seconds of video, which captured the officers' Code Three response, his arrival to the scene, the contact with Victim, drawing and exhibiting, the OIS and post OIS activity. Officer 1 turned off the BWV camera when he was directed to do so by Sergeant.

Officer 2 had his BWV camera in buffer mode as he initiated response to the radio call. Officer 2 's BWV recorded 24 minutes and 42 seconds of video, which captured the officers' Code Three response, his arrival to the scene, the contact with Victim, drawing and exhibiting, the OIS and post OIS activity. Officer 2 turned off the BWV camera when he was directed to do so by Sergeant.

Officer 4 had his BWV camera in buffer mode as he initiated response to the radio call. Officer 4 's BWV recorded 23 minutes and 9 seconds of video, which captured the officers' Code Three response, the arrival to the scene, the contact with Victim, drawing and exhibiting, the OIS and post OIS activity. Officer 4 turned off the BWV camera when he was directed to do so by Sergeant.

Officer Meraz had his BWV camera in buffer mode as he initiated response to the radio call. Officer Meraz' BWV recorded 23 minutes and 13 seconds of video, which captured the officers' Code Three response, the arrival to the scene, the contact with Victim, drawing and exhibiting, the OIS and post OIS activity. Officer Meraz turned off the BWV camera when he was directed to do so by Sergeant.

Officer 3 had his BWV camera in buffer mode, as he initiated response to the scene. Officer 3 ' BWV recorded 18 minutes and 19 seconds of video, which captured his response, his arrival, tactics, the OIS and post OIS activity. Officer 3 turned off his BWV camera when he was directed to do so by Sergeant.

Other Department Video
None.

Outside Video
On December 18, 2021, investigators canvassed the apartment building for security cameras located at [redacted] Cameras were located that provided a view of the exterior of the entry door of the apartment building. There was approximately 20 minutes of video downloaded. The video captured Victim seated on the stairs, the officers' arrival, tactics and the OIS. The video was documented and stored under TID No. 774022.

On December 19, 2021, Investigators recovered security camera video from [redacted] There were two exterior cameras, which provide a view of the intersection of [redacted], and an east facing view toward the apartment building located at [redacted] There was approximately 54 minutes of video downloaded. The video captures images of Victim walking north on [redacted] and east on [redacted] the officers' arrival and post OIS tactics. The video was documented and stored under TID No. 774023.

Social Media
Personnel assigned to FID Cyber Unit monitored the news and social media platforms from the date of the incident until the submission of this investigation. No additional evidence, information or witnesses were identified.

Photographs
Technical Investigation Division Photographer III, Henry Wang, Serial No. N5698, photographed the scene. The photographs associated with this incident are documented under control numbers, 0804019, 0804020, 0804045 and 0801018.

NOTIFICATIONS

On December 18, 2021, at approximately 1739 hours, Sergeant notified the Department Operations Center (DOC) that a Categorical UOF occurred. The details of the subsequent notifications were included in this report (Addendum No. 17).

PERSONNEL AT SCENE

Force Investigation Division Detective Brown arrived on scene at approximately 1900 hours. Crime Scene Logs documenting additional personnel at the location are contained within the FID Case Book and are available for review.

COMMUNICATIONS

Copies of the CD computer-generated Incident Recall Report associated with this occurrence, Incident No. 21121800002616, the corresponding 911 calls for service and the audio recordings of Newton Division Area base frequency are stored in the FID Case Book. (Addendum No. 18).

The digitally recorded interviews of the involved and percipient officers, along with the civilian witnesses, are stored in the Training Evaluation and Management System (TEAMS II) database.

JUSTICE SYSTEM INTEGRITY DIVISION

This case met the criteria for presentation to the Los Angeles County District Attorney Office, Justice System Integrity Division and will be presented shortly after completion of this administrative report.

INVESTIGATORS' NOTES

1. [redacted] resides at [redacted] and she is [redacted] Victim [redacted] refused to speak with investigators and did not provide any further details. [redacted] account of the events that occurred on December 18, 2021, which led up to the OIS was recorded on the Communications Division 911 call, Incident No. 20121800002616.

2. Investigators' located and recovered security camera video footage from [redacted] (TID No. 774022) and [redacted] (TID No. 77403). Investigators' review of the available security camera video footage did not reveal any images of Victim approaching or attacking anyone in the area.

3. Investigators utilized a sound graph analysis of the officers BWV, to obtain the timing and sequence of the shots that were fired. The less lethal and lethal shots were fired in a 1.5 second time frame. On Officer 1's BWV, he fired the 40mm LLL at time stamp 1710:23 hours. The sound graph analysis determined that Officer Zavala fired his 1st round .382 seconds after Officer 1 fired the 40mm LLL. Officer Zavala fired his 2nd round .381 seconds later and his 3rd round .514 seconds after the 2nd round. All three of Officer Zavala's rounds were fired in a 1.277 seconds time frame. The sound graph analysis determined that Officer Quintanilla fired one round .322 seconds after Officer Zavala's last round was fired.

4. Investigators' review of BWV noted that immediately after the OIS, [redacted] exited the yard of their residence at [redacted] and began moving toward Victim Among the [redacted] were [redacted] along with two additional male Hispanic adults and another female Hispanic adult. Investigators interviewed [redacted] and [redacted] on December 18, 2021. [redacted] refused to provide an interview and the additional males and female refused to identify themselves to investigators. Investigators utilized department resources to query information of the current residents of [redacted] and located the names of [redacted], [redacted], [redacted], date of birth unknown, [redacted], date of birth unknown, [redacted] and [redacted], date of birth unknown.

5. Investigators' review of Officer Zavala's equipment noted that he was carrying a Glock manufactured 17 round magazine with an attached +2 base plate that increased the magazine capacity to 19 rounds. The Police Science and Training Bureau In-Service Training, Training Division, Notice 12.1.2, under the General Handgun Specification, Section, No.13, states that the 17+2 magazines are not authorized for wear on a uniform duty equipment belt. On January 26, 2022, Newton Area Command was notified that Officer Zavala's magazine was not authorized for uniformed carry (Addendum No. 19).

[redacted]

ANTHONY LJUBETIC, Lieutenant
Officer-in-Charge, Investigative Section C
Force Investigation Division

APPROVED:

[redacted]

LAURA M. CURTIN, Captain
Assistant Commanding Officer
Force Investigation Division

DATE

INTRADEPARTMENTAL CORRESPONDENCE

RECEIVED
POLICE COMMISSION
2022 OCT 10 AM 11:00

October 5, 2022
3.2

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: OFFICER-INVOLVED SHOOTING, FID NO. 064-21

Honorable Members:

The following is my review, analysis, and findings for an Officer-Involved Shooting (OIS), Force Investigation Division (FID) No. 064-21. On September 12, 2022, this case was presented to the Use of Force Review Board (UOFRB). In this case, the recommended findings were not unanimous, with a minority opinion rendered regarding the Tactics findings for Sergeant [redacted], Serial No. [redacted] Newton Area, Gang Enforcement Detail.

I have carefully weighed each opinion, considered the case in its entirety, and adopted the recommendations of the UOFRB Minority for the Tactics findings for this incident. I hereby submit my findings per Police Commission policy.

SUMMARY[1]

On December 18, 2021, at 1654 hours, Reporting Party 1 called Communications Division (CD) and reported that her brother, Victim [redacted], was suicidal and had walked out of their house, located at Home Address [redacted], armed with a knife.[2] At approximately 1656 hours, an "Ambulance Attempt Suicide" radio call was generated for Newton Patrol Division. According to RP 1, when Victim [redacted] walked away from their residence, he removed the knife from his pocket and held it in his hand. According to witness Reporting Party 2, his son had begun to drink beer and smoke drugs when he turned 18 years old.[3] Reporting Party 2 further stated that his son was a "very hyper boy" and that when drank, he was in an "altered state of mind" because of the beer and the drugs.[4]

Officers Officer 1 Serial No. [redacted], and Officer 2 Serial No. [redacted] Newton Patrol Division, and Sergeant [redacted] Serial No. [redacted] Newton Area Gang Enforcement Detail (GED), responded Code Three to the aforementioned radio call. Officers J. Zavala, Serial No. 40197, and J. Quintanilla, Serial No. 42454, Newton Area GED, responded Code Two to the radio call.

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[1] The summary and the investigation completed by FID for this incident have been provided to the Board of Police Commissioners.
[2] For clarity, RP 1 and Victim [redacted] will be referred to by their first names.
[3] For clarity, Reporting Party 2 will be referred to as Reporting Party 2
[4] A blood analysis identified the presence of Benzodiazepines, Cannabinoids, and Ethanol in Victim [redacted] blood.

At approximately 1654 hours, Witness 1 called CD and reported that Victim had a large knife. According to Witness 1, he was walking near Street 2 and Street 1 when he saw Victim looking at him and walking toward him while holding a knife. Witness 1 stated that Victim looked angry and he was swinging the knife in the air, which caused him to be scared. At approximately 1656 hours, on the CD 911 call recording, RP 1 was heard telling the RTO that Victim tried to hit someone and was going to attack a person with the knife. At 1657 hours, CD broadcast, "additional on your attempt suicide, Home Address the subject is now chasing people with the knife in front of Home Address."

As Sergeant drove on Street 2 a male and a female flagged him down and pointed to Victim. As Sergeant exited his police vehicle, Victim was sitting on the exterior stairs of the apartment building located at Incident Location holding a knife in his right hand with the blade pressed against his neck.[5] Sergeant attempted to communicate with Victim and gain his compliance with negative results. Sergeant subsequently unholstered his service pistol. At 1702:05 hours, Officers Zavala and Quintanilla arrived at the scene taking cover behind their police vehicle's doors and unholstered their service pistols.

While Officer Quintanilla was giving Victim commands to drop the knife, Officer Zavala requested a backup on a "415 man with a knife." Officer Zavala also requested that a Rescue Ambulance (RA) respond to and stage at Street 2 and Street 1.

At 1702:22 hours, Officers 1 and 2 arrived on the scene. Sergeant directed them to retrieve their 40mm Less Lethal-Launcher (LLL). Officer 1 retrieved the 40mm LLL and took a position of cover behind the driver's side door of Sergeant 's police vehicle. According to Sergeant s Body Worn Video (BWV), at 1702:24 hours, Victim held the knife in front of himself at shoulder level, repeatedly rotating the blade back and forth, from left to right. Sergeant directed Officer 2 to take cover behind the passenger side door of his Sergeant s) police vehicle. Sergeant holstered his service pistol and assigned the role of lethal cover to Officers Quintanilla and Zavala, advising them of Officer 1 's role as the less-lethal officer.

After a Code Four was broadcast for an unrelated backup in Newton Division, Sergeant advised CD that he was Code Six on the 415 man with a knife call and requested additional units to respond for traffic control. According to Officer Zavala's BWV, at 1702:59 hours, Officer Zavala told Officer Quintanilla that he was going to talk to Victim in Spanish. Officer Zavala then took over communications from Officer Quintanilla. At 1703:02 hours, Victim placed the knife's blade against his left palm and again began making a cutting motion. Victim then placed the blade against the side of his throat; multiple officers yelled, "Don't do it!"[6] Sergeant directed Officer 1 to deploy the 40mm LLL. Sergeant abruptly told Officer 1 to "wait, hold on, hold on," as Officer 3 Serial No. , Rampart Patrol Division,

[5] Victim was armed with a meat cleaver type knife with a 6 ½-inch blade and a 5 ¼-inch black plastic handle.
[6] The Coroner's report did not identify any injuries to Victim hands or throat consistent with an edged weapon.

arrived in his police vehicle. Sergeant directed Officer 3 to join Officer 2 and assigned them to be an arrest team.

Victim stood up holding the knife to his throat and gestured the sign of the crucifix across his chest with his left hand. Sergeant directed Officer 1 to fire the 40mm LLL and announced, "Forty stand by!" At 1704:06 hours, Officer 1 discharged one 40mm round at Victim from approximately 30 feet. The 40mm round struck Victim in the abdomen area but did not appear to affect him. Victim walked down the steps while holding the knife to his throat and took a seat at the bottom step.

At 1704:35 hours, Sergeant retrieved a ballistic shield from his police vehicle and assigned it to Officer 3 if they needed to approach Victim. Sergeant yelled to Officers Quintanilla and Zavala, "You still got lethal coverage right here." Sergeant walked back to the driver's door of his vehicle and stood next to Officer 1. For the next several minutes, Officers Zavala, Quintanilla, and Sergeant alternated communicating with Victim. At 1705:36 hours, officers can be heard warning that someone was coming out of the building, as a person attempted to walk out of the entry door of the apartment building. Sergeant yelled the command, "Hey stay right there, do not come out." Additional officers can be heard warning the person to stay inside and move away from the windows.

During the incident, Officers E. Meraz, Serial No. 41215, and Officer 4, Serial No. [redacted], Newton Area GED, arrived on the scene. Officer Meraz deployed the shotgun and positioned himself as a lethal cover officer alongside Officer 1. Officer 4 deployed the Beanbag Shotgun and was ultimately directed by Sergeant to move to the west side of the containment with Officer Zavala to provide less-lethal cover at that position. Sergeant and Officer Zavala continued to alternate giving commands to Victim. Sergeant used the police vehicle's Public Address (PA) system to communicate. Sergeant directed Officer 3 to reposition his (Officer 3) police vehicle to the southeast corner of Street 2 [redacted] and Street 1 to block pedestrian traffic.

Sergeant directed Officer 2 to reposition his (Officer 2's) police vehicle between his (Sergeant's) and Officer Zavala's police vehicles. At 1709:44 hours, Officer 2 returned to his police vehicle and Sergeant continued to use the PA system to communicate with Victim. As Officer 2 parked his police vehicle between Sergeant [redacted] and Officer Zavala's police vehicles, Victim stood up holding the knife in front of himself at head level. Victim looked toward his family members gathered in their front yard approximately 35 feet east of his location in front of the apartment building. Sergeant announced, "Get ready!" as he simultaneously ran around the back of his police vehicle toward Officer 1's position and announced, "Forty, forty up."

At 1710:17 hours, Victim was sitting on the bottom step with the knife positioned between his legs and his head down. Suddenly, Victim used his left hand to knock his hat off his head and stood up holding the knife in front of himself at head level. At 1710:19 hours, Victim took four steps forward in a northerly direction toward Officer 1, then turned to his left in a westerly direction. At that moment, Officer 1 announced, "Forty, standby" as Sergeant

directed him to fire the 40mm LLL. Officer 1 fired one 40mm round from approximately 22 feet impacting the lower right side of Victim s torso. Approximately .382 seconds later, Officer Zavala discharged his first of three rounds from his service pistol from approximately 25 feet, striking Victim [7] Approximately .322 seconds after Officer Zavala discharged his third round, Officer Quintanilla discharged one round from his service pistol at Victim from approximately 28 feet. Victim fell to the ground, onto his back, and the knife fell from his hand coming to rest on the sidewalk.

Sergeant broadcast a "shots fired, officer needs help" call and began organizing an arrest team assigning Officers O-2 and Quintanilla as the "hands-on" officers. Officers approached Victim handcuffed him, and placed him in a recovery position. Officer Quintanilla then directed Officer 2 to retrieve a medical kit from his police vehicle. While Officer 2 was searching for the medical kit, Los Angeles Fire Department (LAFD) RA No. 1, staffed by Firefighter/Paramedics (FF/PM) C. Shubsda and M. Farris, arrived on the scene. They began treatment and ultimately transported Victim to Los Angeles County University of Southern California Medical Center (LAC+USCMC).

Sergeant separated Officers Quintanilla and Zavala and directed them to sit in separate police vehicles until the arrival of additional supervisors. Due to an ongoing tactical situation involving a hostile crowd, Sergeant directed Officers Quintanilla and Zavala to keep their BWV cameras activated. According to Officer 1 a male Hispanic spat on his face and uniform, as he attempted to block the family's approach. After the tactical incident became manageable, Sergeant G. Gaxiola, Serial No. 35056, Newton Area Gang Enforcement Detail, initiated the monitoring of Sergeant Burke. Sergeant V. Cruz, Serial No. 38632, Newton Patrol Division assisted in monitoring Officers Quintanilla and Zavala. Sergeant P. Scallon, Serial No. 35240, 77th Street Patrol Division, monitored Officers 1 and 2 and O-3

FINDINGS

Tactics – Tactical Debrief, Officers Zavala, Quintanilla, and O-1. Administrative Disapproval, Sergeant .

Drawing/Exhibiting – In Policy, No Further Action, Sergeant Officers Zavala, Quintanilla, and O-2.

Less-Lethal Use of Force – In Policy, No Further Action, Officer 1

Lethal Use of Force – Out of Policy, Administrative Disapproval, Officers Zavala and Quintanilla.

[7] Per FID, Officer Zavala discharged his second round .381 seconds after his first round and his third round .514 seconds after his second round.

ANALYSIS[8]

Detention

Officers responded to a radio call of "attempt suicide" involving Victim The comments of the call indicated that Victim was armed with a knife. While responding to the scene, officers were advised that Victim was chasing people with the knife. Arriving at the scene, Sergeant located Victim sitting on the front steps of Incident Location a multi-unit apartment building. Victim was armed with a meat cleaver type knife. Sergeant and responding officers attempted to communicate with Victim to gain his compliance; however, he refused to drop the knife. At various points during the encounter, Victim placed the knife against his neck and palm, ostensibly self-mutilating. Based on the totality of the circumstances, officers had reasonable suspicion to detain Victim

Tactics

Department policy relative to a Tactical Debrief is: "The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance."

Department policy relative to Administrative Disapproval is: "A finding, supported by a preponderance of the evidence that the tactics employed during a CUOF incident unjustifiably and substantially deviated from approved Department tactical training" (Los Angeles Police Department Manual, Volume 3, Section 792.05).

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Tactical De-Escalation[9]

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

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[8] The analysis reflects my recommendations as supported by the preponderance of the evidence established by the investigation.

[9] Los Angeles Police Department, Use of Force Tactics Directive No. 16, Tactical De-Escalation Techniques, October 2016.

*Tactical De-Escalation Techniques: **P**lanning, **A**ssessment: **T**ime; **R**edeployment and/or Containment; **O**ther Resources; and, **L**ines of Communication.*

Planning – Officers Zavala, Quintanilla, and Sergeant were assigned to the Newton Gang Enforcement Detail. According to Sergeant earlier that day during roll call, he discussed tactics regarding men with knives with the officers assigned to GED. Sergeant further stated that he and the officers assigned to GED regularly discuss tactics and how to handle different scenarios. Officers Zavala and Quintanilla have worked on and off as partners in GED for approximately one and half years and advised they have had tactical discussions before and during their shifts. Before the OIS, Sergeant developed and communicated a plan to contain and communicate with Victim in an attempt to de-escalate the situation and take him into custody. Sergeant designated two containment teams on each side of Victim consisting of lethal and less-lethal roles, in addition to an arrest team, in case the situation required them to approach Victim At one point, Sergeant retrieved and assigned a ballistic shield to an arrest team member.

Assessment – Sergeant was aware that the edged-weapon protocol required a sergeant to respond to the ambulance attempt suicide radio. As he was the only supervisor available in the field, Sergeant assessed the need to respond. Hearing the updated information that Victim was chasing people with a knife, Sergeant knew the situation was "serious." Arriving at the scene, Sergeant and Officers Zavala and Quintanilla continually assessed the situation as Victim failed to comply with their orders to drop the knife. Sergeant and Officers Zavala and Quintanilla coordinated efforts to speak to Victim In case there was a language barrier, officers also spoke to him in Spanish. Sergeant obtained Victim s name from his family and used it to build rapport. Sergeant also used the PA system of his police vehicle to enhance communication. Sergeant assessed his resources and requested additional units to respond to control vehicle and pedestrian traffic. Sergeant assessed Victim s actions of gesturing the sign of the crucifix and opined he could attempt "suicide by cop." During the incident, Officer 1 assessed Victim s actions and determined he was using the knife to harm himself. Wanting to stop the threat to himself, Officer 1 fired a round from the 40mm LLL.

After the OIS, Sergeant assessed that Victim was on the ground in a semi-conscious state and that the knife was no longer in his possession. Observing that a group of people was gathering who may try to approach Victim Sergeant formed a contact/arrest team and apprehended him.

Time – Sergeant and his officers maintained their distance as they attempted to communicate with Victim Using the police vehicles as cover while maintaining distance allowed Sergeant and the officers time to communicate with Victim to de-escalate the incident and gain his compliance.

Redeployment and/or Containment – Sergeant positioned the police vehicles to contain Victim in front of the apartment building and requested additional units for traffic control. As additional officers arrived, he ensured a containment team was positioned on each side of

Victim and that each team had a lethal and less-lethal officer assigned. Sergeant later directed Officer 3 to reposition his police vehicle to the southeast corner to block pedestrian and vehicle traffic. Furthermore, Sergeant directed Officer 2 to reposition his police vehicle between his and Officer Zavala's police vehicle to provide better containment of the scene.

Other Resources – Sergeant assessed the need for less-lethal options and directed the deployment of a 40mm LLL and a Beanbag Shotgun officer. Sergeant assessed his resources and requested additional units to respond to control vehicle and pedestrian traffic. He retrieved a ballistic shield from his police vehicle and assigned it to an arrest team member. Officer Zavala requested an RA unit to respond and to stage near the radio call location before the OIS.

Lines of Communication – Sergeant was the first unit to arrive and repeatedly asked Victim to drop the knife. Shortly after arriving at the scene, Officer Zavala requested backup units for a man with a knife, providing his location and Victim's description. Sergeant assessed his resources and requested additional units to respond to control vehicle and pedestrian traffic. After Victim failed to comply, Officers Zavala, Quintanilla, and Sergeant alternated communicating with him in English and Spanish, using a PA system to enhance communication and Victim's first name to build rapport. Before and after the OIS, Sergeant communicated his plan and their assignments to the officers at the scene.

During the review of the incident, the following Debriefing Topics were noted:

Debriefing Point No. 1 Code Six

When a unit is conducting a field investigation and no assistance is anticipated, a "Code Six," followed by the location, shall be broadcast. A unit shall not go "Code Six" until it arrives at the scene of a call (Los Angeles Police Department Manual, Volume 4, Section 120.40).

Due to an unrelated backup request in the division, Sergeant did not advise CD that he was Code Six when he arrived at the scene. Sergeant broadcast his Code Six status immediately after the unrelated backup request was declared a Code Four, indicating that no further assistance was needed.

The UOFRB evaluated Sergeant's decision to delay broadcasting his Code Six status. The Board noted that as Sergeant was responding to the ambulance attempt suicide radio call, the unrelated backup request was broadcast by officers who were Code Six on armed robbery suspects. Sergeant was aware that multiple units were responding to the backup request and did not want to "tie up the air." To keep the frequency clear for those officers, Sergeant did not advise CD that he had arrived at the scene until the officers broadcast a Code Four.

The UOFRB Majority noted that Sergeant advised CD that he was responding to the ambulance attempt suicide radio call. The Majority also noted that Sergeant was aware

that two other units were responding with him to the call and that Officers Zavala and Quintanilla arrived at the scene within 30 seconds of his arrival. The Board further noted that within seven seconds of their arrival, Officers Zavala and Quintanilla broadcast a request for backup units which included their location.[10] Immediately after the unrelated backup request was declared a Code Four (approximately one minute and forty seconds after Officers Zavala and Quintanilla's broadcast) Sergeant advised CD that he was at the scene.

The Majority noted that the Code Six policy's intent is to advise CD of an officer's location so that other units will be able to locate them if assistance is needed. Based on the totality of the circumstances, the Majority opined that had Sergeant needed assistance, other units would have located him. Also, due to the nature of the unrelated backup request, the Majority opined that it was reasonable for Sergeant to delay his Code Six broadcast to keep the frequency clear for officers dealing with armed robbery suspects. Therefore, the Majority determined that the tactics employed by Sergeant were a substantial deviation, with justification, from Department-approved tactical training.

The UOFRB Minority was critical of Sergeant 's decision to delay going Code Six. The minority noted that because Sergeant advised CD he was responding to the call, it would have appeared on his Mobile Data Computer (MDC). As such, the Minority opined that he could have shown himself at the scene and kept the frequency clear for officers on the unrelated backup by using his MDC. The Minority also noted that upon arrival, Sergeant was confronted by a suspect armed with a knife; however, he did not request backup units despite the situation meeting the criteria. The Minority opined that by delaying the backup request, Sergeant further exposed himself to unnecessary risk.

The Minority opined that placing himself Code Six upon arrival, and before engaging an armed suspect was crucial to Sergeant 's safety, and in not doing so, he exposed himself to unnecessary risk. Had Sergeant required assistance or help it could have been substantially delayed due to CD being unaware of his current location. Therefore, the Minority determined that the tactics employed by Sergeant were a substantial deviation, without justification, from Department-approved tactical training.

Based on the totality of the circumstances, the UOFRB Majority determined, and I concur, that the tactics employed by Sergeant were a substantial deviation, with justification, from Department-approved tactical training. To enhance future performance, I will direct this to be a topic of discussion during the tactical debrief.

During the review of this incident, the following Additional Debriefing Topics were noted:

[10] As it pertains to Officers Zavala and Quintanilla, the UOFRB determined that this broadcast satisfied the Code Six policy's intent.

Additional Tactical Debrief Topics

Crime Scene Preservation – Approaching Victim to apprehend him, Officer Zavala slid the knife away from him. Alternatively, Officers could have moved Victim away from the knife.[11] To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Less-Lethal Use of Force Warning – Officer 1 did not provide a verbal use of force warning and may have mistaken a preemptive command to standby as a warning. Sergeant articulated that it was a tactical decision not to provide a verbal use of force warning; he believed that Victim would flee and escalate the situation if one were given. Alternatively, Sergeant or Officer 1 could have provided a use of force warning before deploying the first 40mm round. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Profanity – Officer Quintanilla yelled at an officer to get out of the "fucking car" to address a citizen that refused to leave the area near the suspect. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Personal Protective Equipment (Gloves) – Officers Quintanilla and O-2 were not wearing protective gloves while apprehending and searching Victim.[12] Alternatively, they could have donned protective gloves before approaching him. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Beanbag Shotgun Manipulations – Officer 4 advised that he disengaged the safety of his Beanbag Shotgun at different times during the tactical portion of the incident; however, it was unclear if this occurred save the one instance where his sights were aligned on his target and he intended to shoot. Officer 4 assessed that the suspect was no longer a threat and decided not to discharge an impact round. As firearms safety is always a worthy discussion, I will direct that this be a topic during the Tactical Debrief.

Non-Medical Face Coverings – Officers Zavala, Quintanilla, O-1 and Sergeant were not wearing non-medical face coverings at the scene, as directed by me in May 2020. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief. Additional personnel at the scene were not wearing non-medical face coverings and will be addressed at the divisional level.

Command and Control

Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create

[11] At the time of this incident, Victim was 4 feet 9 inches tall and weighed approximately 98 pounds.
[12] As Officer 2 was not identified as substantially involved, any issue will be addressed at the divisional level.

conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.

Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (LAPD, Training Bulletin, Volume XLVII Issue 4, July 2018).

Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Supervisor's Field Operations Guide, Volume 2, LAPD Emergency Operations Guide).

Based on the Department's edged-weapons protocol and the fact that he was the only Newton Division supervisor in the field, Sergeant responded to the ambulance attempt suicide radio call. For the same reason, he continued his response when the unrelated backup was broadcast. According to Sergeant he believed that Victim may be a danger to the community and the public based on the updated information which indicated that he was chasing people with the knife. Sergeant was the first unit and the first supervisor to arrive at the scene. He established contact with Victim and attempted to persuade him to drop the knife. Once additional resources arrived, Sergeant established command and control by assigning lethal and less-lethal roles, an officer with a ballistic shield, and an arrest team. He made updated broadcasts and requested units to assist with vehicular and pedestrian traffic. Throughout the incident, Sergeant ensured that commands were given to Victim to get him to drop the knife. To enhance communication with Victim Sergeant used a police vehicle's PA system. After the OIS, he formed a contact/arrest team and apprehended Victim He implemented crime scene management, established skirmish lines, coordinated traffic control, declared himself as the Incident Commander (IC), and requested additional supervisors to the scene. Sergeant initiated the separation and monitoring protocols of all involved personnel and ensured their continued monitoring by additional responding supervisors.

Sergeants Gaxiola and Cruz responded to the incident after the OIS and were briefed by Sergeant Sergeant Gaxiola took over the management of the tactical incident by monitoring the skirmish line. After the tactical incident became stable, Sergeant Gaxiola initiated the monitoring of Sergeant Sergeant Cruz assumed monitoring of Officers Quintanilla and Zavala and obtained Officer Quintanilla's Public Safety Statement (PSS). Sergeant A. Castellanos, Serial No. 40202, Central Patrol Division, responded to the incident, assumed

monitoring of Officer Zavala, and obtained his PSS. Sergeant Scallon monitored Officers O-1 O-2 and O-3 Sergeant J. Lee, Serial No. 38328, 77th Street Patrol Division, monitored Officers O-4 and Meraz. The overall actions of Sergeants Gaxiola, Cruz, Castellanos, Scallon, and Lee were consistent with Department training and my expectations of supervisors during a critical incident.

As it pertains to Sergeant the UOFRB Minority was critical of his overall command and control. The Minority noted that while he gave orders in a manner that may have indirectly implied he was the IC, he did not declare himself as such. The Minority also noted that Sergeant involved himself in the efforts to communicate with Victim. As Sergeant was the only supervisor at the scene, the minority opined that he should have delegated this role to a subordinate, allowing Sergeant to maintain oversight of the incident and ensure everyone was aware of the potential plan of action. The Minority also opined that Sergeant should have directed an officer to retrieve the ballistic shield instead of doing it himself.

The Minority noted that Sergeant did not request assistance from other supervisors and did not use available resources, such as the Mental Evaluation Unit or the Crisis Negotiation Team. Additionally, the Minority opined that he confused officers by taking on the role of negotiator and formulating a deficient plan to take the suspect into custody. Although Sergeant s direction to use the 40 mm LLL may have been reasonable, the minority opined his plan was deficient because he did not communicate it or his intent to the officers, nor did he direct them to place themselves in a position that would have created a sufficient amount of distance and cover.

The Minority was also critical of Sergeant s decision not to provide a less-lethal warning. The Minority noted that Sergeant stated he did not recall if he issued a use of force warning; however, he also articulated a plan to deploy less-lethal munitions and use the element of surprise to take the suspect into custody. The Minority also noted that Sergeant stated he had time on his side, but opined that his actions of using the element of surprise contradicted this statement. The Minority also opined that yelling "40-millimeter standby" confused Officer 1 as to whether a use of force warning had been given. The UOFRB minority determined that the tactics employed by Sergeant were a substantial deviation, without justification, from Department-approved tactical training.

The UOFRB Majority noted that Sergeant took the initiative to respond to the ambulance attempt suicide call when he recognized the need for a supervisor. Arriving at the scene, Sergeant attempted to de-escalate the situation and convince Victim to drop the knife. As additional units arrived, Sergeant implemented command and control by designating roles and developing a tactical plan using the available resources. While he did not declare himself as the IC before the OIS, he was the only supervisor at the scene and there was no confusion as to his being in command of the incident. Recognizing the need for additional resources, Sergeant obtained a ballistic shield from the trunk of his police vehicle and requested units for traffic control. The Majority opined that Sergeant continuously assessed the situation and made necessary adjustments. Sergeant also ensured that his officers maintained their distance and used cover while attempting to obtain Victim s surrender.

As the only supervisor at the scene, Sergeant was forced to simultaneously perform multiple tasks. While he could have delegated some of his tasks, such as acquiring the ballistic shield, and he could have refrained from communicating with Victim once additional units arrived, the Majority opined that Sergeant was able to oversee and direct the officers at the scene without compromising his supervisory oversight.

As it pertains to Sergeant 's direction to Officer 1 to discharge his first impact round, the Majority noted that Victim had stood up while holding the knife to his throat and made the sign of the crucifix leading Sergeant to believe he may attempt suicide by cop or run toward his family. The Majority also noted that Sergeant was concerned Victim may harm civilians. Per Sergeant , there were crowds of people on Street 2 , west and east of the apartment building, as well as an individual who almost exited the building behind Victim . According to Sergeant , the comments of the radio call had indicated that Victim was chasing people down the street and Sergeant believed "one-hundred percent" that Victim was a threat to the community. Sergeant hoped that officers could use the 40mm LLL to bring the situation to an end. The Board also noted that before directing Officer 1 to discharge the 40mm LLL, he announced "Forty stand by!" to alert officers that less lethal was being used and to prevent the contagious use of lethal force. Sergeant then directed Officer 1 to discharge the 40mm LLL, stating, "Hit 'em!" Based on his articulation, the Majority opined that Sergeant reasonably believed that Victim posed an immediate threat to the safety of others.

Sergeant recalled,

> *"That's the point where I directed Officer 1 to discharge the 40 at him. Reason why I did that was due to the fact that my concern was that at this point he may possibly take off running and go and start, you know, attacking civilians. I was hoping it would end with the one shot to the 40.*[13]
>
> *Again, based off the comments of the call, he's already chased people down the street with a knife. I believed that he was going to attempt to do something like that again. I wanted to stop it before it happened. My concern was for the community out there. I didn't want this guy to start hacking at -- hacking away at people.*[14]
>
> *It hit him. It didn't seem like it phased him. He walked down a few more stairs and then he sat. And at that point I was -- I was good with that, because I think, I believed that that made him change his mind from going to run. He hit it. He felt it. Now he sat down, and I think, you know, it gave us some time for him to, you know, maybe in his mind evaluate what was going on. So, I believed that was successful in that aspect, because he didn't take off running, trying to hurt anybody.*[15]

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[13] Sergeant 's transcript, Page 12, Lines 2-8.
[14] Sergeant 's transcript, Page 29, Lines 11-17.
[15] Sergeant 's transcript, Pages 29-30, Lines 21-6.

Regarding Sergeant s decision to forgo the use of force warning, the Majority noted that per Tactics Directive No. 17.1, a use of force warning is not required if a tactical plan requires the element of surprise to stabilize a situation. While the Majority would have preferred that Sergeant had ensured a warning was provided before directing Officer 1 to discharge the 40mm LLL, they understood he intended to use the element of surprise to prevent Victim from running toward and potentially harming others. Additionally, based on his transcribed statement, the Majority opined there was no conflict in Sergeant 's explanation for forgoing the use of force warning and that his statement regarding time being on his side pertained to not prematurely approaching Victim.

Sergeant recalled,

> *DETECTIVE GOLAN: And I think we can hear it in your body-worn video, but did you provide or did anybody else provide a warning prior to use of force?*
> Sergeant *I believe I said, "40 stand by. 40 stand by," to our officers. I don't know. I don't know if I gave him a warning. I don't believe I did. At that point I believe the situation was -- it was too dangerous with that. I didn't want to -- I didn't want to give him that warning to let him know that we were going to hit him, because that might have had him take off running. So I didn't want -- I didn't want to do that. But I did notify our guys that we were going to fire the 40.*[16]

In reviewing this case, I noted that Sergeant elected to perform several tasks he should have assigned to the officers at the scene, specifically communicating with Victim and retrieving the ballistic shield. As stated above, command and control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. During an incident of this nature, a critical component of command and control is the delegation of duties. If a supervisor feels an officer is having difficulty performing a specific task, he or she should rotate another officer in, not assume the task themselves. While I commend Sergeant for his initiative, I would have preferred he had delegated more of the tasks that he chose to perform. Had he done so, he would have been afforded the ability to focus solely on maintaining supervisory oversight.

For these reasons, I find that the tactics employed by Sergeant were a substantial deviation, without justification, from Department-approved tactical training. To enhance future performance, I will direct this to be a topic of discussion during the tactical debrief.

Tactical Debrief

In conducting an objective assessment of this case, the UOFRB Minority determined, and I concur, that Sergeant 's actions were a substantial deviation, without justification, from Department-approved tactical training. The UOFRB also determined, and I concur, that the actions of Officers Zavala, Quintanilla, and O-1 were not a deviation from Department-approved tactical training.

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[16] Sergeant s transcript, Page 30, Lines 7-19.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for involved personnel to discuss individual actions that took place during this incident.

Although it was determined that Officer 4 would not receive formal findings, the UOFRB determined, and I concur, that he would benefit from attending the Tactical Debrief.

Therefore, to enhance future performance, I will direct Officers Zavala, Quintanilla, O-1 O-4 and Sergeant to attend a Tactical Debrief and that the identified topics be discussed.

General Training Update (GTU)

Officers Zavala, Quintanilla, O-1 and Sergeant attended a GTU on December 28, 2021. All required topics were covered.

Drawing/Exhibiting

Department policy relative to drawing and exhibiting a firearm is: "Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm in conformance with this policy on the use of firearms."

During a special meeting on September 29, 1977, the Board of Police Commissioners adopted the following as a valid interpretation of this Section: "Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm" (Los Angeles Police Department Manual, Volume No. 1, Section 556.80).

Sergeant

As Sergeant exited his police vehicle, Victim was sitting on the exterior stairs of the apartment building holding a knife in his right hand with the blade pressed against his neck. Sergeant told Victim, "Just drop that, you're going to be good! Drop the knife all right, hey bro, just drop the knife!" Victim did not appear to respond to or acknowledge Sergeant Believing that the situation could escalate to the use of deadly force, Sergeant unholstered his service pistol. Sergeant holstered his service pistol when he was comfortable with the number of officers that had arrived at the scene.

Due to the fact based on the comments of the radio call, based on my observations of him -- seeing him with a meat cleaver, large butcher knife, I believed that the situation may escalate to the use of deadly force. I drew my firearm and to protect myself in the event that he may try to charge at me.[17]

DETECTIVE GOLAN: And why did you decide to holster when you did?
Sergeant *I was comfortable with the resources that arrived with the officers and at that point it's my duty -- you know, now I got to start -- you know, I got to command and control it, you know?*[18]

Officer Quintanilla

According to Officer Quintanilla, he received information that Victim was armed with a knife and chasing people. Believing the situation could escalate to the use of deadly force, Officer Quintanilla unholstered his service pistol upon his arrival.

When I came out the vehicle, I took my firearm out because based on the tactical situation and just by the radio call saying that he had a butcher knife and he was chasing people in an attempt to hurt them. I believe that, you know, it could escalate to the point where deadly force may be justified, so I drew my firearm out.[19]

Officer Zavala

According to Officer Zavala, arriving at the scene, he observed Victim armed with a knife and pedestrians nearby. Sergeant assigned Officer Zavala as the lethal officer role. Believing the situation could escalate to the use of deadly force, Officer Zavala unholstered his service pistol.

At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified.[20]

Based on the tactical situation, I had reason to believe that it may escalate to the point where deadly force may be justified.[21]

The UOFRB assessed Officers Zavala, Quintanilla, and Sergeant 's drawing and exhibiting of their service pistols. The Board noted that they responded to an ambulance attempt suicide radio call. While they were responding, CD broadcast that the suspect was chasing people with a knife. Arriving at the scene, Officers Zavala, Quintanilla, and Sergeant observed Victim sitting on the front steps of an apartment building armed with a meat cleaver style knife, which he refused to drop. Additionally, Officers Zavala and Quintanilla were designated

[17] Sergeant 's transcript, Page 9, Lines 7-12.
[18] Sergeant 's transcript, Page 26, Lines 12-19.
[19] Officer Quintanilla's transcript, Pages 9-10, Lines 21 2.
[20] Officer Zavala's transcript, Page 12, Lines 11-14.
[21] Officer Zavala's transcript, Page 20, Lines 5-7.

as lethal cover officers. As such, the Board opined that it was reasonable for Officers Zavala and Quintanilla, and Sergeant to believe that they may have to use lethal force.

Based on the totality of the circumstances the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Zavala and Quintanilla, and Sergeant while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, I find Officers Zavala and Quintanilla, and Sergeant s Drawing/Exhibiting to be In-Policy, No Further Action.

Policy on the Use of Force[22]

Use of De-Escalation Techniques

It is the policy of this Department that, whenever feasible, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

Verbal Warnings

Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is aware of those facts.

Proportionality

Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

Use of Force–Non-Deadly

It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:

- *Defend themselves;*
- *Defend others;*
- *Effect an arrest or detention;*
- *Prevent escape; or,*

[22] Office of the Chief of Police (OCOP), Special Order No. 23, "Policy on the Use of Force – Revised," and LAPD Manual, Volume 1, Section 556.10.

- *Overcome resistance.*

Factors Used to Determine Objective Reasonableness

Pursuant to the opinion issued by the United States Supreme Court in Graham v. Connor, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- *The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;*
- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus subjects;*
- *The environmental factors and/or other exigent circumstances; and,*
- *Whether a person is a member of a vulnerable population.*

Rendering Aid

After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, subjects of a use of force and fellow officers:

- *To the extent of the officer's training and experience in first aid/CPR/AED; and,*
- *To the level of equipment available to an officer at the time assistance is needed.*

Requirement to Intercede

An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer

under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

Less-Lethal Use of Force

An officer may use the 40mm LLL as a reasonable force option to control a suspect when the suspect poses an immediate threat to the safety of the officer or others.[23]

Officer 1 - 40mm LLL, two rounds

First Round – One eXact iMpact Sponge Round from approximately 30 feet.

Victim stood up, holding the knife to his throat. Victim then gestured the sign of the crucifix across his chest with his left hand.[24] Sergeant directed Officer 1 to fire the 40mm LLL. Officer 1 believed Victim was attempting or was going to attempt to cut himself. In response, Officer 1 discharged one 40mm LLL round at Victim

Officer 1 recalled,

So I go up and -- to Sergeant *s vehicle. He tells me to stay at the driver side door. At this point I can see the subject. He's got a knife to his neck. He's motioning that he's cutting his neck with the knife. At one point he puts the knife on his hand and looks like he's cutting his hand open. He stands up at one point and I'm aiming at his navel area with the 40-millimeter, and* Sergeant *advises me to hit him with the 40-millimeter. I do so, because I'm trying to get him to drop the knife and it's unsafe for us to approach him at this time.*[25]

So I was behind the driver side door of Sergeant *s shop, approximately 20 to 25 feet away from the subject, and he stood up and he still had the knife in his hands. That's when I fired at his navel area in hopes to get him to drop the knife, so he stops cutting himself or potentially cutting himself.*[26]

He didn't make any, like pain gestures, like grabbing his navel area. He just sat back down. He continued to put the knife back up to his neck.[27]

Second Round – One eXact iMpact Sponge Round from approximately 22 feet.

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[23] LAPD Tactics Directive No. 17.1, October 2021, 40mm Less-Lethal Launcher.
[24] See Page 9 of the FID report.
[25] Officer 1 's transcript, Page 8, Lines 18-22.
[26] Officer 1 's transcript, Page 21, Lines 7-13.
[27] Officer 1 's transcript, Page 22, Lines 19-20.

According to Officer Zavala's BWV, at 1710:17 hours, Victim was sitting on the bottom step with the knife positioned down between his legs as his head is lowered down toward the ground. Suddenly, Victim used his left hand to knock his hat off his head and stood up holding the knife up in front of himself, above his shoulder at head level.[28] According to Officer Meraz' BWV, at 1710:19 hours, Victim took four steps forward in a northerly direction toward Officer 1, and then he turned to his left in a westerly direction.[29] According to Officer 1 he believed Victim was walking toward his partners and feared that he was going to attack "us." In response, Officer 1 discharged one 40mm sponge round at Victim.

Officer 1 recalled,

DETECTIVE GOLAN: Okay. So when did you decide to use the 40 a second time?
Officer 1 *When he started -- began approaching officers.*
DETECTIVE GOLAN: As he's walking down the stairs?
Officer 1 *Yes, sir.*
DETECTIVE GOLAN: Okay. So, again, approximately how far away from him were you?
Officer 1 *Still 20 to 25 feet, sir.*
DETECTIVE GOLAN: Okay. And what were you aiming at?
Officer 1 *His navel area.*[30]

DETECTIVE GOLAN: ...So when the subject is walking down the stairs holding that knife and you decide to deploy the 40-millimeter for the second time, tell us what was going on in your head. What were you thinking?
Officer 1 *I was thinking -- I mean, once he made the praying gesture, I was thinking that he was going to try to do suicide by cop and he was going to try to attack us with the knife and that's when I fired the 40.*[31]

DETECTIVE GOLAN: Just based on where you were and where he was, you said 20 to 25 feet, he has a knife, he's walking toward you, how did you feel about it at that time?
DETECTIVE YOON: Can I clarify something?
DETECTIVE GOLAN: Yeah, go for it.
DETECTIVE YOON: Was he walking towards you or was he walking towards another set of officers?
Officer 1 *I think it was the other officers. It was the other officers, the ones that were to my right.*
DETECTIVE YOON: And were they closer to him?
Officer 1 *Yes. They were closer to him.*

DETECTIVE YOON: Okay. And I'm not putting words in your mouth. What were you thinking? What were you in fear of?

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[28] See Page 15 of the FID report.
[29] See Page 16 of the FID report.
[30] Officer 1's transcript, Page 26, Lines 1-13.
[31] Officer 1's transcript, Pages 27-28, Lines 17-1.

Officer 1 *Him attacking my partners.*[32]

The UOFRB assessed Officer 1's use of less-lethal force. As it pertains to his first round, the Board noted that per Tactics Directive 17.1, officers who encounter an armed self-mutilating or suicidal individual shall not use a 40mm LLL against that person, unless the officers reasonably believe the use of the 40mm LLL would not place the officers in a position which could escalate the situation to the use of lethal force. Per the directive, if officers choose to use a 40mm LLL in these situations, they should utilize distance and cover to avoid placing themselves in a vulnerable position. The Board noted that Officer 1 observed Victim holding the knife against his neck and his palm. Based on Victim's actions, Officer 1 opined that he was attempting or was going to attempt to cut himself with the knife. To prevent Victim from self-mutilating, Officer 1 discharged one round from his 40mm LLL, striking Victim While the impact round did not seem to cause Victim any pain, the Board noted that he sat on the steps allowing officers several more minutes to attempt to de-escalate the situation. As indicated above, the UOFRB Majority opined that all of the officers had sufficient cover and distance when Officer 1 discharged his first impact round. Based on the totality, the Board opined that Officer 1's first use of the 40mm LLL conformed to Department policy.

Regarding Officer 1's second round, the Board noted that Victim had knocked the hat off his head, quickly stood holding the knife in the air, and looked toward his family members gathered in their front yard. According to the BWV footage, Victim took four steps toward Officer 1 and then turned to his left. At that moment, Officer 1 announced, "Forty, standby" as Sergeant announced "Forty, forty up!"[33] In response, Officer 1 fired a second round from the 40mm LLL at Victim to prevent him from attacking officers. According to Officer 1, he believed that Victim was going to attempt suicide by cop and he was going to try to attack officers with the knife. Based on Victim's actions, the UOFRB opined that it was reasonable for Officer 1 to believe he posed an immediate threat to officers' safety when he discharged his second impact round.

In terms of the less-lethal warning, the Board noted that Officer 1 was not sure if one was given; however, he was aware that Sergeant had given the "40 stand by" command. Based on the totality of the circumstances, the Board opined that Officer 1 was confused as to whether a use of force warning had been given and may have mistaken the "40 stand by" command as a warning. The Board also opined that this issue could be addressed during the tactical debrief and that his use of less-lethal force was within policy.

Officer 1 recalled,

DETECTIVE GOLAN: Do you know if any use of force warning was given?
Officer 1 *I'm not sure.*[34]

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[32] Officer 1's transcript, Page 28, Lines 21-24.
[33] Per the FID report, Sergeant directed Officer 1 to fire the 40mm LLL (second round). Based on Sergeant's BWV footage and statement to FID, the Board determined that he did not direct Officer 1's second discharge.
[34] Officer 1's transcript, Pages 20-21, Lines 25-2.

I did not give the 40 stand by, because Sergeant *gave it for me.*[35]

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer 1 would reasonably believe that the use of less-lethal force was proportional and objectively reasonable.

Therefore, I find Officer 1's Use of Less-Lethal Force, all rounds, to be In Policy, No Further Action.

Lethal Use of Force

It is the policy of this Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- *To defend against an imminent threat of death or serious bodily injury to the officer or to another person; or,*
- *To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.*

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. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent reasonable under the circumstances.

Note: *Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.*[36]

The Department's Evaluation of Deadly Force

The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in Graham v. Connor.

Officer Zavala –Glock Model 17, 9mm, three rounds in a southeasterly direction from approximately 25 feet.

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[35] Officer 1's transcript, Page 8, Lines 24-25.
[36] Office of the Chief of Police (OCOP), Special Order No. 23, "Policy on the Use of Force – Revised," and LAPD Manual, Volume 1, Section 556.10.

Background – According to Officer Zavala, at the time of the OIS, his background consisted of the front steps of Incident Location. According to Officer Zavala, while there were pedestrians in the area, there was "nobody" in the background when he discharged his service pistol.

According to Officer Zavala's BWV, at 1710:17 hours, Victim was sitting on the bottom step with the knife positioned down between his legs as his head is lowered down toward the ground. Suddenly, Victim used his left hand to knock his hat off his head and stood up holding the knife up in front of himself, above his shoulder at head level.[37] According to Officer Meraz' BWV, at 1710:19 hours, Victim took four steps forward in a northerly direction toward Officer 1, and then he turned to his left in a westerly direction.[38] In fear for his partner's life, his life, and nearby pedestrians, Officer Zavala discharged three rounds at Victim to stop the threat of serious bodily injury or death.

Officer Zavala recalled,

> *The suspect gets up very rapidly with the -- with the large butcher knife in his right hand. He takes a deep breath, like getting courage, looks at me, looks at my fellow officers. At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified. The suspect then starts advancing towards the officers and turns his body towards myself and my partner. And in fear -- I was afraid, sir. I thought this guy was going to come at me with this butcher knife. He already cut his hand. He cut his throat -- he attempted to cut his throat. He chased pedestrians and civilians around the neighborhood with this large butcher knife. And to protect myself and my partner's life and the citizens nearby from serious bodily injury, imminent threat, I fired approximately two, three rounds to stop the threat, sir.*[39]
>
> *So the second time he rapidly got up, sir, holding the knife in front of him. He took approximately five, six steps towards the office -- towards the officers and myself, sir, turning his torso towards me in a threatening manner and that's when we fired to stop the threat, sir.*[40]
>
> *Oh, sir, I was afraid that the suspect was going to stab me, sir. I was afraid of my life. I was afraid of my partner's life and the other officers that were to the left of me. Not only that, sir, I was afraid of the pedestrians that were nearby.*[41]

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[37] See Page 15 of the FID report.
[38] See Page 16 of the FID report.
[39] Officer Zavala's transcript, Pages 12-13, Lines 8-1.
[40] Officer Zavala's transcript, Page 26, Lines 19-24.
[41] Officer Zavala's transcript, Page 27, Lines 2-7.

His demeanor, his cutting his hand, attempting to cut his throat, standing up, took a deep breath, tensed up, and boom, took these five, six steps towards us. I was afraid of my life, sir.[42]

So when I fired two, three shots, that's when I assess. He was already on the ground.[43]

Sir, I believe it was necessary to stop this deadly threat, so that's why I fired approximately two to three rounds, sir.[44]

Officer Quintanilla – Smith & Wesson Model M&P, 9mm, one round in a southeasterly direction from approximately 28 feet.

Background – According to Officer Quintanilla, at the time of the OIS, his background consisted of the front steps of Incident Location According to Officer Quintanilla, the apartment was elevated from street level, and Margarito was standing on the sidewalk. Officer Quintanilla indicated there was no one directly in his background when he discharged his service pistol.

According to Officer Quintanilla's BWV, Victim stood up and walked in a northerly direction. Members of Victim s family are heard in the background repeatedly yelling "Don't do it!" Officer Quintanilla yelled the commands "Don't walk over here!" as Victim held the knife up above his shoulder at head level. Victim turned to his left, facing Officer Quintanilla when the sound of the 40mm LLL is heard being fired, followed by the sound of Officer Zavala firing three rounds.[45] Officer Quintanilla stated that once Victim reached the sidewalk and turned toward him and his partner, it was necessary to use deadly force. Officer Quintanilla was scared Victim would use the knife against himself, his partners, or a civilian in the area. Officer Quintanilla stated that once Victim turned toward him and made an "advance motion," he discharged his firearm at Victim[46]

Officer Quintanilla recalled,

So when he came down, we kept giving him commands and once he hit the sidewalk, I mean, I was scared and he ended up walking towards us -- towards the officers and myself and that's when I -- I had to use deadly force. It was necessary for me to use it, because I felt that he was going to -- at the time I felt that he was going to either cut me with the knife, cut my partner, or there was -- there was a civilian right there just right next to him, maybe like a few feet away from him on the sidewalk. And I felt that if he would have got to the citizen, he

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[42] Officer Zavala's transcript, Page 27, Lines 10-13.
[43] Officer Zavala's transcript, Pages 28-29, Lines 24-1.
[44] Officer Zavala's transcript, Page 27, Lines 16-18.
[45] See Page 19 of the FID report.
[46] During his FID interview, Officer Quintanilla told investigators that he fired two shots. Investigators' review of BWV and the post OIS magazine count determined that Officer Quintanilla fired a single shot.

probably -- probably would have hurt him too. So I felt that at the time that I had to do it. You know, it was necessary for me to use deadly force on him. [47]

At the time, you know, again, I was just scared the whole time. You know, I really felt that he was going to -- he was going to hurt me.[48]

Once he comes down the sidewalk, he faces towards my partner and I direction and he advances at us. He makes an advance motion at us and I deploy my firearm.[49]

I deployed it because I had -- you know, it was -- I had to use -- I had to stop him. I had to stop the threat. He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death. And also there was still civilians just to the right of me, just a few feet away from me. So he could have caused serious bodily injury or death to them if I didn't do that. I had to do it.[50]

We used a 40, which is very effective in most cases, and that didn't work. And it was just necessary for me to do it. I had to do it. If not, one of us probably would have been killed today.[51]

Real time the suspect was facing us and advancing forward with the butcher knife on his hand, and that's when I engaged him to just stop him from -- from killing myself or my partners or people around there.[52]

DETECTIVE BROWN: Okay. And when you fired, can you give us a little more detail on sequence of your fire? Did you -- how many times did you fire? Was there a pause or an assessment?
POLICE OFFICER QUINTANILLA: At the time I thought I fired two rounds.
DETECTIVE BROWN: Okay.
POLICE OFFICER QUINTANILLA: And when he went down, I stopped shooting. I stopped. You know, the threat was down, so I stopped and I assessed and that's when -- that's when Sergeant *came and we went and did the arrest circle -- the arrest approach. when he went down, I stopped shooting. I stopped.*[53]

The UOFRB assessed Officers Zavala's and Quintanilla's use of lethal force. As it pertains to Officer Zavala, the Board was critical of the perceived threat posed by Victim According to Officer Zavala, Victim had advanced toward the officers and then turned toward him and his partner. Based on Victim s actions, Officer Zavalla believed he was going to approach him (Officer Zavala) with the knife. Officer Zavalla feared for his life, his partner's life, and the lives

[47] Officer Quintanilla's transcript, Page 13, Lines 11-25.
[48] Officer Quintanilla's transcript, Page 15, Lines 5-8.
[49] Officer Quintanilla's transcript, Page 29, Lines 22-25.
[50] Officer Quintanilla's transcript, Page 30, Lines 2-10.
[51] Officer Quintanilla's transcript, Page 32, Lines 19-23.
[52] Officer Quintanilla's transcript, Page 47, Lines 13-17.
[53] Officer Quintanilla's transcript, Page 31, Lines 6-17.

of the citizens nearby. While the Board considered Officer Zavala's perception, they noted that the investigation did not support his belief of the imminent deadly threat posed by Victim. Although Officer Zavala may have feared for his life, his partner's life, and the lives of the citizens, the Board opined that his fear was predicated on the likelihood of future harm, not an imminent deadly threat. Based on the BWV footage, the Board opined that Victim did not have the apparent intent to harm Officer Zavala when the OIS occurred. The Board also opined that he did not have the apparent intent or the opportunity to harm the citizens as officers were controlling pedestrian traffic. Based on the totality of the circumstances, the Board opined that Officer Zavala's use of lethal force, all three rounds, was not objectively reasonable, proportional, or necessary.

Regarding Officer Quintanilla, the Board was again critical of the perceived threat posed by Victim and opined that the investigation did not support his assertion of an imminent deadly threat. Although Officer Quintanilla may have feared for his life, his partner's life, and the lives of the citizens, they believed his fear was also predicated on the likelihood of future harm, not an imminent deadly threat. Based on the BWV footage, the Board opined that Victim did not have the apparent intent to harm Officer Quintanilla when the OIS occurred. While the Board considered Officer Quintanilla's statements regarding the imminent threat Victim posed to his family and pedestrians, the Board opined that he did not have the apparent intent or the opportunity to harm them as officers were controlling pedestrian traffic and Victim 's family was east of his location. Based on the totality of the circumstances, the Board opined that Officer Quintanilla's use of lethal force was not objectively reasonable, proportional, or necessary.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Zavala and Quintanilla would not reasonably believe that the use of lethal force was proportional, objectively reasonable, or necessary.

Therefore, I find Officer Zavala and Quintanilla's Use of Lethal Force, all rounds, to be Out of Policy, Administrative Disapproval.

Medical Treatment/Rendering Aid – At approximately 1711:15 hours, the arrest team approached Victim and took him into custody. At approximately 1711:33 hours, officers handcuffed Victim , placed him on his right side, and checked him for injuries; Sergeant broadcast a Code Four and requested the response of the RA unit. At approximately 1712:15 hours, Officer Quintanilla directed Officer 2 to retrieve his medical kit from the trunk of his vehicle. As Officer 2 attempted to locate the medical kit in the trunk, FF/PM C. Shubsda and M. Farris, arrived at the scene. Officer Quintanilla advised paramedics that Victim had gunshot wounds, directing their attention to his chest. Victim was treated at the scene and transported to LAC+USCMC where he was treated by Doctor B. Knipp for gunshot wounds to the neck, chest, and torso. At 1809 hours, Victim succumbed to his injuries and was pronounced deceased.

Requirement to Intercede

Based on my review of this incident, I determined that the incident unfolded quickly and in a manner that did not afford an officer time to intercede.

Additional/Equipment[54]

Communications Division Protocols – According to the FID investigation, RP 1 advised Radio Telephone Operator (RTO) L. Gates, Serial No. N2995, CD, that Victim "tried to hit someone and was going to attack a person with the knife." Witness 1 had also called CD and reported that Victim was looking and walking toward him while holding a knife. Witness 1 stated that Victim looked angry and he was swinging the knife in the air, which caused him to be scared. In response, CD broadcast an update that Victim was "chasing people" with the knife. The Office of Support Services and CD determined there was no deviation from policy or procedure and I concur.

Body Worn Video				
Sworn Employee	Issue	Inspection Date Range	Inspection Results	Disposition
Officer Zavala	Late Activation	11/19/22 – 12/18/22	8 of 8, 100%	Notice to Correct
Officer Quintanilla	Late Activation	11/19/22 – 12/18/22	7 of 8, 88%	Notice to Correct
Officer 3	Late Activation	8/14/22 - 9/13/22	7 of 8, 88%	Notice to Correct

Digital In-Car Video System		
Sworn Employee	Issue	Disposition
Officer Zavala	Late Activation	Notice to Correct
Officer Quintanilla	Late Activation	Notice to Correct

Required Equipment

Officers O-3 Quintanilla, Zavala, O-1 O-2 and Sergeant did not have a baton on their persons during the incident. Officers O-3 Zavala, and Quintanilla did not have their Hobble Restraint Devices on their persons. Officer 3 was not equipped with a TASER. As these issues were addressed through Formal Training with Office of Operations (OO) and Operations Central Bureau (OCB) concurrence, I deem no further action necessary.

Loading Standards – Officer Zavala was carrying a Glock manufactured 17-round magazine with an attached base plate that increased the magazine capacity to 19 rounds. As this issue was

[54] In determining the disposition for the deviation from Department policy, a review of the severity of the discrepancy in concert with prior discrepancies was taken into consideration.

addressed through a Notice to Correct Deficiencies with OO and OCB concurrence, I deem no further action necessary.

Crime Scene Preservation – After the OIS, Officer Quintanilla picked up Victim's hat from the stairs and the expended sponge from the sidewalk. Sergeant directed Officer Quintanilla to leave the items where they were. As this issue was addressed through Formal Training with OO and OCB concurrence, I deem no further action necessary.

Audio/Video Recordings

Digital In-Car Video System (DICVS) – There were three DICVS videos related to this incident. The DICVS videos captured the officers' response to the scene and post OIS activity. The DICVS of Officers Zavala and Quintanilla's vehicle was not activated during the UOF and did not capture audio or videos of the OIS. Officer Quintanilla activated the DICVS after the OIS, which captured post OIS activity.

Body Worn Video (BWV) – There were 10 BWV recordings related to this incident. Each video was reviewed in its entirety by FID investigators.

- Sergeant's BWV captures his Code Three response, arrival at the scene, drawing and exhibiting, tactical planning, tactics, the OIS, and post OIS activity.
- Officer Zavala's BWV captured the officers' arrival, contact with Victim, drawing and exhibiting, tactics, the OIS, and post OIS activity.
- Officer Quintanilla's BWV captured the officers' arrival, contact with Victim drawing and exhibiting, the OIS and post OIS activity, and handcuffing.
- Officer 1's BWV captured the officers' Code Three response, his arrival at the scene, the contact with Victim, drawing and exhibiting, the OIS, and post OIS activity.
- Officer 2's BWV captured the officers' Code Three response, his arrival at the scene, the contact with Victim drawing and exhibiting, the OIS, and post OIS activity.
- Officer 4's BWV captured the officers' Code Three response, the arrival at the scene, the contact with Victim drawing and exhibiting, the OIS, and post OIS activity.
- Officer Meraz' BWV captured the officers' Code Three response, the arrival at the scene, the contact with Victim drawing and exhibiting, the OIS, and post OIS activity.
- Officer 3's BWV captured his response, his arrival, tactics, the OIS, and post OIS activity.

Social Media – Personnel assigned to FID's Cyber Unit monitored social media sites from the date of the incident until the submission of this investigation. No additional evidence, information, or witnesses were identified via social media.

Other Department Video – None.

Outside Video – Force Investigation Division investigators canvassed Incident Location for security cameras. Cameras were located that provided a view of the exterior of the entry door of the apartment building. The video captured Victim seated on the stairs, the officers' arrival, tactics, and the OIS. Force Investigation Division investigators also recovered

security camera video from Location 1. There were two exterior cameras, which provide a view of the intersection of Street 2 and Street 1, and an east-facing view toward Incident Location. The video captures images of Victim walking north on Street 1 and east on Street 2, the officers' arrival, and post OIS tactics.

Respectfully,

MICHEL R. MOORE
Chief of Police

LETTER OF TRANSMITTAL
CF NO. 22-003418
COMMANDING OFFICER'S ADJUDICATION

The completed complaint investigation was received on November 8, 2022.

ADJUDICATION

Complainant: Department Los Angeles, Ca.

The Complaint Investigation, CF No. 22-003418, resulted in two allegations of misconduct against two Department employees:

Police Officer II Jose Zavala — Newton Area
Serial No. 40197

Police Officer II Julio Quintanilla — Newton Area
Serial No. 42454

The allegations are listed below with recommendation for classification and supporting rationale.

ALLEGATION 1. The Department alleges on December 18, 2021, Officer Zavala, while on-duty, utilized Lethal Force, that reached a finding of, "Out of Policy, Administrative Disapproval."

ALLEGATION 2. The Department alleges on December 18, 2021, Officer Quintanilla, while on-duty, utilized Lethal Force, that reached a finding of, "Out of Policy, Administrative Disapproval."

CLASSIFICATION

It is recommended that Allegation 1 and 2 be classified as **SUSTAINED**.

RATIONALE

Officer Zavala and his partner Officer Quintanilla responded to a radio call of an, "Ambulance Attempt Suicide," the subject was armed with a knife. Officer Zavala and Officer Quintanilla along with other Newton personnel arrived at scene and contacted the subject who was sitting on the steps in front of the location, armed with a knife. Officers tactically deployed behind their vehicles and attempted to communicate with the subject. Officer 1 Serial No. 43071 was designated at as the less-lethal officer, equipped with the 40mm Less Lethal Launcher and Officer Zavala and Officer Quintanilla were assigned as the Designated Covering Officers by Sergeant Serial No. 36665, Newton Area Gang Enforcement Detail. Sergeant Sergeant was the Incident Commander (I/C) at scene.

After lines of communication had failed with the subject and based on the subject's actions, Officer one 40mm LL round was fired, striking the subject. Approximately .382 seconds later, Officer Zavala discharged the first of three rounds from his service pistol, approximately 25 feet away, striking the subject. Approximately .322 seconds after Officer Zavala discharged his third round, Officer Quintanilla discharged one round from his service pistol at the subject, from approximately 28 feet.

On October 5, 2022, the Chief of Police (COP) adopted the findings from the Use of Force Review Board (UOFRB), which included the use of lethal force being, "Out of Policy, Administrative Disapproval," for both Officer Zavala and Officer Quintanilla.

On November 1, 2022, the Honorable Board of Police Commissioners adjudicated the OIS, Force Investigation Division (FID) No. 064-21, and adopted the findings of the COP for both Officer Zavala and Officer Quintanilla. The use of Lethal Force was found to be Out of Policy, Administrative Disapproval.

Based on the evidence, statements, and findings related to this investigation, it is recommended that Allegation 1 and 2 be classified as **SUSTAINED**.

DIGITAL IN-CAR VIDEO (DICV) / BODY WORN VIDEO (BWV) / AND OTHER VIDEO AUDIO RECORDINGS

BWV and DICV were used to assist in the adjudication of this investigation.

ADMINISTRATIVE INSIGHT FOR OFFICER ZAVALA

Employee Development Plan

Captain Alex Baez, Serial No. 26623, Commanding Officer, Newton Area, conducted an employee interview with Officer Zavala. Officer Zavala is currently assigned to Newton Area Detectives and is on Administrative Restriction, non-field duties. As part of his development plan, he will continue to work Newton Area Detectives. This will help him develop valuable knowledge involving investigation skills that he will be able to use throughout his career. It is also recommended that he be placed on Risk Management Executive Committee (RMEC).

Penalty

Officer Zavala stated that he believed that it was necessary to fire three rounds at the subject to stop the threat, due to the subject advancing towards him with the knife. He stated that he was in fear for his life, his partner's life and the citizens in the area. The Board considered Officer Zavala's perception, however they believed that the findings did not support his belief of the imminent deadly threat posed by the subject.

After a complete review of Officer Zavala's work history and based on the findings of this investigation, it is recommended that Officer Zavala receive a penalty of **SUSPENSION-22 DAYS.**

Work History Analysis

Sergeant Joseph Scida, Serial No. 36457, Newton Complaint Unit, reviewed Officer Zavala's TEAMS II report. He has been with the Department since May 26, 2009 and has been assigned to Newton Area since January 21, 2018. He has no complaints with similar allegations. He has three sustained complaints.

CF No. 20-000084. Date of incident January 9, 2022. Citizen reported an officer used profanity during a UOF. Dept. alleged Officer Zavala failed to report misconduct- Sustained/Official reprimand.

CF No. 18-001911. Date of incident: October 19, 2017. Traffic collision. Sustained/Official Reprimand.

CF No. 15-001078. Date of incident: April 15, 2015. Unauthorized force and tactics became involved in UOF when suspect punched and bit him. Application of force deemed Out of Policy/15-day suspension.

He has been involved in (25) Non-Categorical Use of Force incidents. One incident was deemed Out of Policy and was addressed through CF 15-001078.

He has been involved in one prior Categorical Uses of Force, Case No. 2011139/FIDNo. 042-12, which had a finding of In-Policy.

He has been involved in (21) vehicle pursuits. Two were deemed Out of Policy.

- DR No. 18-1308647. Role: Driver
- DR No. 17-1923775. Role: Driver.

Officer Zavala has been involved in one preventable traffic collision

Work Permit Review

None.

Relief from Duty Considerations

None.

Actions Taken

Officer Zavala was removed from field duties and placed on Administrative Restrictions after the OIS. He is currently assigned to Newton Area Detectives.

ADMINISTRATIVE INSIGHT FOR OFFICER QUINTANILLA

Employee Development Plan

Captain Alex Baez, Serial No. 26623, Commanding Officer, Newton Area, conducted an employee interview with Officer Quintanilla. Officer Quintanilla is currently assigned to Newton Area Detectives and is on Administrative Restriction, non-field duties. As part of his development plan, he will continue to work Newton Area Detectives. This will help him develop valuable knowledge involving investigation skills that he will be able to use throughout his career.

Penalty

Officer Quintanilla stated that he believed that it was necessary to fire one round at the subject to stop the threat, due to the subject advancing towards him with the knife. He stated that he was afraid the subject would, cut him with the knife, cut his partner, or cut a civilian. The Board considered Officer Quintanilla's perception, however they believed that the findings did not support his belief of the imminent deadly threat posed by the subject.

After a complete review of Officer Quintanilla's work history and based on the findings of this investigation, it is recommended that Officer Zavala receive a penalty of **SUSPENSION-2 DAYS.**

Work History Analysis

Sergeant Joseph Scida, Serial No. 36457, Newton Area Complaint Unit, conducted a review of Officer Quintanilla's TEAMS II report. Officer Quintanilla has been with the Department since February 22, 2016 and has been assigned to Newton Area since October 1, 2017. Officer Quintanilla has one sustained complaint.

CF No. 21-002558. Date of Incident: July 6, 2021. Out of Policy Pursuit. Sustained-Admonishment.

He has been involved in (13) Non-Categorical Uses of Force. All of which were classified as, "In Policy."

He has been involved in seven vehicle pursuits. Six were classified as, "In Policy."

He has been involved in two preventable traffic collisions.

- DR No. 19-1311641 and DR NO. 17-0314261

Work Permit Review

None.

Relief from Duty Considerations

None.

Actions Taken

Officer Quintanilla was removed from field duties and placed on Administrative Restrictions after the OIS. He is currently assigned to Newton Area Detectives.

This letter of transmittal was written by:

JOSEPH SCIDA, Sergeant I
Newton Complaint Unit
Newton Area

Date: 11·15·22.

APPROVED BY:

ALEX BAEZ, Captain
Commanding Officer
Newton Area

Date: 11/15/22

LETTER OF TRANSMITTAL
CF NO. 22-003757
COMMANDING OFFICER'S ADJUDICATION

The completed complaint investigation was received on February 3, 2023.

ADJUDICATION

Public Complaint: Relevant Party 1 Los Angeles, Ca.

The Complaint Investigation, CF No. 22-003757, resulted in four allegations of misconduct against three named Department employees:

Police Officer II Jose Zavala Serial No. 40197	Newton Area
Police Officer II Julio Quintanilla Serial No. 42454	Newton Area
Sergeant Serial No.36665	Newton Area

The allegations are listed below with recommendations for classification and supporting rationale.

ALLEGATION 1. Complainants Relevant Party 1 Relevant Party 2, Relevant Party 3 **and** Relevant Party 4 **alleged on December 18, 2021, Officer Zavala, while on-duty, utilized excessive force when he discharged his firearm at** Victim

ALLEGATION 2. Complainants Relevant Party 1 Relevant Party 2 Relevant Party 3 **and** Relevant Party 4 **alleged on December 18, 2021, Officer Quintanilla, while on-duty, utilized excessive force when he discharged his firearm at** Victim

CLASSIFICATION

It is recommended that Allegations 1 and 2 be classified as **UNFOUNDED**.

RATIONALE

Officer Zavala and his partner, Officer Quintanilla responded to an, "Ambulance Attempt Suicide," radio call. Upon arrival, Officers Zavala, Quintanilla, and Sergeant formulated a tactical plan to take the decedent into custody peacefully. This included getting additional resources to secure the location, communication with the subject, and less-lethal options. During the incident, the decedent failed to comply with Sergeant 's commands to drop the knife. The decedent eventually stood up and according to Officer Zavala and Quintanilla, they believed that the decedent started to advance towards them, and in fear fired their service weapon.

The OIS was investigated and the application of lethal force by Officer Zavala and Quintanilla were found to be, "Out of Policy/Administrative Disapproval." Although the findings found the

application of force to be objectively unreasonable, there was no evidence discovered during the investigation to support the Complainants allegations of excessive force.

Based on the preponderance of evidence, it is recommended that Allegations 1 and 2 be classified as **UNFOUNDED**.

ALLEGATION 3. Complainants Relevant Party 1 Relevant Party 2 Relevant Party 3 and Relevant Party 4 alleged on December 18, 2021, Sergeant while on-duty, failed to provide mental health care for Victim

ALLEGATION 4. Complainants Relevant Party 1 Relevant Party 2 Relevant Party 3 and Relevant Party 4 alleged on December 18, 2021, Sergeant while on-duty, failed to use tactics to deescalate a Categorical Use of Force, Officer Involved Shooting.

CLASSIFICATION

It is recommended that Allegations 3 and 4 be classified as **UNFOUNDED**.

RATIONALE

Sergeant was the only supervisor at scene and was the Incident Commander. During the incident, Sergeant attempted to establish communication with the decedent. Based on the comments of the call, Sergeant believed that the situation was fluid and he wanted to prevent the decedent from chasing anyone while armed with a knife. Due to no other supervisor present at scene, Sergeant believed that preventing the decedent from possibly hurting anyone took a priority over contacting the Mental Evaluation Unit (MEU) and directed the less-lethal officer to deploy the 40mm LLL. Sergeant took initiative and attempted to use communication and less-lethal as a means of de-escalation.

Based on the preponderance of evidence, it is recommended that Allegations 3 and 4 be classified as **UNFOUNDED**.

DIGITAL IN-CAR VIDEO (DICV) / BODY WORN VIDEO (BWV) / AND OTHER VIDEO AUDIO RECORDINGS

BWV and DICV were used to assist in the adjudication of this investigation.

ADMINISTRATIVE INSIGHT FOR OFFICER ZAVALA

Employee Development Plan

None

Penalty

None

Work History Analysis

Sergeant I Joseph Scida, Serial No. 36457, Newton Complaint Unit, reviewed Officer Zavala's TEAMS II report. There are no risk management concerns.

Work Permit Review

None.

Relief from Duty Considerations

None.

Actions Taken

None.

ADMINISTRATIVE INSIGHT FOR OFFICER QUINTANILLA

Employee Development Plan

None.

Penalty

None.

Work History Analysis

Sergeant I Joseph Scida, Serial No. 36457, Newton Complaint Unit, reviewed Officer Quintanilla's TEAMS II report. There are no risk management concerns.

Work Permit Review

None.

Relief from Duty Considerations

None.

Actions Taken

None.

ADMINISTRATIVE INSIGHT FOR Sergeant

Employee Development Plan

None.

Penalty

None.

Work History Analysis

Sergeant I Joseph Scida, Serial No. 36457, Newton Complaint Unit, reviewed Sergeant s TEAMS II report. There are no risk management concerns.

Work Permit Review

None.

Relief from Duty Considerations

None.

Actions Taken

None.

This letter of transmittal was submitted by:

JOSEPH SCIDA, Sergeant I
Newton Complaint Unit
Newton Area

Date: 3.15.23

APPROVED BY:

JEFFREY BRATCHER, Captain III
Commanding Officer
Newton Area

Date: 3/16/23

PETTY F. SANTOS
INTERIM CITY CLERK

VACANT
EXECUTIVE OFFICER

City of Los Angeles

CALIFORNIA

KAREN BASS
MAYOR

OFFICE OF THE
CITY CLERK

Council and Public Services Division
200 N. SPRING STREET, ROOM 395
LOS ANGELES, CA 90012
GENERAL INFORMATION - (213) 978-1133
FAX: (213) 978-1040

PATRICE Y. LATTIMORE
DIVISION MANAGER
CLERK.LACITY.GOV

OFFICIAL ACTION OF THE LOS ANGELES CITY COUNCIL

Council File No.: 24-1508

Council Meeting Date: March 18, 2025

Agenda Item No.: 34

Agenda Description: The City Council shall recess to Closed Session, pursuant to Government Code Section No. 54956.9(d)(1), to confer with its legal counsel relative to the case entitled Victim [redacted], et al. v. City of Los Angeles, et al., United States District Court Case No. 2:22-cv-07534-FLA-MAAx.

Council Action: MOTION (YAROSLAVSKY – BLUMENFIELD) - ADOPTED IN OPEN SESSION

Council Vote:

ABSENT	Blumenfield	YES	Harris-Dawson	YES	Hernandez
YES	Hutt	YES	Jurado	ABSENT	Lee
YES	McOsker	YES	Nazarian	YES	Padilla
YES	Park	YES	Price Jr.	YES	Raman
ABSENT	Rodriguez	YES	Soto-Martínez	YES	Yaroslavsky

PETTY F. SANTOS
INTERIM CITY CLERK

Pursuant to Charter/Los Angeles Administrative Code Section(s): 341

FILE SENT TO MAYOR	03-19-2025
LAST DAY FOR MAYOR TO ACT	04-01-2025

3/29/2025

DATE SIGNED

Adopted Report(s)Title
Motion (Yaroslavsky - Blumenfield) dated 3-4-25

AGENDA

LOS ANGELES CITY COUNCIL

Tuesday, March 18, 2025

10:00 AM
JOHN FERRARO COUNCIL CHAMBER
ROOM 340, CITY HALL
200 NORTH SPRING STREET, LOS ANGELES, CA 90012

Submit written comment at
LACouncilComment.com

President
MARQUEECE HARRIS-DAWSON, Eighth District

President Pro Tempore
BOB BLUMENFIELD, Third District

Assistant President Pro Tempore
NITHYA RAMAN, Fourth District

EUNISSES HERNANDEZ, First District
ADRIN NAZARIAN, Second District
KATY YAROSLAVSKY, Fifth District
IMELDA PADILLA, Sixth District
MONICA RODRIGUEZ, Seventh District
CURREN D. PRICE, JR., Ninth District
HEATHER HUTT, Tenth District
TRACI PARK, Eleventh District
JOHN S. LEE, Twelfth District
HUGO SOTO-MARTÍNEZ, Thirteenth District
YSABEL JURADO, Fourteenth District
TIM McOSKER, Fifteenth District

PUBLIC COMMENT AND LIVE BROADCAST

The Council meetings will be broadcast live on Cable Television Channel 35, on the internet at https://clerk.lacity.gov/calendar, and on YouTube. The live audio of the hearing will be available via telephone at: (213) 621-CITY (Metro), (818) 904-9450 (Valley), (310) 471-CITY (Westside), and (310) 547-CITY (San Pedro Area). If the live video or audio is unavailable via one of these channels, members of the public should try another channel.

Written public comment may be submitted at LACouncilComment.com.

Requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act can be made by contacting the City Clerk's Office at (213) 978-1133. For Telecommunication Relay Services for the hearing impaired, please see the information below.

Telecommunication Relay Services

Telephone communication is one of the most important forms of communication in society today. Due to advancements in technology, telephone devices have evolved with new services and capabilities. Individuals who are deaf and hard of hearing, and individuals with a speech disability are following these trends and are rapidly migrating to more advanced telecommunications methods, both for peer-to-peer and third-party telecommunications relay service (TRS) communications. Telecommunications Relay Service is a telephone service that allows persons with hearing or speech disabilities to place and receive telephone calls. TRS is available in all 50 states, the District of Columbia, Puerto Rico and the U.S. territories for local and/or long distance calls. TRS providers - generally telephone companies - are compensated for the costs of providing TRS from either a state or a federal fund. There is no cost to the TRS user.

What forms of TRS are available? There are several forms of TRS, depending on the particular needs of the user and the equipment available: TRS includes: Text to Voice TIY-Based TRS; Speech-to-Speech Relay Service; Shared Non-English Language Relay Service; Captioned Telephone Relay Service; Internet Protocol Relay Service; and Video Relay Service. Please visit this site for detail descriptions, https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.

Don't hang up! Some people hang up on TRS calls because they think the CA is a telemarketer. If you hear, "Hello. This is the relay service .. . " when you pick up the phone, please don't hang up! You are about to talk, through a TRS provider, to a person who is deaf, hard-of-hearing, or has a speech disability.

For more information about FCC programs to promote access to telecommunications services for people with disabilities, visit the FCC's Disability Rights Office website.

SE OFRECE UN SERVICIO DE TRADUCCION AL ESPANOL EN TODAS LAS REUNIONES DEL CONSEJO MUNICIPAL

Spanish language interpretation is available at all Council and Committee meetings. Interpretation services in additional languages are available upon request, at no cost. Please submit your request to clerk.interpretation@lacity.org as soon as possible to allow time for scheduling. You will receive a confirmation reply if an interpreter is available.

BASIC CITY COUNCIL MEETING RULES

AGENDAS - The City Council meets Tuesday, Wednesday and Friday at 10:00 A.M. The agendas for City Council meetings contain a brief general description of those items to be considered at the meetings. Council Agendas are available in the Office of the City Clerk, Council and Public Services Division, Room 395, City Hall, 200 North Spring Street, Los Angeles, CA 90012, and on the City's website at lacity.gov or lacouncilcalendar.com.

Ten (10) members of the Council constitute a quorum for the transaction of business. The Council may consider an item not listed on the agenda only if it is determined by a two-thirds (10) vote that the need for action arose after the posting of an Agenda. Some items on the agenda may be approved without any discussion, however, any item may be called "special" by a Councilmember. If an item is called "special" it will be "held" until the remainder of the items on the Council agenda have been acted on by the Council. An item may also be called "special" if a member of the public has requested to speak on the item and a public hearing was not previously held.

The City Clerk will announce the items to be considered by the Council, however items will be grouped. For example, all items for which required public hearings have not previously been held are listed in one section on the printed agenda. The Council President will ask if any Councilmember or member or the public wishes to speak on one or more of these items. If anyone wishes to speak on an item, it will be called "special". The remaining items in this section will be voted on by Council with one roll call vote.

PUBLIC INPUT AT CITY COUNCIL MEETINGS - An opportunity for the public to address the Council on agenda items for which public hearings have not been held will be provided at the time the item is considered or during the Multiple Agenda Item Comment period. Members of the public who wish to speak on items shall be allowed to speak for up to one minute per item up to a total of three minutes per meeting. The Council has determined that a cumulative total of 20 minutes is a reasonable minimum amount of time for the Multiple Agenda Item segment of each regular meeting.

The Council will also provide an opportunity for the public to speak on public interest items. Each speaker shall be limited to one minute of general public comment each regular meeting for a cumulative total of ten (10) minutes. The Council shall not discuss or take action relative to any general public comment.

If you wish to provide documents to the full Council for consideration on an item, please present the Sergeant-At-Arms with 35 copies. Otherwise, your materials will simply be added to the official record.

NOTICE TO PAID REPRESENTATIVES - If you are compensated to monitor, attend, or speak at this meeting, City law may require you to register as a lobbyist and report your activity. See Los Angeles Municipal Code 48.01 et seq. More information is available at ethics.lacity.org/lobbying. For assistance, please contact the Ethics Commission at (213) 978-1960 or ethics.commission@lacity.org.

COUNCIL DISCUSSION AND TIME LIMITS - Councilmembers requesting to address the Council will be recognized by the Council President in the order requested. For any item, the Chairperson of the Committee, or the maker of the original motion, or the member calling a matter "special" shall have up to six (6) minutes to discuss the item. All other Councilmembers may speak up to three (3) minutes each on the matter. After all members desiring to speak on a question have had an opportunity to be heard once, the time for each Member desiring to speak again shall be limited to a maximum of three (3) minutes.

A motion calling the "previous question" may be introduced by any member during a Council debate. If adopted, this motion will terminate debate on a matter and the Chair will instruct the Clerk to call the roll on the matter.

VOTING AND DISPOSITION OF ITEMS - Most items require a majority vote of the entire membership of the Council (8 members). Items which have not been discussed in a Council Committee and have been placed directly on the agenda will require 10 votes to consider. Once considered, these items will normally require eight (8) affirmative votes to be adopted. Ordinances require a unanimous vote (at least 12 members must be present) in order to be adopted on first consideration. If an ordinance does not receive the necessary unanimous vote, it is laid over one calendar week. The votes required for approval on second consideration vary and depend upon the type of ordinance, but a typical ordinance requires eight (8) affirmative votes upon second consideration.

When debate on an item is completed, the Chair will instruct the Clerk to "call the roll". Every member present must vote for or against each item; abstentions are not permitted. The Clerk will announce the votes on each item. Any member of Council may move to "reconsider" any vote on any item on the agenda, except to adjourn, suspend the Rules, or where an intervening event has deprived the Council of jurisdiction, providing that said member originally voted on the prevailing side of the item. The motion to "reconsider" shall only be in order once during the meeting, and once during the next regular meeting. The member requesting reconsideration shall identify for all members present the agenda number, Council file number and subject matter previously voted upon. A motion to reconsider is not debatable and shall require an affirmative vote of eight (8) members of the Council.

When the Council has failed by sufficient votes to approve or reject an item, and has not lost jurisdiction over the matter, or has not caused it to be continued beyond the next regular meeting, the item is continued to the next regular meeting for the purpose of allowing the Council to again vote on the matter.

The City Council rules provide that all items adopted by the Council will not be presented to the Mayor, or other designated officer by the City Clerk until the adjournment of the regular Council meeting following the date of the Council action. A motion to send an item "forthwith" if adopted by ten (10) votes, suspends these rules and requires the City Clerk to forward the matter to the Mayor, or other officer, without delay.

RULE 16 MOTIONS - Council Rule No. 16, in part, allows a member to send an item directly to the Council without it having to go to a Council Committee first, by giving the City Clerk a motion (seconded by an additional member) during a Council session to be placed on the next regular available Council agenda.

(BOARD) relative to a non-monetary donation valued at $45,000 to help fund the Los Angeles Women Police Officers and Associates (LAWPOA) 29th Annual Symposium 2025.

Recommendation for Council action:

ACCEPT a non-monetary donation valued at $45,000, from the Los Angeles Police Foundation, to help fund the LAWPOA 29th Annual Symposium 2025; and THANK the donor for this generous donation.

Fiscal Impact Statement: None submitted by the Board. Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted

(Public Safety Committee waived consideration of the above matter)

Items Called Special

Motions for Posting and Referral

Council Members' Requests for Excuse from Attendance at Council Meetings

Closed Session

(32) **24-1393**

The City Council shall recess to Closed Session, pursuant to Government Code Section No. 54956.9(d)(1), to confer with its legal counsel relative to the case entitled Adam Hollands v. City of Los Angeles, et al., Los Angeles Superior Court Case No. BC684154. (This matter arises from alleged disability discrimination and failure to accommodate and engage in the interactive process that occurred between 2007 to 2017 within the Los Angeles Police Department, and retaliation for reporting the allegations to management.)

(Budget and Finance Committee considered this matter on March 4, 2025.)

(33) **24-0903**

The City Council shall recess to Closed Session, pursuant to Government Code Section No. 54956.9(d)(1), to confer with its legal counsel relative to the case entitled Stephanie Hernandez v. City of Los Angeles, et al., Los Angeles Superior Court Case No. 23STCV02640. (This matter arises from an incident involving a member of the Los Angeles Fire Department that occurred on May 22, 2021.)

(Budget and Finance Committee considered this matter in Closed Session on March 4, 2025.)

(34) **24-1508**

The City Council shall recess to Closed Session, pursuant to Government Code Section No. 54956.9(d)(1), to confer with its legal counsel relative to the case entitled Victim [redacted], et al. v. City of Los Angeles, et al., United States District Court Case No. 2:22-cv-07534-FLA-MAAx. (This matter arises from an officer-involved shooting which occurred on December 18, 2021, in the Los Angeles Police Department Newton Division of the City of Los Angeles.)

(Budget and Finance Committee considered this matter on March 4, 2025.)

(35) **25-0133**

The City Council shall recess to Closed Session, pursuant to Government Code Section No. 54956.9(d)(1), to confer with its legal counsel relative to the case entitled Andrea R. Naaktgeboren v. City of Los Angeles, et al., Los Angeles Superior Court Case No. 23STCV20386. (This matter arises from a vehicle versus vehicle collision that occurred on January 24, 2023, at the intersection of 1st Street and South Beaudry Avenue, in Los Angeles, California.)

(Budget and Finance Committee considered this matter on March 4, 2025.)

(36) **25-0131**

The City Council shall recess to Closed Session, pursuant to Government Code Section No. 54956.9(d)(1), to confer with its legal counsel relative to the case entitled Dartanyan Wallace v. City of Los Angeles, et al., Los Angeles Superior Court Case No. 23STCV10324. (This matter arises from a June 2, 2022, automobile accident near the intersection of Cassil Place

and Sunset Boulevard, in the City of Los Angeles.

(Budget and Finance Committee considered this matter on March 4, 2025.)

Adjourning Motions

Council Adjournment

EXHAUSTION OF ADMINISTRATIVE REMEDIES - If you challenge a City action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at or prior to, the public hearing. Any written correspondence delivered to the City Clerk before the City Council's final action on a matter will become a part of the administrative record.

CODE OF CIVIL PROCEDURE SECTION 1094.5 - If a Council action is subject to judicial challenge pursuant to Code of Civil Procedure Section 1094.5, be advised that the time to file a lawsuit challenging a final action by the City Council is limited by Code of Civil Procedure Section 1094.6 which provides that the lawsuit must be filed no later than the 90th day following the date on which the Council's action becomes final.

Materials relative to items on this agenda can be obtained from the Office of the City Clerk's Council File Management System, at lacouncilfile.com by entering the Council File number listed immediately following the item number (e.g., 00-0000).

ITEM NO. 34

3/18/25 Council – Regular Meeting Agenda
Closed Session

MOTION

I HEREBY MOVE that the Council ADOPT the following recommendations in order to effect settlement in the case entitled Victim [redacted], et al. v. City of Los Angeles, et al., United States District Court Case No. 2:22-cv-07534-FLA-MAAx. (This matter arises from an officer-involved shooting which occurred on December 18, 2021, in the Los Angeles Police Department Newton Division of the City of Los Angeles.), **SUBJECT TO THE APPROVAL OF THE MAYOR**:

1. AUTHORIZE the City Attorney's Office to expend up to **$8,000,000** in settlement of the above-entitled matter.

2. AUTHORIZE the Controller to transfer **$8,000,000** from the Liability Claims Fund No. 100/59, Account No. 009798, Miscellaneous Liability Payouts, to Fund No. 100/59, Account No. 009792, Police Liability Payouts.

3. AUTHORIZE the City Attorney to draw a demand from Fund No. 100/59, Account No. 009792, Police Liability Payouts, as follows: Law Offices of Dale K. Galipo, Client Trust Account in the amount of **$8,000,000.**

4. AUTHORIZE the City Attorney, or designee, to make necessary technical adjustments, subject to the approval of the City Administrative Officer; and, AUTHORIZE the Controller to implement the instructions.

This matter was recommended for approval by the Budget and Finance Committee (Yaroslavsky – Blumenfield – Hutt – Hernandez: "Yes; McOsker "Absent") at its meeting held on March 4, 2025, in Closed Session as permitted by Government Code Section 54956.9(d)(1).

PRESENTED BY_____
KATY YAROSLAVSKY
Councilmember, 5th District

SECONDED BY _____
BOB BLUMENFIELD
Councilmember, 3rd District

MM 3-4-25
CF 24-1508

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

[redacted], Plaintiff 1, Plaintiff 2, Plaintiff 3, Plaintiff 4, [redacted],

PLAINTIFFS,

v.

CITY OF LOS ANGELES, JOSE ZAVALA, JULIO QUINTANILLA, AND DOES 1 THROUGH 10, INCLUSIVE

DEFENDANTS.

CASE NO: 2:22-cv-7534

COMPLAINT FOR DAMAGES:

1. Fourth Amendment – Excessive Force (42 U.S.C. § 1983)
2. Fourth Amendment – Denial of Medical Care (42 U.S.C. § 1983)
3. Fourteenth Amendment--Substantive Due Process-Interference with Familial Relationships (42 U.S.C. § 1983)
4. Substantive Due Process Deliberate Indifference to Serious Medical Needs (42 U.S.C. § 1983)
5. Municipal Liability – Ratification (42 U.S.C. § 1983)
6. Municipal Liability – Failure to Train (42 U.S.C. § 1983)

7. Municipal Liability – Unconstitutional Custom, Practice, or Policy (42 U.S.C. § 1983)
8. Negligence (Wrongful Death)
9. Battery (Wrongful Death/Survival)
10. Negligent Infliction of Emotional Distress, Bystander
11. Violation of Bane Act (Cal. Civil Code § 52.1)

[DEMAND FOR JURY TRIAL]

COMPLAINT FOR DAMAGES

PLAINTIFFS [redacted], [redacted] **and** [redacted], [redacted], in each case individually and as to [redacted], as a successor-in-interest to the DECEDENT, [redacted] (collectively, "PLAINTIFFS"), for their Complaint against the **CITY OF LOS ANGELES, JOSE ZAVALA, JULIO QUINTANILLA,** and **DOES 1 THROUGH 10**, inclusive, (collectively, "DEFENDANTS") hereby allege as follows:

JURISDICTION AND VENUE

1. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3)-(4) because PLAINTIFFS assert claims arising under the laws of the United States including 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments of the United States Constitution.

2. This Court has supplemental jurisdiction over PLAINTIFFS' claims arising under state law pursuant to 28 U.S.C. § 1367(a), because those claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

3. Venue is proper in this Court under 28 U.S.C. § 1391(b) because DEFENDANTS reside in the Central District of California, and all incidents, events, and occurrences giving rise to this action occurred in the Central District.

INTRODUCTION

4. This civil rights and state tort action seeks compensatory damages from DEFENDANTS for violating various rights under the United States Constitution, the Federal Tort Claims Act, and state law in connection with the fatal deputy-involved shooting of PLAINTIFFS', son, and brother, [redacted], on December 18, 2021. PLAINTIFFS allege that [redacted]'s death was a result of the excessive use of deadly force of DEFENDANTS DOES 1-10; and was also a result of DEFENDANTS' failure to provide reasonable medical care to DECEDENT despite DECEDENT's serious mental health condition; and was a result of DEFENDANTS' deliberate indifference to DECEDENT'S serious mental health needs and medical emergency.

5. The policies and customs behind shootings of civilians such as [redacted], and failure to provide reasonable medical care, are fundamentally unconstitutional and have violated the civil rights of residents of the CITY, such as Plaintiffs and DECEDENT. Accordingly, PLAINTIFFS herein seek by means of this civil rights action to hold accountable those responsible for the death of [redacted], and to challenge the unconstitutional policies and practices of the CITY and all DEFEDANTS.

PARTIES

6. At all relevant times, [redacted] ("DECEDENT") was an individual residing in the CITY of LOS ANGELES, California.

7. At all relevant times, [redacted]. ("[redacted]"), was and is an individual residing in the CITY of LOS ANGELES, State of California. [redacted] is the father of DECEDENT. [redacted] sues both in his individual capacity for wrongful death damages as the father of DECEDENT and in a representative capacity as DECEDENT's successor-in-interest pursuant to California Code

of Civil Procedure § 377.60. Plaintiff 1 seeks wrongful death damages under federal and state law.

8. At all relevant times, Plaintiff 2 was and is an individual residing in the CITY of LOS ANGELES, State of California. Plaintiff 2 is the biological sister of DECEDENT.

9. At all relevant times, Plaintiff 3 was and is an individual residing in the CITY of LOS ANGELES, State of California. Plaintiff 3 is the biological brother of DECEDENT.

10. At all relevant times, Plaintiff 4, was and is an individual residing in the CITY of LOS ANGELES, State of California. Plaintiff 4 is the biological sister of DECEDENT.

11. The **CITY OF LOS ANGELES** ("CITY") is, a municipal corporation existing under the laws of the State of California. CITY is a chartered subdivision of the State of California with the capacity to be sued. CITY is responsible for the actions, omissions, policies, procedures, practices, and customs of its various agents and agencies, including the Los Angeles Police Department and its agents and employees.

12. Defendant City of Los Angeles Police **OFFICER JOSE ZAVALA,** is a residents of Los Angeles County, and at all times mentioned herein was acting under color of law, to wit, under the color of the statutes, ordinances, regulations, policies, and customs, of the Los Angeles Police Department, and under the color of the statutes, regulations, and laws of the state of California. Defendant Officer Jose Zavala was acting within his capacity as employee, agent, representative, and servant of the Defendant CITY.

13. Defendant City of Los Angeles Police **OFFICER JULIO QUINTANILLA,** is a residents of Los Angeles County, and at all times mentioned herein was acting under color of law, to wit, under the color of the statutes, ordinances, regulations, policies, and customs, of the Los Angeles Police Department, and under the color of the statutes,

regulations, and laws of the state of California. Defendant Officer Jose Zavala was acting within his capacity as employee, agent, representative, and servant of the Defendant CITY.

14. DEFENDANTS, **DOES 1-5 ("DOE OFFICERS")** are police officers employed by the LAPD. DOE OFFICERS were acting under color of law and within the course and scope of their employment as officers for the LAPD. DOE OFFICERS were acting with the complete authority and ratification of their principal, Defendant CITY.

15. Defendants DOES 6-8 are supervisory officers for the LAPD who were acting under color of law and within the course and scope of their employment as police officers for the LAPD. DOES 6-8 were acting with the complete authority and ratification of their principal, Defendant CITY.

16. Defendants DOES 9-10 are managerial, supervisorial, and policymaking employees of CITY, who were acting under color of law and within the course and scope of their duties as managerial, supervisorial, and policymaking employees of CITY. DOES 9-10 were acting with the complete authority and ratification of their principal, Defendant CITY.

17. On information and belief, Defendants DOES 1-10 were residents of the City of Los Angeles.

18. In doing the acts and failing and omitting to act as hereinafter described, Defendants DOE OFFICERS were acting on the implied and actual permission and consent of Defendants CITY and DOES 6-10.

19. In doing the acts and failing and omitting to act as hereinafter described, Defendants DOES 1-10 were acting on the implied and actual permission and consent of the CITY.

20. The true names and capacities, whether individual, corporate, association or otherwise of Defendants DOES 1-10, inclusive, are unknown to Plaintiffs, who as a result sues these Defendants by such fictitious names. Plaintiffs will seek leave to amend this complaint to allege the true names and capacities of these Defendants when they have been

ascertained. Each of the fictitiously-named Defendants is responsible in some manner for the conduct or liabilities alleged herein

21. The true names and capacities, whether individual, corporate, association or otherwise of DEFENDANTS DOES 1-10, inclusive, are unknown to PLAINTIFFS, who otherwise sues these DEFENDANTS by such fictitious names. PLAINTIFFS will seek leave to amend their complaint to show the true names and capacity of these DEFENDANTS when they have been ascertained. Each of the fictitiously named DEFENDANTS is responsible in some manner for the conduct or liabilities alleged herein.

22. At all times mentioned herein, each and every DEFENDANT was the agent of each and every other DEFENDANT. All of the acts complained of herein by PLAINTIFF against DEFENDANTS were done and performed by said DEFENDANTS by and through their authorized agents, servants, and/or employees, all of whom at all relevant times herein were acting within the course, purpose, and scope of said agency, service, and/or employment CITY. Moreover, DEFENDANTS and their agents ratified all of the acts complained of herein.

23. Defendants DOES 1-10 are sued in their individual capacities.

24. On or about April 7, 2022, PLAINTIFFS filed comprehensive and timely claims for damages with the CITY pursuant to applicable sections of the California Government Code.

25. On or about April 26, 2022, the CITY rejected PLAINTIFFS' claim for damages pursuant to Government Code § 913 and § 915.4. PLAINTIFFS have therefore exhausted all administrative remedies.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

26. PLAINTIFFS repeat and re-allege each and every allegation in paragraphs 1 through 25 of this Complaint with the same force and effect as if fully set forth herein.

27. This incident occurred on Tuesday, December 18, 2021, around 7:00 p.m. at the family home where DECEDENT resided, located at Home Address in Los Angeles, California.

28. In response to the 911 call, from PLAINTIFF Plaintiff 2 stating her brother was "going to commit suicide", DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 arrived at Home Address in Los Angeles, California at approximately 7:00 p.m. officers pointed a spotlight at DECEDENT from their patrol vehicle and yelled at him to drop the knife. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 parked their patrol vehicles facing the Home Address location and were a safe distance away from DECEDENT at the time they made contact with him and started shouting at him.

29. After about two minutes of officers shouting at DECEDENT and escalating the situation, DECEDENT stood up and then officers fired a less-than-lethal round at DECEDENT. DEFENDANTS JOSE ZAVALA and JULIO QUINTANILLA, as well as DOE OFFICERS continued shouting at DECEDENT with their weapons drawn at him while DECEDENT sat silently at the bottom step of the staircase on the porch. DECEDENT stood up again and started to turn around when he was simultaneously struck by less-lethal and then multiple rounds from Defendants ZAVALA and QUINTANILLA's firearms, as well as from DOE OFFICERS.

30. In spite of the fact that DECEDENT's sister had called 911 because DECEDENT was having a mental health crisis, DEFENDANTS ZAVALA, QUINTANILLA, and DOES 1-5 did not investigate whether DECEDENT was in fact having suicidal ideations, or whether DECEDENT was having a mental crisis. Worse, DEFENDANTS ZAVALA, QUINTANILLA, and DOES 1-5 did not notify the Crisis Response Support Section ("CRSS"), Mental Evaluation Unit ("MEU") or Systemwide Mental Assessment Response Team ("SMART"). DEFENDANTS ZAVALA, QUINTANILLA, and DOES 1-5 did not properly assess the situation regarding

DECEDENT's mental state; did not notify supervisors of the situation; did not employ tactics to de-escalate the situation; did not give DECEDENT sufficient time to comprehend the presence of Los Angeles Police Officers at the family home; did not develop a tactical plan regarding DECEDENT's suicidal ideation; did not speak to DECEDENT in a sensitive and non-threatening manner; and did not give DECEDENT the opportunity to cooperate with the instructions of Los Angeles Police Department Officers.

31. DECEDENT never threatened any of the DEFENDANTS ZAVALA, QUINTANILLA, and DOES 1-5; DECEDENT made no aggressive movements toward any of the DEFENDANTS ZAVALA, QUINTANILLA, and DOES 1-5; DECEDENT did not lunge toward any of the DEFENDANTS; DECEDENT did not move toward any of the DEFENDANTS; DECEDENT did not step forward toward any of the DEFENDANTS; DECEDENT did not attempt to harm any member of the community and was not at risk of harming anyone. DECEDENT did not make any furtive gestures that would suggest to the DEFENDANTS that DECEDENT was attempting, or intending to inflict harm on any of the DEFENDANTS, DOES 1-5 or any member of the community.

32. Despite the foregoing facts, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOE OFFICERS fired their guns at DECEDENT multiple times, and DECEDENT was struck with multiple bullets and was killed by DEFENDANTS. All DEFENDANTS participated in the use of deadly force against DECEDENT by either directly using force against DECEDENT, ordering another DEFENDANT to use force against DECEDENT, or by failing to intervene in the unjustified use of deadly force. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOES 1-5 failed to order any other DEFENDANT not to use deadly force against the DECEDENT, and failed to intervene to stop the use of force against DECEDENT.

33. MICHEL R. MOORE ("CHIEF MOORE") was and is a duly elected Chief of the LOS ANGELES POLICE DEPARTMENT and authorized to speak on behalf of Defendant CITY. CHIEF MOORE admitted that the mental health team should have been

sent to the scene where DECEDENT was shot and killed by Defendants. Specifically he stated, "[Those resources] should have been dispatched because [DECEDENT] had an edged weapon and those protocols should have dispatched such a resource."

34. As a result of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 negligence and excessive use of deadly force, DECEDENT died. The use of force against DECEDENT was excessive and objectively unreasonable under the circumstances, particularly because DEFENDANTS were aware that DECEDENT was suffering from a mental illness, was going through a potential mental health crisis, and because DECEDENT had not harmed anyone and did not pose a threat to any person. DEFENDANTS were aware that he had not committed a crime, and that he was in need of medical assistance, and did not pose an immediate threat of death or serious bodily injury to anyone at any time immediately prior to or during the use of force. Further, DEFENDANTS determined that DECEDENT did not pose an immediate threat of death or serious bodily injury to anyone at any time immediately prior to the use of deadly force.

35. PLAINTIFF Plaintiff 1 is DECEDENT's successor-in-interest as defined in Section 377.11 of the California Code of Civil Procedure and succeeds to DECEDENT's interest in this action.

FIRST CLAIM FOR RELIEF

Fourth Amendment – Excessive Force (42 U.S.C. § 1983)

By PLAINTIFF Plaintiff 1 Against Defendants JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5

36. PLAINTIFF repeats and re-alleges each and every allegation contained in paragraphs 1 through 35 of this complaint with the same force and effect as if fully set forth herein.

37. The Fourth Amendment to the United States Constitution, and applied to state actors by the Fourteenth Amendment, provides citizens the right to be secure in their person against unreasonable searches and seizures, including the use of excessive deadly force.

38. The excessive and unreasonable use of deadly force against DECEDENT deprived him of his right to be secure against unreasonable searches and seizures as guaranteed by the Fourth Amendment to the United States Constitution and made applicable to state actors by the Fourteenth Amendment. Because of the unlawful excessive and unreasonable force purposefully utilized against DECEDENT, he suffered serious injuries resulting in death.

39. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOES 1-5 did not investigate whether DECEDENT was in fact having suicidal ideations, or whether DECEDENT was having a mental crises. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOES 1-5 did not notify the Crisis Response Support Section ("CRSS"), Mental Evaluation Unit ("MEU") or the Systemwide Mental Assessment Response Team ("SMART"). DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOES 1-5 did not properly assess the situation regarding DECEDENT's mental state; did not notify supervisors of the situation; did not employ tactics to de-escalate the situation; did not give DECEDENT sufficient time to comprehend the presence of Los Angeles Police Officers at the family home; did not develop a tactical plan regarding DECEDENT's suicidal ideation; did not speak to DECEDENT in a sensitive and non-threatening manner; and did not give DECEDENT the opportunity to cooperate with the instructions of Los Angeles Police Officers.

40. DECEDENT never threatened any of the DEFENDANTS; DECEDENT made no aggressive movements toward any of the DEFENDANTS nor did he threaten the safety and well-being of any member of the community; DECEDENT never lunged toward any of the DEFENDANTS nor did he move toward any of the DEFENDANTS. DECEDENT did not make any furtive gestures that would suggest to the DEFENDANTS that DECEDENT was attempting, or intending to inflict harm on any of the DEFENDANTS or any other person.

41. DEFENDANTS ZAVALA, QUINTANILLA AND DOE DEFENDANTS 1-5 did not employ tactics to de-escalate the scenario, failed to give DECEDENT time and space to understand the officers' presence, failed to give DECEDENT time and space to accept their presence, failed to approach and speak to DECEDENT in a non-threatening manner, and failed to give DECEDENT the opportunity to consent to and cooperate with Los Angeles Police Department Officers instructions.

42. DECEDENT lived at the family home and was not an immediate threat to anyone at the time the DEFENDANTS shot and killed DECEDENT. As can be seen on the video released by the LAPD, at no time prior to DEFENDANTS ZAVALA, QUINTANILLA and DOES 1-5 discharging their weapons, no Police Officer was facing an imminent threat of serious physical injury; or that no Police Officer was incapable of neutralizing and/or effectuating the seizure of DECEDENT using any of a variety of readily available less-than-lethal means or strategies. The force used by DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DEFENDANTS DOES 1-5 was unnecessary, excessive, and unreasonable under the totality of the circumstances.

43. The conduct of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DEFENDANTS DOES 1-5, was willful, wanton, malicious, and done with a deliberate indifference for the rights and safety of DECEDENT and therefore warrants the award of exemplary and punitive damages against DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DEFENDANTS DOES 1-5. All the DEFENDANTS, under 42 U.S.C. § 1983, are liable to the Plaintiff for compensatory, including general and special, damages.

44. As a result of their excessive use of deadly force which caused constitutional injuries to Plaintiff, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOE DEFENDANTS 1-5 are liable for DECEDENT's injuries, either because they were integral participants in the wrongful use of excessive deadly force, or because they failed to intervene to prevent these constitutional violations.

45. Plaintiff bring this claim as successor-in-interest to the DECEDENT and seeks wrongful death damages for the violation of Plaintiff's and DECEDENT's rights. Plaintiff also seeks attorneys' fees pursuant to 42 U.S.C. § 1988(b).

SECOND CLAIM FOR RELIEF

Fourth Amendment – Denial of Medical Care (42 U.S.C. § 1983)

Plaintiff Plaintiff 1 **Against the DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOE DEFENDANTS 1-5**

46. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 45 of this complaint with the same force and effect as if fully set forth herein.

47. The Fourth Amendment to the United States Constitution, as applied to state actors by the Fourteenth Amendment, provides the right of all persons to reasonable medical care during the course of a seizure and/or when in the custody of Los Angeles Police Department Officers. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, failed to provide reasonable medical care to DECEDENT despite DECEDENT'S serious mental health condition; and DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 manifested deliberate indifference to DECEDENT'S serious mental health condition of suicidal ideations and mental illness.

48. DEFENDANTS ZAVALA, QUINTANILLA, and DOES 1-5 did not provide reasonable medical care for DECEDENT even after DEFENDANTS were informed by Plaintiff Plaintiff 2 that DECEDENT was having suicidal ideations, and that DECEDENT was having a mental crisis.

49. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DEFENDANTS 1-5 used excessive deadly force against DECEDENT thereby causing his death.

50. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOE DEFENDANTS 1-5 knew that DECEDENT was suffering from suicidal ideation, and

DEFENDANTS increased the danger by failing to provide mental health professionals for DECEDENT despite the fact that Plaintiff 2 had informed dispatch, who then informed DEFENDANTS ZAVALA, QUINTANILLA and DOES 1-5 about DECEDENT's suicidal ideation and failed to respond to the requests for assistance for DECEDENT, who was having a severe mental crises, and was mentally ill. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 knew that failure to provide timely medical treatment for DECEDENT could result in further significant injury or the unnecessary and wanton infliction of pain, but disregarded that serious medical need, and refused to permit medical care givers to access and care for DECEDENT at the scene prior to and after the incident.

51. In so doing the aforementioned acts before, during and after the use of force, the conduct of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5 were willful, wanton, malicious, and done with deliberate indifference for the rights and safety of DECEDENT and therefore warrants the imposition of exemplary and punitive damages as to the individual DEFENDANTS.

52. As a result of their misconduct, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5 are liable for DECEDENT's injuries, either because they were integral participants in the use of force, or because they failed to intervene to prevent these violations. DEFENDANTS, under 42 U.S.C. § 1983, are liable to the Plaintiff for compensatory, including general and special, damages.

53. PLAINTIFF brings this claim as successor-in-interest to the DECEDENT, and seeks wrongful death damages for the violation of DECEDENT's rights. PLAINTIFF also seeks attorney's fees pursuant to 42 U.S.C. § 1988(b).

THIRD CLAIM FOR RELIEF

Fourteenth Amendment--Substantive and Procedural Due Process----Interference with Familial Relationships (42 U.S.C. § 1983)

By Plaintiff Plaintiff 1 against DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOE DEFENDANTS 1-10

54. PLAINTIFF incorporates by reference each and every allegation in paragraphs 1 through 53 as if fully set forth herein.

55. PLAINTIFF had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive him of life, liberty, or property in such a manner as to shock the conscience, including but not limited to unwarranted state interference in the familial relationship with his son.

56. The actions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, including the unjustified shooting of DECEDENT, along with other conduct of constitutional violations, shock the conscience, in that they acted with deliberate indifference to the constitutional rights of the DECEDENT and PLAINTIFF, and with purpose to harm unrelated to any legitimate law enforcement objective.

57. On December 18, 2021, DECEDENT was shot and killed by DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, who shot DECEDENT multiple times causing his death.

58. DEFENDANTS violated the PLAINTIFF'S rights under the Fourth Amendment when DECEDENT was shot and killed; and violated the PLAINTIFF'S rights under the Fourteenth Amendment to substantive and procedural due process because DEFENDANTS caused an unwarranted state interference in the PLAINTIFF'S familial relationship with DECEDENT.

59. Despite the foregoing facts, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 shot at DECEDENT multiple times, and DECEDENT was struck and was killed by DEFENDANTS. All DEFENDANTS participated in the use of force against DECEDENT by either directly using deadly force against DECEDENT, or ordering another DEFENDANT to use deadly force against DECEDENT. DEFENDANTS failed to order any other DEFENDANT not to use deadly force against the DECEDENT, failed to intervene to stop the use of deadly force against DECEDENT.

60. Plaintiff 1, had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive his of life, liberty, or property in such a manner as to shock the conscience, including but not limited to unwarranted state interference in Plaintiff 1's familial relationship with his son, DECEDENT.

61. The aforementioned acts and omissions of DEFENDANTS shock the conscience, in that the DEFENDANTS acted with deliberate indifference to the constitutional rights of DECEDENT and PLAINTIFF, and with purpose to harm unrelated to any legitimate law enforcement objective.

62. DEFENDANTS also thus violated the substantive and procedural due process right of DECEDENT to be free from state actions that deprive life, liberty, or property in such a manner as to shock the conscience, including actions that constitute violations of Constitutional rights.

63. As a direct and proximate cause of the acts of DEFENDANTS, PLAINTIFF has suffered emotional distress. PLAINTIFF has also been deprived of the life-long love, companionship, comfort, support, guidance society, care, and moral support of DECEDENT, and will continue to be so deprived for the remainder of his natural life.

64. The conduct of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 was willful, wanton, malicious, and done with deliberate indifference for the rights and safety of DECEDENT and PLAINTIFF and therefore warrants the imposition of

exemplary and punitive damages as to DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5.

65. PLAINTIFF Plaintiff 1 seeks wrongful death damages under this claim in his individual capacity, and as successor-in-interest, for the violations of civil rights, including the interference with his familial relationship with DECEDENT. PLAINTIFF also seeks attorney's fees pursuant to 42 U.S.C. § 1988(b).

FOURTH CLAIM FOR RELIEF

Substantive and Procedural Due Process, Deliberate Indifference to Serious Medical Needs (42 U.S.C. § 1983)

By Plaintiff Plaintiff 1 Against DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOE DEFENDANTS 1-10

66. PLAINTIFF incorporates by reference each and every allegation in paragraphs 1 through 65 as if fully set forth herein.

67. PLAINTIFF had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive him of life, liberty, or property in such a manner as to shock the conscience.

68. The actions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, including the unjustified shooting of DECEDENT, along with other conduct of constitutional violations, shock the conscience, in that they acted with deliberate indifference to the constitutional rights of the DECEDENT and PLAINTIFF, and with purpose to harm unrelated to any legitimate law enforcement objective.

69. On December 18, 2021, DECEDENT was shot and killed by DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, who shot DECEDENT multiple times causing his death. At all times herein mentioned DECEDENT was denied reasonable medical care for his immediate mental and medical needs, by the acts and omissions of DEFENDANTS.

70. DEFENDANTS violated the PLAINTIFF'S rights under the Fourth Amendment when DECEDENT was shot and killed; and violated the PLAINTIFF'S rights under the Fourteenth Amendment to substantive and procedural due process because DEFENDANTS put DECEDENT in a position of danger by their actions, including by failing to provide medical care to DECEDENT despite DECEDENT's objectively serious mental health crisis. DEFENDANTS manifested deliberate indifference to DECEDENT'S mental health condition; and to the constitutional rights of PLAINTIFF; and by acts and omissions of DEFENDANTS who failed to provide proper care for a mentally ill man going through a crisis.

71. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 knew that DECEDENT was suffering from a mental health crisis, and DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 increased the danger by failing to provide mental health professionals for DECEDENT despite the fact that Plaintiff 2 [redacted] had informed ***all*** DEFENDANTS about DECEDENT's suicidal ideation; and failed to respond to Plaintiffs' requests for medical assistance for DECEDENT, who was having a severe mental crises, and was mentally ill. DEFENDANTS knew that failure to provide timely medical treatment for DECEDENT could result in further significant injury or the unnecessary and wanton infliction of pain, but disregarded that serious medical need, and also refused to permit medical care givers to access and care for DECEDENT at the scene prior to and after the incident.

72. Despite the foregoing facts, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 shot at DECEDENT multiple times, and DECEDENT was struck and was killed by DEFENDANTS. All DEFENDANTS participated in the use of force against DECEDENT by either directly using deadly force against DECEDENT, or ordering another DEFENDANT to use deadly force against DECEDENT. DEFENDANTS failed to order any other DEFENDANT not to use deadly force against the DECEDENT,

failed to intervene to stop the use of deadly force against DECEDENT, and failed to provide medical treatment.

73. DECEDENT had a cognizable interest under the Substantive Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive him of life, liberty, or property in such a manner as to shock the conscience, including actions that constitute deliberate indifference to serious medical needs, health, and safety, and from state actions that constitute violations of PLAINTIFF'S and DECEDENT'S constitutional right to prompt and adequate medical care. DEFENDANTS violated DECEDENT's constitutional right to prompt and adequate medical care by denying DECEDENT access to medical care and mental health professionals. DEFENDANTS put DECEDENT in a position of danger by their actions, including by impeding access to medical care. DEFENDANTS knew that DECEDENT was suffering from suicidal ideation and increased the danger by failing to respond properly and by escalating the situation in the language and manner in which they spoke to DECEDENT.

74. Plaintiff 1, had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive his of life, liberty, or property in such a manner as to shock the conscience.

75. DEFENDANTS also thus violated the substantive and procedural due process right of DECEDENT to be free from state actions that deprive life, liberty, or property in such a manner as to shock the conscience, including actions that constitute deliberate indifference to serious medical needs, health, and safety, and actions that constitute violations of Constitutional rights to prompt and adequate medical care.

76. As a direct and proximate cause of the acts of DEFENDANTS, PLAINTIFF has suffered emotional distress. PLAINTIFF has also been deprived of the life-long love, companionship, comfort, support, guidance society, care, and moral support of DECEDENT, and will continue to be so deprived for the remainder of his natural life.

77. The conduct of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 was willful, wanton, malicious, and done with deliberate indifference for the rights and safety of DECEDENT and PLAINTIFF and therefore warrants the imposition of exemplary and punitive damages as to DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5.

78. PLAINTIFF Plaintiff 1 seeks wrongful death damages under this claim in his individual capacity, and as successor-in-interest, for the violations of civil rights. PLAINTIFF also seeks attorney's fees pursuant to 42 U.S.C. § 1988(b).

FIFTH CLAIM FOR RELIEF

Municipal Liability – Ratification (42 U.S.C. § 1983)

Against Defendant CITY and DOES 6-10

79. PLAINTIFF incorporates by reference each and every allegation in paragraphs 1 through 78 as if fully set forth herein.

80. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 acted under color of law.

81. The acts and omissions DEFENDANTS deprived DECEDENT and PLAINTIFF of their constitutional rights under the United States Constitution.

82. Upon information and belief, DEFENDANT DOES 6-10 are final policymakers and/or supervisory officers, acting under color of law, and who had final policymaking authority concerning the acts of JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-10, and have ***ratified***, and have specifically ***approved***, the acts and omissions of JOSE ZAVALA, JULIO QUINTANILLA and DOE 1-5, and the basis for the acts and omissions. Defendant CITY of LOS ANGELES, and DEFENDANT DOES 6-10, final policymakers, have ***ratified***, and have specifically ***approved***, the acts and omissions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5.

83. Defendant CITY and DOES 6-10, final policymakers and supervisory officers, have determined that the acts and omissions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOES 1-5 were "within policy" of the LOS ANGELES POLICE DEPARTMENT Policy Manual.

84. Because DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, were not disciplined, reprimanded, retrained, suspended, have not suffered any administrative consequences, have not suffered any adverse employment consequences, or otherwise penalized in any way in connection with DECEDENT's death, the Defendant CITY of LOS ANGELES, and DOES 6-10, final policymakers, have ***ratified***, and have specifically ***approved***, of the acts and omissions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5.

85. Defendant CITY of LOS ANGELES, and DEFENDANT DOES 6-10 manifested deliberate indifference with regard to the excessive use of deadly force, and the denial of medical care for DECEDENT, and deliberate indifference to DECEDENT's serious medical needs. PLAINTIFF has suffered the loss of the love, companionship, affection, comfort, care, society, training, guidance, and moral support of DECEDENT.

86. Defendants CITY of LOS ANGELES and DOES 6-10, are each liable to PLAINTIFF for compensatory damages under 42 U.S.C. § 1983.

87. PLAINTIFF seeks wrongful death damages for the violation of PLAINTIFF and DECEDENT's rights under this claim. PLAINTIFF also seeks attorney's fees under this claim pursuant to 42 U.S.C. § 1988(b).

SIXTH CLAIM FOR RELIEF

Municipal Liability – Failure to Train (42 U.S.C. § 1983)

Plaintiff Plaintiff 1 **Against the CITY**

88. PLAINTIFF incorporates by reference each and every allegation in paragraphs 1 through 87 as if fully set forth herein.

89. At all times herein mentioned, Defendants JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 acted under color of law and the acts and omissions of Defendants JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 deprived DECEDENT and PLAINTIFF of their Constitutional rights under the United States Constitution. The training policies of Defendant CITY and Defendant DOES 6-10 were not adequate to properly train Police Department Officers to handle the usual and recurring situations in their interactions with residents, including responding to calls involving mentally ill people, responding to calls and interacting with people who display symptoms of mental illness. The training policies of Defendant CITY were not adequate to properly train Police Department Officers with regard to the use of deadly force, the permissible use of deadly weapons, and protecting the rights of persons to medical care during in the course of detaining individuals.

90. The unjustified and excessive use of deadly force against DECEDENT by JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 was a result of the negligent training by Defendant CITY who failed to train Police Department Officers, such as DOES-10 as to ***proper police tactics***, proper use of force, proper use of deadly force, and proper police tactics in the use of force with respect to mentally ill individuals. Defendant CITY were responsible for the training of Police Department Officers to ensure that the actions, procedures, and practices of JOSE ZAVALA, JULIO QUINTANILLA AND DOES 1-5 complied with Peace Officer Standards and Training (POST) training standards regarding proper police tactics, proper use of force, and proper use of deadly force.

91. Defendant CITY negligently failed to train CITY Los Angeles Police Officers, such as JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, to comply with POST training standards regarding proper police tactics, proper use of force, proper use of deadly force, and proper police tactics when dealing with mentally ill individuals. POST was established by the California Legislature in 1959 to set minimum training standards for California Los Angeles Police Officers. The training policies of Defendant CITY were not

adequate to train its Los Angeles Police Officers to handle the usual and recurring situations with residents and pretrial detainees that JOSE ZAVALA, JULIO QUINTANILLA and DOES 1 through 5 have contact with.

92. The training policies of Defendant CITY were deficient in the following:

(a) Defendant CITY failed to properly train Los Angeles CITY Los Angeles Police Officers, such as JOSE ZAVALA, JULIO QUINTANILLA and DOES 1 through 5, to ***de-escalate*** interactions with residents or mentally ill individuals, so that Los Angeles Police Officers do not ***escalate*** their interactions with residents, or with mentally ill individuals, and do not overreact and resort to use of deadly force when the use of force was not necessary. Instead, JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 escalated their interactions with DECEDENT who was mentally ill and had suicidal ideation.

(b) Defendant CITY failed to properly train Los Angeles CITY Los Angeles Police Officers, such as JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, to not permit fear to reach the point of becoming ***unreasonable fear***, and not objectively reasonable, which would result in the use of deadly force by DOES 1-5 and would cause the death of residents, or mentally ill persons such as DECEDENT.

(c) Defendant CITY failed to properly train Los Angeles CITY Los Angeles Police Officers, such as JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, to properly and ***adequately assess*** the need to use force against persons such as DECEDENT, who have a mental illness.

(d) Defendant CITY failed to properly train CITY Los Angeles Police Officers, such as JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, in proper police tactics, such as ***situational awareness***, so that Los Angeles Police Officers, such as DOES 1-5, do not utilize negligent tactics, which is what JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 did in this case. Because of this lack of proper training by Defendant JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 did not use proper police tactics in the handling of their contact and interaction with DECEDENT. JOSE ZAVALA, JULIO

QUINTANILLA and DOES 1-10 used ***defective*** police tactics, including the lack of a ***situational awareness*** by JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5. These training failures by Defendant CITY, and ***defective*** tactics by JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, resulted in the death of DECEDENT.

(e) Defendant CITY failed to properly train CITY of LOS ANGELES Los Angeles Police Officers, such as JOSE ZAVALA, JULIO QUINTANILLA and DOES 1 through 5, the importance of ***effective communication*** between officers prior to using any type of force.

(f) Because of the lack of proper training by CITY of Officers JOSE ZAVALA, JULIO QUINTANILLA and DOES 1 through 5, did not use effective communication prior to and during the use of force against DECEDENT. This ***ineffective*** communication of information by JOSE ZAVALA, JULIO QUINTANILLA and DOES 1 through 5, prior to and during the incident, resulted in the death of DECEDENT, causing constitutional injuries to DECEDENT and PLAINTIFF.

93. The failure of Defendant CITY to provide proper training to its Police Officers caused the deprivation of PLAINTIFF'S rights by Defendants JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5. Defendant CITY's failure to train is so closely related to the deprivation of the PLAINTIFF'S rights as to be the moving force that caused the ultimate injuries to PLAINTIFF.

94. The training policies of the CITY were not adequate to train its deputy Sheriff's to handle the usual and recurring situations with which they must deal with, including mentally ill persons, such as DECEDENT herein. Defendant CITY was deliberately indifferent to the obvious consequences of its failure to properly train its

Police officers.

95. The failure of the CITY to provide adequate training to its officers caused the deprivation of PLAINTIFF'S rights by JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5; the CITY'S failure to train is so closely related to the deprivation of

DECEDENT and PLAINTIFF'S rights as to be the moving force that caused the ultimate constitutional injuries to PLAINTIFF.

96. The Defendant CITY failed to train JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5 properly and adequately. Moreover, the CITY failed to properly train its CRSS's, MEU's, SMART and Police Department Officers with respect to the use of excessive force, communication, and improper seizure, and also with respect to handling situations with the mentally ill

97. By reason of the aforementioned acts and omissions of all the Defendants, and Defendant CITY, PLAINTIFF has suffered loss of the love, companionship, affection, comfort, care, society, training, guidance, and moral support of DECEDENT. The aforementioned acts and omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life, and death.

98. Accordingly, Defendants CITY JOSE ZAVALA, JULIO QUINTANILLA and DOES 1 through 5, each are liable to the PLAINTIFFS for compensatory damages under 42 U.S.C. § 1983. PLAINTIFF bring these claims as DECEDENT's successors-in-interest as defined in Section 377.11 of the California Code of Civil Procedure and seek survival damages for the violation of DECEDENT's rights. PLAINTIFFS also seek reasonable attorneys' fees pursuant to 28 U.S.C. § 1988, costs, and interest.

SEVENTH CLAIM FOR RELIEF

Municipal Liability – Unconstitutional Policy, Practice, or Custom

(42 U.S.C. § 1983)

By Plaintiff 1 **Against the CITY of LOS ANGELES and DOES 6-10**

99. PLAINTIFF incorporates by reference each and every allegation contained in paragraphs 1 through 98 as if fully set forth herein.

100. The acts of JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5 that deprived DECEDENT and PLAINTIFF of their constitutional rights under the Fourth and Fourteenth Amendments as set forth above and were done

pursuant to a widespread and longstanding practice or custom of Defendant CITY which condones, ratifies, and acquiesces in the excessive use of deadly force by Los Angeles Police Officers. DOE DEFENDANTS 1-5 caused the deprivation of the Plaintiff's constitutional rights, and Decedent's constitutional rights, pursuant to this longstanding practice or custom of Defendant CITY. The CITY's widespread and longstanding practice or custom is so closely related to the deprivation of the Plaintiff's rights as to be the moving force that caused the Decedent's death.

101. Pursuant to the CITY's widespread and longstanding practice or custom, which condones, ratifies, and acquiesces in the excessive use of deadly force by Los Angeles Police Officers, JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5, were not disciplined, reprimanded, retrained, or suspended, have not suffered any administrative consequences, and have not suffered any adverse employment consequences, or were otherwise penalized in any way in connection with DECEDENT's death.

102. Defendants CITY and DOES 6 through 10, together with other CITY final policymakers and supervisors, maintained, *inter alia*, the following unconstitutional customs, practices, and policies:

(a) The use of excessive force, including excessive deadly force, by CITY Los Angeles Police Officers, when there is no need for deadly force, or where there is no imminent threat to Los Angeles Police Officers.

(b) The CITY's failure to provide adequate training regarding the use of force, and the use of deadly force.

(c) The CITY's employing and retaining as Los Angeles Police Officers and individuals such as Officers JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5, whom the CITY at all times herein knew or reasonably should have known, had dangerous propensities for abusing their authority and for using excessive deadly force.

(d) The CITY's inadequately supervising, training, controlling, assigning, and disciplining CITY OF LOS ANGELES officers, including JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5, whom the CITY knew or in the exercise of reasonable care should have known had the aforementioned propensities and character traits.

(e) The CITY's maintaining grossly inadequate procedures for reporting, supervising, investigating, reviewing, disciplining and controlling misconduct by CITY Officers.

(f) The CITY's failures to adequately discipline CITY Los Angeles Police Officers, including JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5, for the above-referenced categories of misconduct, including "slap on the wrist" discipline that is so slight as to be out of proportion to the magnitude of the misconduct, and other inadequate discipline that is tantamount to encouraging misconduct.

(g) The CITY's custom and practice of concluding that acts of excessive use of force are "within policy" including use of deadly force instances that were later determined in court to be unconstitutional, and/or excessive use of force.

(h) Even where a CITY officer use of force is determined in court to be unconstitutional, and/or excessive use of force, the CITY has refused to discipline, terminate, or retrain the Officers involved.

(i) The CITY's custom and practice of accommodating, or facilitating a "code of silence," pursuant to which Los Angeles Police Officers do not report other Officers' errors, misconduct, or crimes. Pursuant to this code of silence, if questioned about an incident of misconduct involving another deputy, while following the code, the deputy being questioned will claim ignorance of the other deputy's wrongdoing.

(j) The CITY's maintaining a policy of inaction and an attitude of indifference towards soaring numbers of instances of use excessive force by Los Angeles Police

Officers, including by failing to discipline, retrain, investigate, terminate, and recommend officers for criminal prosecution who use excessive force against unarmed people.

(k) The CITY's custom and practice of providing inadequate training regarding handling situations with the mentally ill persons and failing to provide adequate training in compliance with Welfare and Institutions Code § 5150 and 5158.

103. Defendants CITY and DOES 6-10, together with various other CITY officials, and final policy makers, had either actual or constructive knowledge of the unconstitutional policies, practices and customs alleged in the paragraphs above. The Defendants CITY and DOES 6-10 acted with deliberate indifference to the foreseeable effects and consequences of these customs and policies with respect to the constitutional rights of DECEDENT, Plaintiff, and other individuals similarly situated.

104. The following are only a few examples of constitutional violations committed by Los Angeles Police Department Officers working for Defendant CITY. These examples demonstrate the unconstitutional customs and practices of using excessive force against unarmed civilians, ratifying that use of deadly force, and/or finding the use of deadly force to be justified or "within policy."

a) (a) In *Contreras v. City of Los Angeles*, case number 2:11-cv-01480-SVW (SHx)), the CITY argued that the use deadly force against Mr. Contreras by LAPD officers was reasonable; a unanimous jury disagreed, awarding Mr. Contreras $5,700,000 after finding that the involved officers used excessive and unreasonable force when they shot an unarmed Mr. Contreras. Police reports confirmed that Mr. Contreras was unarmed. In that case, the involved officers were not disciplined or retrained for their use of deadly force, and the CITY found that the shooting was justified and did not violate any CITY policy.

b) In *P.C., et al. v. City of Los Angeles*, case number CV 07-3413 PLA, the CITY argued that the involved LAPD officers' use of force was reasonable; a unanimous jury disagreed, awarding the plaintiffs a total of $3,215,000 after finding that the involved officers' use of force was excessive and unreasonable. In that case, the involved officers were not disciplined or retrained for their use of deadly force, and the CITY found that the shooting was justified and did not violate any CITY policy.

c) In *Cano, et al. v. City of Los Angeles*, case number 2:15-cv-00333-JAK-E, currently pending in the United States District Court for the Central District of California, the family of an unarmed man (David Martinez) who was shot and killed by LAPD Rampart officers alleges that the force used by the officers was excessive and unreasonable. Police reports confirm that Mr. Martinez was unarmed at the time of the shooting. In that case, the involved officers were not disciplined or retrained for their use of deadly force, and the CITY found that the shooting was justified and did not violate any CITY policy.

105. The aforementioned cases establish a ***pattern*** of excessive use of force by Los Angeles Police Department Officers, and the unconstitutional custom, and practice of the CITY in ***ratifying*** the excessive use of force by Los Angeles Police Department Officers, as evidenced by the number of prior cases involving the use of deadly force by Los Angeles Police Department Officers working for the Police Department.

106. The CITY's longstanding practice or custom caused the deprivation of DECEDENT and PLAINTIFF's rights by DEFENDANTS; that is, the CITY's official policy condoning excessive force against mentally ill people is so closely related to the deprivation of the DECEDENT's and PLAINTIFF'S rights in this case as to be the moving force that caused DECEDENT's death.

107. The CITY, and DOE DEFENDANTS 6-10, together with various other CITY officials with final policy making authority, had either actual or constructive knowledge of the unconstitutional policies, practices and customs alleged in the paragraphs above.

108. The CITY, and DOE DEFENDANTS 6-10, also acted with deliberate indifference to the foreseeable effects and consequences of these policies with respect to the constitutional rights of DECEDENT, PLAINTIFF, and other individuals similarly situated.

109. By perpetrating, sanctioning, and ratifying the unconstitutional violations and other wrongful acts, The CITY, and DOE DEFENDANTS 6-10 acted with deliberate indifference for the life of DECEDENT, and for DECEDENT's and PLAINTIFF'S constitutional rights. Furthermore, the policies, practices, and customs implemented, maintained, by all of the DEFENDANTS were affirmatively linked to and were the driving force for the constitutional injuries of DECEDENT and the PLAINTIFF.

110. By reason of the aforementioned acts and omissions, the Plaintiff has suffered the loss of the love, companionship, affection, comfort, care, society, training, guidance, and moral support of DECEDENT. The aforementioned acts and omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life, and death.

111. Accordingly, each DEFENDANT is liable to PLAINTIFF for compensatory damages under 42 U.S.C. § 1983.

112. PLAINTIFF bring his claim individually and as successors in interest to DECEDENT, and seek wrongful death damages under this claim. PLAINTIFF also seek attorney's fees under this claim pursuant to 42 U.S.C. § 1988(b).

EIGHTH CLAIM FOR RELIEF

Negligence – Wrongful Death

By Plaintiff 1 Against ALL DEFENDANTS

113. PLAINTIFF repeats and re-alleges each and every allegation in paragraphs 1 through 112 of this complaint with the same force and effect as if fully set forth herein.

114. Los Angeles Police Department Officers, including DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, have a duty to use reasonable care to prevent harm or injury to others. This duty includes using appropriate tactics, giving appropriate commands, giving warnings, not using unnecessary force, using less than lethal options, and only using deadly force as a last resort.

115. DEFENDANTS breached this duty of care. The actions and inactions of Defendant DOES 1 through 5 were negligent and reckless.

116. DEFENDANTS CITY and DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-10 knew that by acting as sworn officers under color of law, they were charged with ensuring the safety and well-being of Decedent. Defendants CITY and DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-10 had the duty to protect and ensure the safety of residents, such as Decedent, including but not limited to:

(a) the failure to properly and adequately assess the need to detain, arrest, restrain, and use force or deadly force against DECEDENT;

(b) the negligent tactics and handling of the situation with DECEDENT, including negligence occurring immediately prior to the use of force, and negligent tactics in handling a situation with a mentally ill person;

(c) the negligent detention, arrest, and use of force, including deadly force, against DECEDENT;

(d) the failure to provide prompt medical care to DECEDENT;

(e) the failure to properly train and supervise employees, both professional and non-professional, including DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-10;

(f) the failure to ensure that adequate numbers of employees with appropriate education and training were available to meet the needs of and protect the

rights of DECEDENT, including DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-10;

(g) the negligent handling of evidence and witnesses; and

(h) the negligent communication of information during the incident.

117. As a direct and proximate result of DEFENDANTS' conduct as alleged above, and other undiscovered negligent conduct, DECEDENT was caused to suffer severe pain and suffering and ultimately died.

118. Also as a direct and proximate result of DEFENDANTS' conduct as alleged above, PLAINTIFF suffered emotional distress and mental anguish. PLAINTIFFS also has been deprived of the life-long love, companionship, comfort, support, society, care and moral support of DECEDENT, and will continue to be so deprived for the remainder of his natural life.

119. The CITY of LOS ANGELES is vicariously liable for the wrongful acts of all the DEFENDANTS pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

120. PLAINTIFF bring this claim both individually and as successor in interest of DECEDENT, and seek wrongful death damages.

NINTH CLAIM FOR RELIEF

Battery – Wrongful Death

By Plaintiff 1 Against ALL DEFENDANTS

121. PLAINTIFF repeats and re-alleges each and every allegation in paragraphs 1 through 120 of this complaint with the same force and effect as if fully set forth herein.

122. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, while working for the LOS ANGELES POLICE DEPARTMENT, and acting within the course and scope of their employment and duties as Los Angeles Police Department Officers, intentionally shot DECEDENT, thereby using unreasonable and excessive force

against him. As a result of the actions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 DECEDENT suffered severe pain and suffering and ultimately died from his injuries. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 had no legal justification for using force against DECEDENT, and their use of force while carrying out their duties as Los Angeles Police Department Officers was an unreasonable and non-privileged use of force.

123. Each of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 integrally participated or failed to intervene in the use of force.

124. As a result of the Officers' excessive use of force, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-10 are liable for DECEDENT's injuries, either because they were integral participants in the wrongful excessive use of force, or because they failed to intervene to prevent these violations.

125. The CITY of LOS ANGELES is vicariously liable for the wrongful acts of all the DEFENDANTS pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

126. As a direct and proximate result of the acts and omissions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 as alleged above, DECEDENT died and PLAINTIFF has suffered the loss of the love, companionship, affection, comfort, care, society, training, guidance, and moral support of DECEDENT.

127. The conduct of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 was malicious, wanton, oppressive, and accomplished with a conscious disregard for the rights of PLAINTIFF and DECEDENT, entitling PLAINTIFF, individually and as successor-in-interest to DECEDENT, to an award of damages as to all DEFENDANTS.

128. PLAINTIFF brings his claim individually and as a successor in interest to DECEDENT, and each also seeks wrongful death damages under this claim.

TENTH CLAIM FOR RELIEF

Negligent Infliction of Emotional Distress

By ALL PLAINTIFFFS Against DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, AND DOES 1-10

129. PLAINTIFFS repeat and re-allege each and every allegation in paragraphs 1 through 128 of this complaint with the same force and effect as if fully set forth herein.

130. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 negligently caused physical injury and death to DECEDENT when DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 discharged their firearms at DECEDENT, striking him with multiple bullets and killing DECEDENT. The use of deadly force by DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 was excessive and unreasonable, and DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 were negligent in discharging their firearms at DECEDENT, including pre-shooting negligent conduct, actions, omissions, including negligent police tactics.

131. [redacted] was present at the scene, which is her residence, and contemporaneously heard, when DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 fatally discharged their firearms at DECEDENT and [redacted] was aware that DECEDENT, his son, was being killed.

132. [redacted] was present at the scene, which is her residence, and contemporaneously witnessed, when DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 fatally discharged their firearms at DECEDENT and [redacted] was aware that DECEDENT, her brother, was being killed.

133. [redacted] was present at the scene, which is his residence, and contemporaneously heard when DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 fatally discharged their firearms at DECEDENT and [redacted] was aware that DECEDENT, his brother, was being killed.

134. Plaintiff 4 was present at the scene, which is her residence, and contemporaneously heard, when DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 fatally discharged their firearms at DECEDENT and Plaintiff 4 was aware that DECEDENT, her brother, was being killed.

135. As a result of being present at the scene and perceiving their brother and son, DECEDENT, being fatally shot by DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1 to 5, Plaintiff 1, Plaintiff 2, Plaintiff 3, AND Plaintiff 4 suffered serious emotional distress, including but not limited to, suffering anguish, fright, horror, nervousness, grief, anxiety, worry, shock, humiliation, and shame.

136. On information and belief, any ordinary reasonable person would be unable to cope with seeing their brother fatally shot multiple times by police officers, especially at their own residence.

137. The CITY is vicariously liable for the wrongful acts of all the DEFENDANT OFFICERS, inclusive, pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

138. PLAINTIFFS bring this claim individually and seek damages under this claim as individuals.

ELEVENTH CLAIM FOR RELIEF

Violation of Cal. Civil Code § 52.1 (the Bane Act)

By Plaintiff 1 Against All DEFENDANTS

139. PLAINTIFF repeats and re-alleges each and every allegation in paragraphs 1 through 138 of this complaint with the same force and effect as if fully set forth herein.

140. California Civil Code, Section 52.1 (the Bane Act), prohibits any person from using violent acts or threatening to commit violent acts in retaliation against another person for exercising that person's constitutional rights.

141. California Civil Code, Section 52.1 (the Bane Act), applies to this complaint with the same force and effect as fully set forth herein:

> (a) If a person or person, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals or rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state...a civil action for injunctive and other appropriate equitable relief may be brought.

142. Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of this state, has been interfered with, as described in subdivision (a), may institute and prosecute in his name and on his own behalf a civil action for damages, including but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (a).

143. The California Civil Code, Section 52.1(b) authorizes a private right of action for damages to any person whose constitutional rights are violated. Also, "a successful claim for excessive force under the Fourth Amendment provides the basis for a successful claim under § 52.1." *Chaudhry v. City of Long Beach.*, 751 F.3d 1096, 1105-06 (9th Cir. 2014); citing *Cameron v. Craig*, 713 F.3d 1012, 1022 (9th Cir. 2013) ("[T]he elements of the excessive force claim under § 52.1 are the same as under § 1983."); *Bender v. CITY of L.A.*, 217 Cal.App. 4th 968, 976 (2013) ("an unlawful [seizure]…when accompanied by unnecessary, deliberate and excessive force…is within the protection of the Bane Act").

144. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 violated DECEDENT's constitutional rights by using excessive force, whose acts of unreasonable

force were done intentionally, and with a reckless disregard for his constitutional rights and for his life. *Reese v. Cnty. of Sacramento*, 888 F.3d 1030, 1044-1045 (9th Cir. 2018)

145. Also as alleged above, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 unjustly shot DECEDENT at a time when DECEDENT posed no threat of death or serious bodily injury to any person. On information and belief, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, while working for the CITY and acting within the course and scope of their duties, intentionally committed and attempted to commit acts of violence against DECEDENT, including by shooting him without justification or excuse, by integrally participating and failing to intervene in the above violence, and by denying necessary medical care.

146. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 violated PLAINTIFFS' rights under the Fourteenth Amendment to substantive and procedural due process when they put DECEDENT in a position of danger by their actions, including by impeding access to medical care. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 knew that DECEDENT was suffering a paranoid ideation, and was mentally ill. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 increased the danger by failing to respond to the requests of PLAINTIFFS for medical assistance for DECEDENT, who was suffering from a mental illness when DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 killed DECEDENT.

147. When DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 unnecessarily shot the DECEDENT with multiple bullets, this caused the DECEDENT to suffer the ill effects of being shot. This act perpetrated against an unarmed and a mentally ill individual by the DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 interfered with DECEDENTS' civil rights to be free from unreasonable searches and seizures, to due process, to equal protection of the laws,

to medical care, to be free from state actions that shock the conscience, and to life, liberty, and property.

148. On information and belief, DEFENDANTS intentionally and spitefully committed the above acts to discourage DECEDENT from exercising his civil rights, to retaliate against him for invoking such rights, or to prevent him from exercising such rights, which he was fully entitled to enjoy.

149. On information and belief, DECEDENT reasonably believed and understood that the violent acts committed by DEFENDANTS were intended to discourage him from exercising the above civil rights, to retaliate against him for invoking such rights, or to prevent him from exercising such rights because of DECEDENT's Latino ancestry.

150. The conduct of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 was a substantial factor in causing the harm, losses, injuries, and damages of DECEDENT and PLAINTIFFS.

151. The CITY of LOS ANGELES is vicariously liable for the wrongful acts of all the DEFENDANTS, including DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's acts would subject him or her to liability.

152. DEFENDANTS successfully interfered with the above civil rights of DECEDENT and PLAINTIFF.

153. The conduct of DEFENDANTS was a substantial factor in causing PLAINTIFF'S harms, losses, injuries, and damages.

154. The CITY is vicariously liable, under California law and the doctrine of respondeat superior, for the acts and omissions of DEFENDANTS and DOES 1-10.

155. The conduct of DEFENDANTS was a substantial factor in causing the harm, losses, injuries, and damages of PLAINTIFF. PLAINTIFF seekS wrongful death damages

under this claim in his individual capacity and as a successor-in-interest to DECEDENT. PLAINTIFF also seek costs and attorney fees under this claim pursuant to Civ. Code, § 52.1(h).

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS request entry of judgment in their favor and against All DEFENDANTS, inclusive, as follows:

A. For compensatory damages, for the wrongful shooting of DECEDENT, damages for Plaintiffs under federal and state law, in the amount to be proven at trial;

B. For interest;

C. For other general damages in an amount according the proof at trial;

D. For other non-economic damages in an amount according the proof at trial;

E. For other special damages in an amount according to proof at trial;

F. For reasonable costs of this suit;

G. Attorney's fees pursuant to 42 U.S.C. § 1988;

H. Attorney's fees and costs pursuant to California Civil Code, Section 52.1(h). (The Bane Act).

I. For such further other relief as the Court may deem just, proper, and appropriate.

Dated: October 17, 2022

CARRILLO LAW FIRM, LLP
LAW OFFICES OF DALE K. GALIPO

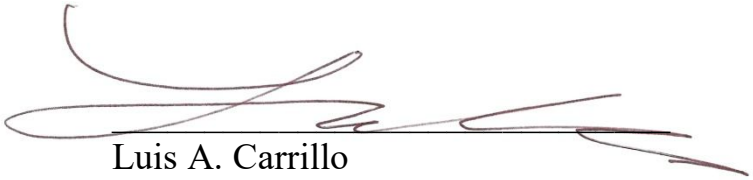
Luis A. Carrillo
Michael S. Carrillo
Attorneys for PLAINTIFFS

DEMAND FOR JURY TRIAL

The PLAINTIFFS named herein hereby demand a trial by jury.

Dated: October 17, 2022

CARRILLO LAW FIRM, LLP
LAW OFFICES OF DALE K. GALIPO



Luis A. Carrillo
Michael S. Carrillo
Attorneys for PLAINTIFFS

LOS ANGELES POLICE DEPARTMENT
Force Investigation Division

In the Matter of:	)	
Officer Involved Shooting	)	**DR No.**
Transcription of Taped Interview	)	**FID No. 064-21**
Of Police Officer Jose Zavala	)	**Tape No. Zavala**
	)	

TRANSCRIPTION OF TAPE-RECORDED INTERVIEW OF

POLICE OFFICER JOSE ZAVALA

Transcribed by:
Kelly Sully
CSR No. 13501

Job Number:
TP97025

LOS ANGELES POLICE DEPARTMENT

Tape No. Zavala

DETECTIVE BROWN: Today is Sunday, December 19th. The time is now 0034 hours. I am Detective Tom Brown, B-r-o-w-n, serial number 34045. I'm assigned to Force Investigation Division. I'm here at Newton Station to interview Police Officer II Jose Zavala.

Sir, could I have you say and spell your first and last name and provide your serial number?

POLICE OFFICER ZAVALA: Yes, sir. First name is Jose, J-o-s-e. Last name is Zavala, Z-a-v-a-l-a. Serial number 40197.

DETECTIVE BROWN: Okay. And this is regarding an officer involved shooting incident that occurred at [redacted] on December 18th, 2021, at approximately 1710 hours. This interview is being digitally recorded.

Also present are --

DETECTIVE GRABE: Detective Tim Grabe, T-i-m G-r-a-b-e, serial number 32649 from FID.

ATTORNEY WILCOX: Leslie Wilcox, W-i-l-c-o-x, on behalf of Officer Zavala.

DETECTIVE BROWN: And --

ATTORNEY ELLIS: Jenna Ellis, E-l-l-i-s, attorney observer.

DETECTIVE BROWN: Okay. And before we -- or excuse me. Officer Zavala, have we identified everybody in the room for the tape?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: Okay. And before we provide -- or we start the interview, will you provide a voluntary statement?

POLICE OFFICER ZAVALA: No, sir.

DETECTIVE BROWN: Okay. Since you declined to provide a voluntary statement, I must read you the following: The entire investigation concerning this incident, including the digitally recorded interview, is classified as confidential by the Chief of Police.

Do you understand?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: And as a supervisor for the Los Angeles Police Department and as authorized by the Chief of Police, I want to inform you that your silence could be deemed as insubordination and could lead to administrative discipline, which could result in your discharge or removal from office, and that any statement made under the compulsion of the threat of such discipline cannot be used against you in any

subsequent criminal proceedings.

Do you have any questions?

POLICE OFFICER ZAVALA: If I refuse to answer your question, will I be subject to discipline that could be as much as discharge or removal from office, sir?

DETECTIVE BROWN: Yes.

POLICE OFFICER ZAVALA: For those reasons and those reasons alone, I will give you a statement. I'm not waiving any of my constitutional rights, and I am asserting all of my right under the Public Safety Officer Procedural Bill of Rights Act.

However, I will cooperate with any criminal investigation arising out of this incident because case law and the LAPD manual require me to do so upon pain of being charged with insubordination resulting in possible termination.

I also demand that prior to this interrogation, I be allowed to view any audio or video recordings pertaining to this incident that you do not deem to be confidential.

DETECTIVE BROWN: Okay. So noted. At this time I order you to provide a statement in this incident and answer any questions.

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: Okay. Just get a little bit of background information. You had an opportunity to review your body-worn video?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: And did you watch any body-worn video, digital in-car video, or any type of department video without the presence of FID personnel?

POLICE OFFICER ZAVALA: No, sir.

DETECTIVE BROWN: And we did not review your digital in-car video prior to this interview. Have you watched any other video, news media, social media, any other reports of this incident?

POLICE OFFICER ZAVALA: No, sir.

DETECTIVE BROWN: Okay. And your start of watch this morning was at -- or yesterday was at 1500, and you had approximately six to seven hours of sleep the night before, and you stated you were able to do this interview. You're not sleep deprived?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: Okay. Okay. A little bit of additional background. How long have you been with the department?

POLICE OFFICER ZAVALA: I've been with the department approximately thirteen years, sir.

DETECTIVE BROWN: Okay. And how long have you

been assigned to Newton Division?

POLICE OFFICER ZAVALA: Been assigned to Newton Division approximately four years.

DETECTIVE BROWN: And your current assignment with Newton Division?

POLICE OFFICER ZAVALA: Currently assignment -- I'm currently working Gang Enforcement Detail.

DETECTIVE BROWN: Okay. And how long have you been doing the gang enforcement?

POLICE OFFICER ZAVALA: Approximately three years, sir.

DETECTIVE BROWN: Okay. And your partner was?

POLICE OFFICER ZAVALA: My partner was Officer Quintanilla.

DETECTIVE BROWN: And how long have you been partners with Officer Quintanilla?

POLICE OFFICER ZAVALA: On and off with the unit approximately a year and a half, sir.

DETECTIVE BROWN: Okay. And do you regularly discuss tactics with your -- with Officer Quintanilla?

POLICE OFFICER ZAVALA: Yes, sir. We discuss tactics before start of watch and during -- during work also, sir.

DETECTIVE BROWN: Okay. And do you discuss your tactical roles for each deployment or each day that

you're working together?

POLICE OFFICER ZAVALA: Yes, sir, we do.

DETECTIVE BROWN: Did you have roles assigned for yourselves today or --

POLICE OFFICER ZAVALA: Yes, sir, sir.

DETECTIVE BROWN: And can you tell me what those were?

POLICE OFFICER ZAVALA: Yes, sir. So I'm driver. So usually the driver, I'm contact. Passenger cover. But depending on the situation and the tactical incident, usually we change roles, sir.

DETECTIVE BROWN: Okay. And did you have less lethal munitions with you?

POLICE OFFICER ZAVALA: No, sir. On the unit we work in, we designate one vehicle with less lethal and today was another vehicle in our unit.

DETECTIVE BROWN: Okay.

POLICE OFFICER ZAVALA: Less lethal.

DETECTIVE BROWN: Okay. What I'd like to do is at this time just open up to, like, a narrative form, have you give us a statement telling us how you became aware of this incident, how you responded, what tactics you were involved in, what actions you took, and just go through it kind of chronologically with as much detail as possible. And if need be, we'll go

back and ask some clarifying questions, okay?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: Okay.

POLICE OFFICER ZAVALA: So at beginning of start of watch, we were aware there was an OIS on 22 and (Unintelligible) involving a knife. So during roll call, we had -- we discussed in roll call about edged weapons and situations like that -- tactical incidents training edged weapons.

We received a radio call of an ADW suspect with a butcher knife in the area of [redacted]. Me and my partner were near the area. We responded to this incident. As we arrived to this incident, we observed the suspect in front of [redacted] sitting down in the front stairway case near the front street, holding a large butcher knife.

I exited my vehicle. I saw there was a unit at scene. As I exited, I requested a backup, an airship, and a supervisor to my -- at scene. And that's when I turned on my BWV due to the fact that I requested a backup for a 415 man with a knife.

I observed the suspect. He was talking to himself, mumbling stuff, distraught. He was very uncooperative. Initially [redacted] was communicating with the suspect in English attempting

for him to drop the knife -- the large butcher knife.

There was pedestrians nearby. Also, as we were responding to the radio call, comments of the call stated that he was chasing people around with this large butcher knife. So we were aware of that upon arriving to the scene. And I was trying to coordinate corresponding units to block off the streets due to the fact that this suspect had a large butcher knife already chasing the pedestrians around the neighborhood with a large butcher knife.

As I'm trying to communicate that with the -- with communications, I also request an RA to stand by nearby. I notify [redacted] -- I observe that the suspect wasn't listening to his -- to his commands, so I notify [redacted] that we were going to communicate with the suspect in Spanish.

At this point we see the suspect. He has the knife. He starts cutting his left hand with this large butcher knife. He's talking about God. He's mumbling stuff and at one point he crucifies himself. He appeared to be under the influence of some unknown controlled substance by the way he was acting.

So then I told my partner to communicate in Spanish and take over communication and tell the suspect to drop the large butcher knife, which my

partner, numerous times, told the suspect to drop the butcher knife, to drop the butcher knife.

Suspect wasn't -- he wasn't -- I don't know. He wasn't listening, sir. He was stuck in his own mind, mumbling stuff, and with this knife in his hand. It went from his hand to his throat -- to the left side of his throat and he was breathing. He was -- he was talking about God, like getting courage to -- to me, it appeared getting courage to cut his throat, and then he began to press the knife on his throat.

At this point I told my partner, "Let me -- let me talk to him. Let me talk to him in Spanish." Maybe he could listen to me due to the fact that I was the closest officer to the suspect. And I told him in Spanish that we were trying to help him out, for him to drop the knife, that we were here to help, whatever the situation was that we were trying to help him out.

At one point he stands up -- stands up rapidly with the knife on the left side of his neck and that's when less lethal was utilized to my left. 40-millimeter, sir. I heard the -- I heard the warning -- the 40-millimeter stand by -- the warning and they shot him with a 40-millimeter one time, bounced right off his chest, sir. Just bounced off.

And then he kept walking down the steps, sat

down, still had this butcher knife on the left side of his neck. During this time, there's pedestrians to my right on [redacted]. We're trying to direct -- we were low on units, sir. There was already an OIS several blocks away. We didn't have enough resources to contain the whole -- the whole perimeter at the time.

We had three units there that I was aware of and there was a unit that was trying to control pedestrian traffic on [redacted], which is just like about 20 feet away from the suspect. And then to my left, there was other pedestrians -- later I find out it was the family -- also yelling about 20, 25 feet away from the suspect.

They were calling him Junior, and I caught on to that, so then I started calling him Junior. I was telling Junior drop the knife. At this point [redacted] then takes over. Me and [redacted] were communicating and then he takes over as for -- over communications on the PA.

At this time we already had a tactical plan. We had less lethal. We had an arrest team. We had a shield, and I was the lethal officer and my partner was the DCO, designated cover officer. We were just giving him several commands, sir, to drop this large butcher knife that he had against his throat. He

already cut his hand.

At one point there's a pedestrian in the back that opens up the lobby door. We tell him to go inside, get out of the area. After telling him several times, he goes inside, leaves the area. Sergeant is communicating with the suspect at this point.

The suspect gets up very rapidly with the -- with the large butcher knife in his right hand. He takes a deep breath, like getting courage, looks at me, looks at my fellow officers. At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified.

The suspect then starts advancing towards the officers and turns his body towards myself and my partner. And in fear -- I was afraid, sir. I thought this guy was going to come at me with this butcher knife. He already cut his hand. He cut his throat -- he attempted to cut his throat. He chased pedestrians and civilians around the neighborhood with this large butcher knife.

And to protect myself and my partner's life and the citizens nearby from serious bodily injury, imminent threat, I fired approximately two, three

rounds to stop the threat, sir. And that's when the suspect goes down. We form a tactical plan to arrest -- to handcuff the suspect.

As we form the plan, we handcuff the suspect. As we approach, I see that there's the large butcher knife by his hand on the ground, so I kick it away with my feet due to the fact that I didn't want any weapons around him. He was breathing. He was still moving. At this point there's a -- there's two large crowds. There's a large crowd towards the east side of me and a large crowd to the west side on [redacted] Street 1 .

At one point there's -- I'm not sure if it was the family or -- but there was civilians -- pedestrians and they attempted to run towards the suspect, and that's when we form a modified skirmish line. And there's a lady that almost broke through the modified skirmish line, and I held her -- I held her back. And that's when another officer -- I don't recall which other officer grabbed -- just grabbed her and put her -- and just directed her in front of the skirmish line.

At this point our main concern is rendering -- render aid to the suspect. Thankfully we had the RA nearby on standby. They were able to get there quick, fast and render aid to the suspect and transport the

suspect to -- to a nearby hospital, sir.

DETECTIVE BROWN: Okay. Was there anything else?

POLICE OFFICER ZAVALA: Not that I recall right now, sir.

DETECTIVE BROWN: Okay. So I'm going to go back to kind of the beginning and I'll trying to stay chronological. I apologize if I bounce around, but I'm just going to get some clarity on some things. When you say you responded to the radio call, did you respond code three? Code two?

POLICE OFFICER ZAVALA: No, we responded code two due to the fact that we were nearby, sir. We were just several blocks away.

DETECTIVE BROWN: Okay.

POLICE OFFICER ZAVALA: And there was no backup yet. There was just a radio call of 415 man with a knife chasing civilians around with the knife.

DETECTIVE BROWN: As you were responding with your partner, did you have any additional tactical discussions?

POLICE OFFICER ZAVALA: Yes, sir. As we were responding, me and my partner were communicating, talking contact and cover and the comments of the call stating that he had a large butcher knife. And we were talking tactics and just to be aware of the

suspect with the large butcher knife and contact and cover and -- yes, sir.

DETECTIVE BROWN: Okay. Now, you talked about when you arrived, you saw this suspect. Could you give us a description of the suspect, what he was wearing, his demeanor? Just a little more clarity on that.

POLICE OFFICER ZAVALA: Yes, sir. He was sitting down on the staircase in the front. He's about -- he was about 10, 15 feet away from where I positioned my vehicle and where other officers were at. He's wearing a black hat, white shirt, dark pants. He was sitting down with the large butcher knife in his hand. He was mumbling stuff. He was crying and distraught. He was very incoherent. He was mumbling stuff.

He had the butcher knife, started cutting his left hand. And that's when, you know, we're telling him, "Hey, man, don't do it. You know, we're trying to help you out. Just stop. We want to help you out." And then from there, he ended up just moving the knife to the left side of his throat. And he's mumbling stuff and building courage to -- and he began to press the knife against his throat. He was pressing it. He was looking at us and he was like try -- he was sliding his throat. And we're like,

"No. Don't do it, man. You know, we're trying to help you out, sir."

DETECTIVE BROWN: What was the approximate age and ethnicity?

POLICE OFFICER ZAVALA: Approximately I would say 25 to 30 years of age, sir. Male Hispanic approximately 5'5", 5'6", 160, 170 in weight.

DETECTIVE BROWN: Okay. If you're aware -- or do you know, have you had any prior contact with this individual?

POLICE OFFICER ZAVALA: No, sir.

DETECTIVE BROWN: Okay. Had you ever responded to any radio calls at that particular location?

POLICE OFFICER ZAVALA: No, sir.

DETECTIVE BROWN: And you were describing his actions with the knife. Did he -- did you observe that he actually drew blood on himself?

POLICE OFFICER ZAVALA: Yes, sir. I observed when he put his knife on his left hand and he just slit it, and I could just see the slice on his left hand. And then from there he put it on his throat and he didn't -- he didn't go deep inside, but he was pressing on it. He was getting courage. He was talking. He was talking about God.

And he was just pressing it and he was taking

deep breaths, looking at us, looking at us, and he kept pressing on it. And we were just trying to save his life, sir. (Unintelligible) for human life. We were telling him to stop. We were trying to help him out, sir.

You know, and at that point he got up -- got up with the knife on his neck, boom, in a threatening manner and that's when we utilized less lethal to my left -- 40-millimeter to stop him from advancing towards us at that point and also to save his life, sir. To save his life.

DETECTIVE BROWN: Now, you had said you requested an RA. Did you request that RA prior to this actions with the knife or was --

POLICE OFFICER ZAVALA: I requested the RA when I arrived there and I observed him put the knife on his hand -- he slit his left hand. And, you know, everything is unfolding fast, sir, really fast. I'm trying to -- I'm trying to cover every angle here. I'm trying to get corresponding units to my location to block off the streets.

There's pedestrians nearby all over. They were walking. We were trying to block off these streets. There was cars stopping behind me, as you can see. I tell a car to leave. There's people coming out behind

the suspect, telling them to go inside. During this, I'm putting out a backup.

And that was one of the reasons why I activated late, because my main concern is let me get units here. Let me get a backup here. Let me lock down the scene here. Let me block off these streets.

DETECTIVE BROWN: Well, let me ask you two questions regarding that then. So you -- what was your intent of requesting the RA?

POLICE OFFICER ZAVALA: So my intent to request the RA, if the incident would escalate to the point where deadly force may be justified, I want to render aid as soon as possible to this suspect and save his life.

DETECTIVE BROWN: Okay. And then something else you said made me think of a question. I'm sorry. It slipped my mind. Bear with me a second.

ATTORNEY WILCOX: He was talking about his late activation.

DETECTIVE BROWN: Thank you.

ATTORNEY WILCOX: You're welcome.

DETECTIVE BROWN: That's -- so when you say you had a late activation, just what did you mean by that?

POLICE OFFICER ZAVALA: What I mean by that, sir, is when I exited my vehicle, my first -- my first

train of thought is to put out a backup. I observed this suspect with a knife. There's pedestrians nearby. Puts the knife on his hand. I request the backup, then I turn on my camera. That was my priority at the time, sir.

DETECTIVE BROWN: Okay. And approximately when did Sergeant arrive, if you know?

POLICE OFFICER ZAVALA: So Sergeant -- when we arrived, Sergeant had already arrived (Unintelligible). I don't know if we arrived simultaneously or second -- he arrived there seconds before we did, sir.

DETECTIVE BROWN: Okay. And did Sergeant approach and designate you as a lethal or did -- well, let me let you answer that question.

POLICE OFFICER ZAVALA: Yes, sir. So Sergeant [redacted] was to my left -- the vehicle to my left, sir, and I could communicate with Sergeant . Sergeant [redacted] is assigning a less lethal, a shield on his side. And when he looked towards our direction -- at the time we were only two vehicles and an XL car. We looked at each other. He designated me as the lethal officer and my partner as the DCO, designated cover officer, sir.

DETECTIVE BROWN: Okay. At what point did you

unholster?

POLICE OFFICER ZAVALA: When I arrive at scene after I put out the backup, sir, of 415 man with a knife at the location, I did unholster my firearm. Based on the tactical situation, I had reason to believe that it may escalate to the point where deadly force may be justified.

DETECTIVE BROWN: And when you unholstered that pistol, can you describe with a little more clarity and more detail how you held that pistol and where it was pointed?

POLICE OFFICER ZAVALA: Yes, sir. I held it -- I was at low ready. And at the same time I was trying to communicate with the RTO and direct corresponding units to the proper location. I was at low ready. I was at low ready. It was very loud. There's airship. There's people yelling, people screaming.

I'm trying to -- I'm trying to communicate with my officers to the left and also hear what the RTO was saying. That's why I kept getting the radio and try to put it in my ear while I'm on low ready with one hand on my right hand. That way I could listen to the RTO and everything that's being communicated.

DETECTIVE BROWN: And as you're holding that one-handed grip and you're at a low ready, where's

your trigger finger at?

POLICE OFFICER ZAVALA: On the side -- on the side of the rail, sir.

DETECTIVE BROWN: Okay. Now, did you maintain that one-hand grip the whole time or did you transition --

POLICE OFFICER ZAVALA: Oh, no, sir.

DETECTIVE BROWN: -- back and forth between --

POLICE OFFICER ZAVALA: No, sir. I was back and forth, sir.

DETECTIVE BROWN: Did you -- did you holster or reholster any time during the incident?

POLICE OFFICER ZAVALA: I don't believe -- I don't remember, sir. Maybe I did at one point. Maybe I didn't. Maybe I did to look at the additional officers that had arrived and try to designate them to wherever I needed them at the time, sir.

DETECTIVE BROWN: You just don't -- you don't have a specific recollection of holstering?

POLICE OFFICER ZAVALA: No, sir.

DETECTIVE BROWN: Okay. So as you're communicating with the suspect -- I know you talked about you spoke to him in Spanish and English -- was he responsive at all? Did he reply or say anything directly -- I know you said he was saying some stuff

about God, but was there any lines of communication?

POLICE OFFICER ZAVALA: No lines of communication, sir. I could see just a blank stare. At one point he's just looking at me with a blank stare with this knife on his throat and he's just taking breaths and looking at me and looking at the officers, building courage to -- to me, building courage to hurt himself or even hurt us.

DETECTIVE BROWN: Okay. And you perceived that as being suicidal or what --

POLICE OFFICER ZAVALA: I believe so. I mean, he had this knife on his throat, sir, right? He had it on his throat. Cut his -- he already had cut his hand -- slit --

DETECTIVE BROWN: And you used the term -- I just want to -- for anybody that was listening, you used the term "crucify." What do you specifically mean by that?

POLICE OFFICER ZAVALA: What I'm trying to say is -- he was --

ATTORNEY WILCOX: Describe what you're doing with your hands.

DETECTIVE BROWN: Yeah, please.

POLICE OFFICER ZAVALA: He was just talking about God and then he started like --

DETECTIVE BROWN: Okay. So you're moving your hand up and down across -- from your head to chest.

POLICE OFFICER ZAVALA: Like a cross.

DETECTIVE BROWN: So as if making the crucifix sign.

POLICE OFFICER ZAVALA: Crucifix sign, yes, sir. I'm sorry.

DETECTIVE GRABE: The sign of the cross?

POLICE OFFICER ZAVALA: Sign of the cross across his chest and --

ATTORNEY WILCOX: You're using your right hand. Is that what he was doing; do you know?

POLICE OFFICER ZAVALA: You know, he was doing it with his -- he had the knife with his right. He was doing it with his left.

ATTORNEY WILCOX: Okay. And then just now when you were making that motion, it looked like you put your hand to your lips. Did you see him do that also or is that just typical --

POLICE OFFICER ZAVALA: No. He was just doing the cross.

ATTORNEY WILCOX: Okay.

POLICE OFFICER ZAVALA: Like typical -- your usual cross that --

DETECTIVE BROWN: Okay. What was your intention

or what was your intent in talking to him or what --

POLICE OFFICER ZAVALA: My intention in talking to the suspect, sir, is to drop that knife and get him the help that he needed, sir, and just help him out, you know.

DETECTIVE BROWN: As this conversation is going on, you said some of his family were in the immediate area. Were they also addressing or talking to him?

POLICE OFFICER ZAVALA: Yes, sir. So initially the radio call came out at Home Address, which is -- where we observed the suspect was Incident Location. So Home Addre was just the property east -- to the -- one house, I believe, east to where the suspect was at the front in the stairwell -- in the staircase -- on the steps.

DETECTIVE BROWN: And did he appear to respond to the family at all or react to their presence?

POLICE OFFICER ZAVALA: No, sir. No, sir. I kept hearing the family call him Junior. They were calling him Junior. And that's when I heard that and I attempted to call him Junior. That way I can, you know, make this suspect drop the knife. That way we could help him out or save him.

DETECTIVE BROWN: Now, you spoke about the less lethal that's deployed and I think you even mentioned exactly where you saw it strike him. Did it appear to

have any affect whatsoever on him?

POLICE OFFICER ZAVALA: No, sir. That round hit him right in the upper torso and just bounced right off of him. And he was -- his body demeanor -- he was tensed up. He was -- with the knife on his neck, he was --

DETECTIVE BROWN: And was that the only time you saw less lethal deployed or was there multiple?

POLICE OFFICER ZAVALA: That's the only time I observed less lethal get deployed, sir.

DETECTIVE BROWN: Okay. All right. Approximately -- in reference to the sequence of force that was used, how soon after that less lethal was deployed was lethal?

POLICE OFFICER ZAVALA: I would say more than two, three minutes, sir. I mean, we were still communicating with him. After the less lethal got deployed, he sat down again closer to the steps, closer to us as he was coming down the steps, and he got -- less lethal was deployed and then he sat down again with the knife on his neck.

DETECTIVE BROWN: Okay. So he stands up. He comes down the steps.

POLICE OFFICER ZAVALA: Comes down.

DETECTIVE BROWN: Gets hit with less lethal.

POLICE OFFICER ZAVALA: Stands up very rapidly, boom, with the knife, and that's when less lethal was deployed to stop him from advancing and --

DETECTIVE BROWN: And you said he sat down. About how long did he stay in that seated position the second time?

POLICE OFFICER ZAVALA: Oh, man. Several minutes, sir. Several minutes.

DETECTIVE BROWN: Okay.

POLICE OFFICER ZAVALA: Several minutes because we were still trying to get him to drop that butcher knife. It was a large -- large butcher knife, sir, that he had.

DETECTIVE BROWN: Okay. When he -- at some point he got back up again?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: And then what did he do when he got back up the second time?

POLICE OFFICER ZAVALA: So the second time he rapidly got up, sir, holding the knife in front of him. He took approximately five, six steps towards the office -- towards the officers and myself, sir, turning his torso towards me in a threatening manner and that's when we fired to stop the threat, sir.

DETECTIVE BROWN: Okay. What did you perceive --

or what was your concern at the time you fired?

POLICE OFFICER ZAVALA: Oh, sir, I was afraid that the suspect was going to stab me, sir. I was afraid of my life. I was afraid of my partner's life and the other officers that were to the left of me. Not only that, sir, I was afraid of the pedestrians that were nearby.

He already had chased several pedestrians, based on the comments of the call, with this large butcher knife. His demeanor, his cutting his hand, attempting to cut his throat, standing up, took a deep breath, tensed up, and boom, took these five, six steps towards us. I was afraid of my life, sir.

DETECTIVE BROWN: And did you feel at that point that there was any other option?

POLICE OFFICER ZAVALA: Sir, I believe it was necessary to stop this deadly threat, so that's why I fired approximately two to three rounds, sir.

DETECTIVE BROWN: After the shots are fired -- well, let me break down. When you fired your shots, did you assess between each shot or can you give me the sequence of your fire?

POLICE OFFICER ZAVALA: Yes, sir. So I fired twice, boom, boom, and then I assessed and I observed that he was down on the ground and -- I'm sorry, sir.

DETECTIVE BROWN: Go ahead. Go ahead. I'm sorry. Go ahead.

POLICE OFFICER ZAVALA: I'm sorry. So the reason why I say two to three -- two to three shots, in my mind, I fired two shots, but I heard a third -- a third one, right? So I'm like oh, so probably two, three then, right? I mean, it happens quick. It happens fast. When you've been in these situations, it unfolds quick and -- but after I fired probably two, three shots, I assessed. He was down on the ground, sir, and that's when we form our tactical plan to handcuff him.

DETECTIVE BROWN: So the first two shots, did you see him react or --

POLICE OFFICER ZAVALA: No, sir. I just saw him falling to the ground, sir.

DETECTIVE BROWN: Okay. So when you fired the third shot, is he still advancing as you fire that third shot or is he still standing?

POLICE OFFICER ZAVALA: Oh, no, no. So to make it more clear, I fire -- I fire approximately two, three shots.

DETECTIVE BROWN: Okay.

POLICE OFFICER ZAVALA: So when I fired two, three shots, that's when I assess. He was already on

the ground.

DETECTIVE BROWN: Okay.

POLICE OFFICER ZAVALA: And the reason why I said I believe I fired a third shot was because I heard boom, boom, boom -- three. Boom, boom, boom, boom, right? And I was like -- in my mind I thought I fired two, but I heard a third, right?

DETECTIVE BROWN: Okay.

POLICE OFFICER ZAVALA: Like boom, boom, boom. Three.

DETECTIVE BROWN: Okay.

POLICE OFFICER ZAVALA: So that's why I say approximately two, three shots.

DETECTIVE BROWN: And at the time you fired, what was your background or where --

POLICE OFFICER ZAVALA: So at the time I fired, there was the steps behind and there was that lobby in the back. So -- so it was just the steps and the lobby in the back, sir, and it was clear. Nobody was back there. We had gotten everybody out of that building. And so, yeah, that was it. Just the steps and the lobby back there, sir.

DETECTIVE BROWN: When you say got everybody out of the building, what do you mean by that specifically?

POLICE OFFICER ZAVALA: I mean like everybody in that lobby that we visually observed initially that was there at the time.

DETECTIVE BROWN: I think you described a male.

POLICE OFFICER ZAVALA: A male Hispanic that we told him to leave the area.

DETECTIVE BROWN: Okay.

DETECTIVE GRABE: Could I ask something?

DETECTIVE BROWN: Yes. Sure.

DETECTIVE GRABE: Before we go to --

DETECTIVE BROWN: Yeah.

DETECTIVE GRABE: So were there other people in that lobby also?

POLICE OFFICER ZAVALA: You know what, sir, it appeared to be to me and -- but there was one that opened up the door and was, "Hey, get out of there. Everybody get out of there." So then when I observed him leave and just hear -- just hear other steps just leave that lobby area and that's why I assumed there was more.

DETECTIVE GRABE: And then how could you see what -- is there windows on the lobby door or --

POLICE OFFICER ZAVALA: Yes, sir. There was windows in the front. There's that door and there was windows, I believe, that you could see inside the

lobby, sir.

DETECTIVE GRABE: Okay.

DETECTIVE BROWN: Okay. Let's see. And I think we covered everything. So when you -- you described going up and taking the suspect into custody. As you made that approach, was there a -- was there any communication about organizing the arrest team or --

POLICE OFFICER ZAVALA: Yes, sir. Yes, sir.

DETECTIVE BROWN: Can you give us some details on that?

POLICE OFFICER ZAVALA: Yes, sir. Yes, sir. So [redacted] came around and started giving us orders directing an arrest team. I stayed as lethal and we made my partner, Officer Quintanilla, as the officer that was going to handcuff the suspect and we also had less lethal up there. And once we told them the tactical plan, we advanced and handcuffed the --

DETECTIVE BROWN: So as you're approaching for this arrest team, you're providing cover, are you -- how are you holding that pistol and where is it pointed?

POLICE OFFICER ZAVALA: Low ready, sir. Down to the --

DETECTIVE BROWN: And your trigger finger is where?

POLICE OFFICER ZAVALA: On the side of the rail, sir.

DETECTIVE BROWN: Okay. And you observed your partner actually cuff the suspect?

POLICE OFFICER ZAVALA: Yes, sir. We also had a shield up there, but I forgot to throw that out. We had a shield up there too.

DETECTIVE BROWN: I see. Did the suspect resist the cuffing or did you see any force used by your partner (Unintelligible) the cuffing?

POLICE OFFICER ZAVALA: No, sir. He just turned him aside and handcuffed him and attempted to render aid while the RA was --

DETECTIVE BROWN: And the RA was already on scene at that point?

POLICE OFFICER ZAVALA: Yes, sir. And once it was safe for the RA to make entry there, they end up -- they ran in there and rendered him safe.

DETECTIVE BROWN: Okay.

POLICE OFFICER ZAVALA: Rendered aid.

DETECTIVE BROWN: Now, you described there was some contact with some family members or some people that were in the area. And you described that it's -- I think you might have used the term "push" and I'm not sure if that's -- if I'm misspeaking.

POLICE OFFICER ZAVALA: No. I was holding her back.

DETECTIVE BROWN: Okay.

POLICE OFFICER ZAVALA: I was holding this female back. And there's another patrol officer that was there with me, and he ended up just gaining control of the -- of this female and getting her out of the modified skirmish line that we had.

DETECTIVE BROWN: So to control this female, did you have to use any kind of firm grip, any kind of --

POLICE OFFICER ZAVALA: No, sir. I mean --

DETECTIVE BROWN: Okay. So you used no pain compliance? No force?

POLICE OFFICER ZAVALA: Oh, no, no, no. No force. Nothing like that, sir.

DETECTIVE BROWN: Did you see any other officers utilize any kind -- type of tactical force?

POLICE OFFICER ZAVALA: No, sir, I didn't.

DETECTIVE GRABE: And what -- and what Officer Zavala did when you were -- you were kind of showing us. You just held your arm out straight with your palm opened forward.

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE GRABE: So is that a good -- are you describing what you did to keep her --

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE GRABE: -- back away from you?

POLICE OFFICER ZAVALA: Yes, sir. And she was grabbing my forearms.

DETECTIVE GRABE: Okay.

POLICE OFFICER ZAVALA: So I was just, like, putting my palms up like that and she was grabbing my forearms. I'm like, "Ma'am, just get back."

DETECTIVE GRABE: Okay. So you just have your palms up in front of you. Right now you have both. Earlier you had one. So two palms forward?

POLICE OFFICER ZAVALA: Yes, sir. Yes, sir.

DETECTIVE GRABE: Okay. And so you weren't actually pushing.

POLICE OFFICER ZAVALA: Oh, no, no.

DETECTIVE GRABE: You were just holding your arms out to keep the distance?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE GRABE: Okay. And then you said she was grabbing on to your arms, but was there -- what do you think her intention was? Was it to get by you or was it to harm you?

POLICE OFFICER ZAVALA: Oh, no, sir. She was just trying to get by me. She was trying to get by me and get to the suspect.

DETECTIVE GRABE: Okay.

DETECTIVE BROWN: Do you know if that was, in fact, a family member or --

POLICE OFFICER ZAVALA: I don't know, sir, if it was or not to be honest.

DETECTIVE BROWN: Okay.

DETECTIVE GRABE: Just your opinion on that, do you think -- do you believe you -- that was a use of force?

POLICE OFFICER ZAVALA: No, I don't believe so, sir.

DETECTIVE BROWN: Did you -- did you identify any witnesses or victims to that -- the initial ADW?

POLICE OFFICER ZAVALA: No, sir. Because then I got -- I got ordered to stay by the vehicle by [redacted] and --

DETECTIVE BROWN: So I'm going to back up just a little bit, because I didn't cover it. When you described your use of force and your firing of your lethal shots, did you see any of the other officers fire lethal?

POLICE OFFICER ZAVALA: No, sir, I didn't.

DETECTIVE BROWN: Okay. I know [redacted] was on scene. Did he come up at any time or another supervisor come up and identify that you specifically

had been involved in the shooting?

POLICE OFFICER ZAVALA: At one point there was a Sergeant Castaneda, Castanano (phonetic).

DETECTIVE BROWN: Castillanos?

POLICE OFFICER ZAVALA: Castillanos from Central Division that ended up staying with me, gave me the public statement.

DETECTIVE BROWN: Public safety statement?

POLICE OFFICER ZAVALA: Public safety statement and --

DETECTIVE BROWN: So let me ask you this: Did you keep your body-worn camera running after the shooting up until he arrived or --

POLICE OFFICER ZAVALA: Yes, sir. Until he arrived and directed me to turn off the camera and hand him the camera, sir.

DETECTIVE BROWN: Okay. So when you -- when you gave your public safety statement, to the best of your knowledge, the camera was not running?

POLICE OFFICER ZAVALA: I don't believe so.

DETECTIVE BROWN: Okay. Did you or any of the other officers that were on scene have any conversation after the cameras were collected regarding the incident?

POLICE OFFICER ZAVALA: No, sir.

DETECTIVE BROWN: And after Sergeant Castillanos took that statement, were you continuously monitored?

POLICE OFFICER ZAVALA: Yes, sir. I was with him during the whole time period until I got -- until I went to -- back to the scene, sir, and that's when Lieutenant Murlo took me.

DETECTIVE BROWN: Okay. So lieutenant transported you back for the walk-through with your attorney?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: Okay. Bear with me a minute. I'm going to go through -- Tim, do you want to pick up if you have any questions?

DETECTIVE GRABE: Sure. Sure.

DETECTIVE BROWN: And I'll go over my notes.

DETECTIVE GRABE: Okay. So early -- referring to your video, early on you told, "Hey, Sergeant, I'm going to talk to him in Spanish."

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE GRABE: What was the reasoning that you were going to talk to him in Spanish? Had you -- was there some kind of indication that he was a Spanish speaker or just something you were attempting? What was your thought on that?

POLICE OFFICER ZAVALA: Due to the fact that he

wasn't listening to the English commands, sir, and it's a Hispanic -- mostly Hispanics in that area, sir, and he was a male Hispanic suspect. And I felt it was to give it a try to talk -- communicate with this individual in Spanish, have him drop this knife.

And also at one point I heard the family talking to him in Spanish. I'm not sure what the family said, but they were trying to communicate with him in Spanish. So I took it upon myself to communicate in Spanish.

DETECTIVE GRABE: Okay. And then so on the same topic, you talked about him talking about God and some other things. What language was that in when he was doing that communication?

POLICE OFFICER ZAVALA: Oh, man, like in Spanish and he's mumbling in Spanish and some kind of English in there. It was just -- he was distraught. He was mumbling stuff.

DETECTIVE GRABE: So a mixture of both English and Spanish?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE GRABE: He was talking (Unintelligible).

POLICE OFFICER ZAVALA: That I -- that I heard, sir.

DETECTIVE GRABE: Okay. And now you talked about your partner giving him some commands too. Was that in English or Spanish?

POLICE OFFICER ZAVALA: In Spanish, sir. So initially I told my partner, "You talk to him in Spanish." And when I told [redacted] Sergeant, "[redacted] Sergeant [redacted], we're going to talk to him in Spanish." I told my partner, "Talk to him in Spanish." And my partner communicated him in Spanish.

And thereafter I told him, "You know what, let me talk to him, because I'm closer to him here. Maybe he'll listen to me," and have him drop that knife. And that's when we attempted that, right? We attempted that and he was still incoherent. He wasn't -- he was uncooperative. He wasn't listening.

DETECTIVE GRABE: Okay. Now, you obviously -- you've talked about it and we see it in the video where you ask for a skirmish line to be formed. And what was the reasoning? What was occurring that made you want to form a skirmish line?

POLICE OFFICER ZAVALA: So my reason to form the skirmish line, sir, is these pedestrians or family or whatever they were at the time -- I'm not sure if it was the family. There was still evidence at scene, the large butcher knife. Suspect was still on the

ground. The RA was rendering -- attempting to render aid to him. And so we're just protect the evidence and most importantly, sir, render aid to the -- to the suspect, sir.

DETECTIVE GRABE: Okay. Now, it appeared that you -- some kind of yellow object that you threw into the street. Where did that come from? How did that come into the --

POLICE OFFICER ZAVALA: Oh, no, sir. They threw -- they threw that at me, sir.

DETECTIVE GRABE: Okay.

POLICE OFFICER ZAVALA: Yeah, so they were throwing items at us, sir. So that -- it looked like a -- first it was a broom that they tossed and it was nearby the skirmish line and then they tossed a -- to sweep the dirt inside the --

DETECTIVE GRABE: Like the dirt -- dustpan type thing?

POLICE OFFICER ZAVALA: Yeah, the big ol' -- but they tossed it towards me. They almost hit me. They missed me and it landed on the street.

DETECTIVE GRABE: And you say "they." Do you know who threw it?

POLICE OFFICER ZAVALA: It was the subjects that were -- where we had -- where I ordered the skirmish

line to be at. It was one of those individuals.

DETECTIVE GRABE: Okay. But you're not -- you're not sure who?

POLICE OFFICER ZAVALA: I don't know. I'm not sure who, sir.

DETECTIVE GRABE: Okay. Now, you said that there was -- one of you gang units per day brings the less lethal.

POLICE OFFICER ZAVALA: Yes, sir. And they were at scene, which was [redacted] and Officer Meraz, 13-George-26.

DETECTIVE GRABE: Okay. So that's what I was going to ask is who was it that -- and now when you do that as a unit --

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE GRABE: -- what less lethal is taken? Is it always the same? Is it different less lethals?

POLICE OFFICER ZAVALA: It's 40-millimeter and the beanbag, sir. So we have one unit with a 40-millimeter and another unit with a beanbag.

DETECTIVE GRABE: Okay. So there's actually two units --

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE GRABE: -- with less lethal?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE GRABE: And then do you carry your Taser?

POLICE OFFICER ZAVALA: Yes, sir. Yes, sir, I do.

DETECTIVE GRABE: All right. Now, after the OIS occurred -- this is, again, referring to your body-worn -- there was a time when there was another officer -- and I don't know who he was. He was talking about something on the ground. You just said, "Leave it."

POLICE OFFICER ZAVALA: Oh, yes, sir.

DETECTIVE GRABE: Can you explain to me what's going on there?

POLICE OFFICER ZAVALA: Yes, sir. So initially my partner, Officer Quintanilla, grabbed the suspect's hat, because he wanted to take -- give it to the RA. Because, you know, usually when we respond to these shooting calls and they have, like, a hat there, one that we give to the RA so they could give it to the suspect. So I believe my partner was trying to take that hat and give it to the RA, but I told him, "No. Leave it. Leave it." Because, you know, it's an officer involved shooting.

DETECTIVE GRABE: Okay.

POLICE OFFICER ZAVALA: And we got to leave

everything at scene.

DETECTIVE GRABE: Okay.

POLICE OFFICER ZAVALA: And then I looked at the knife and I said, "Just leave everything there." Just, you know --

DETECTIVE GRABE: Okay.

DETECTIVE BROWN: And in that realm, can I ask a question? Did you move the knife at all?

POLICE OFFICER ZAVALA: Yes, sir. So upon approaching -- yes, sir. Upon approaching -- sorry. Go ahead, sir. I don't want to cut you off.

DETECTIVE BROWN: No, no. You're fine. That's right. You described you kicked it?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: And, again, just for clarity, why did you kick it? Why did you choose to kick it?

POLICE OFFICER ZAVALA: Due to the fact that the suspect was still moving around and the knife was right by him, sir, and it was unsafe.

DETECTIVE BROWN: Thank you.

DETECTIVE GRABE: All right. Can you estimate the distance that you were from the suspect when you fired?

POLICE OFFICER ZAVALA: Yes, sir. Approximately -- I would say 10, 15, maybe 20 feet,

sir. You know, maybe 10, 15 I would say, yeah.

DETECTIVE GRABE: Okay. Now, you described that there -- there weren't enough resources. Where -- why did you believe there weren't enough resources? Had resources been asked for and denied or is it just because you knew there was a lot of stuff going on in the division? Where did you get that belief that there were not enough resources?

POLICE OFFICER ZAVALA: It was both, sir. It was the -- there was already an officer involved shooting in the division. I requested a backup. Corresponding units, they weren't arriving, sir. There was pedestrians around still walking. I kept looking around seeing if the officers were responding to scene. Nobody was there, sir.

There's a guy with a large butcher knife that already chased people around with a large butcher knife. He cut his hand, is trying to slice his throat. I'm trying to -- I'm trying to get these pedestrians out of this area, sir, of this -- of this dangerous suspect here.

DETECTIVE GRABE: Okay. So you're referring to the fact that you wanted more --

POLICE OFFICER ZAVALA: Resources.

DETECTIVE GRABE: -- resources to help with the

surrounding --

POLICE OFFICER ZAVALA: Containment.

DETECTIVE GRABE: -- pedestrians?

POLICE OFFICER ZAVALA: Yes, sir. With the containment. Yes, sir. And even more resources where we were at too, sir, right? And maybe have more officers there. Have another officer with a Taser ready. You know, we needed resources there and we didn't have resources.

DETECTIVE GRABE: And you've described or you've already explained that you've been at Newton for quite a long period of time. When you usually ask for a backup at Newton, is that something that comes quickly?

POLICE OFFICER ZAVALA: Oh, yes, sir. Yes, sir. Most definitely.

DETECTIVE GRABE: So for how long do you think between the time you requested backup and the fact that you realized that they were not coming?

POLICE OFFICER ZAVALA: Oh, man.

DETECTIVE GRABE: How much time elapsed?

POLICE OFFICER ZAVALA: To me, it seemed like a long time, but --

DETECTIVE GRABE: Okay.

POLICE OFFICER ZAVALA: I mean, I don't recall.

But it took a while, sir.

DETECTIVE GRABE: Okay. How long do you think it took between the time you got there and when the OIS occurred?

POLICE OFFICER ZAVALA: How long did it take?

DETECTIVE GRABE: Yeah. What's the estimation, do you think?

POLICE OFFICER ZAVALA: Oh, man. Maybe approximately ten minutes, sir. Around there.

DETECTIVE GRABE: Okay. You talk about these pedestrians surrounding the area and you've already described the people who you think may have been the family were approximately 25 feet away. How about these other pedestrians you're talking about? What do you think the closest pedestrians were to this person?

POLICE OFFICER ZAVALA: Oh, man. One right behind him, sir, in the lobby.

DETECTIVE GRABE: Okay.

POLICE OFFICER ZAVALA: And the other one on Street 1, which is ten feet away from him.

DETECTIVE GRABE: Okay.

POLICE OFFICER ZAVALA: I mean, and there was vehicles stopping right behind us and on the side of us. There was pedestrians walking all over.

DETECTIVE GRABE: Okay. Okay. Now, you talked

about the plan for handcuffing, but before that you talked about a plan put in place of who was going to be lethal, less lethal, that kind of thing.

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE GRABE: But you didn't talk about who made that plan. And how was that plan given to you?

POLICE OFFICER ZAVALA: Yes, sir. So when we arrive at scene, [redacted] and the patrol officers were to my left. And when I arrive at scene -- you know, [redacted], he's our gang sergeant. We've been in many tactical incidents together. I looked at him and right away he already -- we was designated as less lethal, a shield on his side over there, and then he looked at me and my partner, Officer Quintanilla. He told me I was lethal and my partner designated cover officer, sir.

DETECTIVE GRABE: Okay. Thank you. Now, you talked -- you told my partner that you did not respond code three.

POLICE OFFICER ZAVALA: No, sir.

DETECTIVE GRABE: But we do have, I believe, DICVS from your vehicle.

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE GRABE: How did that get turned on?

POLICE OFFICER ZAVALA: Usually we try to make it

a habit, sir, when we arrive at scene to turn on the DICV either with our button here or inside the digital in-car video.

DETECTIVE GRABE: So on your belt or inside the --

POLICE OFFICER ZAVALA: Either the belt or inside.

DETECTIVE GRABE: But do you know how this time it got turned on?

POLICE OFFICER ZAVALA: No, sir. I don't recall.

DETECTIVE GRABE: Okay. Okay. Now, you talked many times about the suspect cutting his own throat. Which hand was he holding the knife in?

POLICE OFFICER ZAVALA: I believe he had -- he had the knife on his right and he put it across to his left side of his neck.

DETECTIVE GRABE: So the hand -- you're -- just so because, again, we're on tape here. So you're describing he has the knife in his right hand, but he's coming across his neck.

POLICE OFFICER ZAVALA: Across.

DETECTIVE GRABE: And then the neck was being put to the left side -- or the knife was being put to the left side of his neck; is that correct?

POLICE OFFICER ZAVALA: Yes, sir. And he was

pushing it and he was -- don't slice his throat. Looking at us and --

DETECTIVE GRABE: Okay.

POLICE OFFICER ZAVALA: -- just building that courage.

ATTORNEY WILCOX: So when you're doing that, you're taking your right hand and kind of moving it down from under your ear on the left side of your neck down towards your chin? Would that be accurate to what you saw?

DETECTIVE GRABE: Is that -- she's asking.

POLICE OFFICER ZAVALA: Yes, sir.

ATTORNEY WILCOX: Oh, I meant from what you saw him do right now.

DETECTIVE GRABE: Oh, from what I see? Yes, yes.

ATTORNEY WILCOX: Sorry.

DETECTIVE GRABE: That's what it seems to be for me, yes.

ATTORNEY WILCOX: Is that what you saw at scene?

POLICE OFFICER ZAVALA: Yes.

ATTORNEY WILCOX: Okay.

DETECTIVE GRABE: Okay. Okay. Now, after you were ordered by [redacted] Sergeant to stand by that vehicle --

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE GRABE: -- did you have any -- did you have any contact with any officers in which you discussed what had occurred?

POLICE OFFICER ZAVALA: No, sir.

DETECTIVE GRABE: Okay. Now, you've done -- you have told us many steps that you took for de-escalation, but could you give us just a brief -- just narrative of what your de-escalation steps were? What did you do to de-escalate this situation?

POLICE OFFICER ZAVALA: We had distance.

DETECTIVE GRABE: What you did. What you did personally.

POLICE OFFICER ZAVALA: Well, I communicated with the suspect in Spanish and tell him in Spanish, you know, to drop that knife multiple times. I was there to help him. I wanted to help him. You know, I wanted to help the suspect. I kept telling him many times to please drop the knife and we could talk about whatever was bothering him, that we could talk together. You know, but I needed him to drop that knife, you know, to save him, sir. And he just -- he just didn't listen.

DETECTIVE BROWN: Yeah, this is Brown again. I just have a couple quick ones -- questions that -- I didn't cover this when I was asking you about -- after

you -- well, after you were involved in the shooting, did you reload, top off, or manipulate your firearm in any way?

POLICE OFFICER ZAVALA: No, sir, I didn't.

DETECTIVE BROWN: Okay. Now, on your magazine capacity, your magazines hold up 19 rounds, correct?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: Okay. Now, is that -- is that -- are those private purchased magazines or were those issued?

POLICE OFFICER ZAVALA: It's from a Glock, sir.

DETECTIVE BROWN: Okay.

POLICE OFFICER ZAVALA: So it goes with the Glock firearm.

DETECTIVE BROWN: Well, when I ask is -- was that something that was issued to you through the department or did you private purchase those?

POLICE OFFICER ZAVALA: Oh, no, no, no. (Unintelligible).

DETECTIVE BROWN: Okay. And what's your understanding on the policy about utilizing those particular magazines?

POLICE OFFICER ZAVALA: As long as it's the same brand as the Glock, we're able to utilize it with --

DETECTIVE BROWN: Okay.

POLICE OFFICER ZAVALA: That's my understanding.

DETECTIVE BROWN: Okay. And to the best of your knowledge, your loading today, were you at full capacity?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: And you had a live one in the chamber?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: Okay. And did you verify that at any time at the start of watch or today?

POLICE OFFICER ZAVALA: Yes, sir. At every start of watch.

DETECTIVE BROWN: And how did you verify that?

POLICE OFFICER ZAVALA: Safely on loading barrel, I take out my magazine, see if there's one in the chamber.

DETECTIVE BROWN: So you did a chamber check?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: Okay. I don't have any else. Ms. Wilcox, did you -- anything you wanted to cover or clarify?

ATTORNEY WILCOX: I think you got the two I had. Let me check. Did you talk about whether or not you thought he was under the influence of anything? Did we say that?

DETECTIVE BROWN: No, no. We did not cover that. So if you have -- you got a question you want to --

ATTORNEY WILCOX: Did you have the impression that the suspect was under the influence of anything?

POLICE OFFICER ZAVALA: Yes, ma'am. Just how I mentioned in my interview as I was talking.

ATTORNEY WILCOX: Did you say that? I'm sorry.

POLICE OFFICER ZAVALA: To me, he appeared --

ATTORNEY WILCOX: Can you say it again?

POLICE OFFICER ZAVALA: -- he was under the influence of some kind of controlled -- unknown controlled substance just by the way he was acting, his demeanor, his mumbling. To me, he appeared to be under the influence of --

DETECTIVE BROWN: Can I ask a follow-up question? Did you have any concern or perception that there was an issue with mental illness?

POLICE OFFICER ZAVALA: Possibility, sir. I mean, subjects that are under the influence go hand in hand with mental illness. Yes, sir, it did cross my mind.

DETECTIVE BROWN: Okay. Did the family try to -- or did you hear the family say anything about mental illness or --

POLICE OFFICER ZAVALA: No, sir. No, sir. They

were just yelling, saying, "Junior, drop -- you know, drop that knife, Junior." In Spanish and English we were telling him to drop that knife also.

ATTORNEY WILCOX: That was all I had.

DETECTIVE GRABE: When you got up closer to him when he was being taken into custody, did you smell anything or see anything that made you think he was under the influence, other than just the way he was acting?

POLICE OFFICER ZAVALA: I mean, just -- I mean, just I could see it in his eyes, sir. He had that blank stare. Just looking at me like if he wasn't in there like -- like he wasn't there.

DETECTIVE BROWN: Okay. I don't have anything else. I know we went over this in great detail. Is there anything that you feel you need to clarify or that maybe we didn't address that you'd like to address before we conclude?

POLICE OFFICER ZAVALA: I just want to clarify that when we arrive at scene, [redacted] Sergeant already had a designated less lethal. When I arrived, I was the lethal. My partner DCO. There was a shield. At one point when 13-George-26 arrived, there was an additional less lethal on my side, which was [redacted] Officer 4, and Officer Meraz deployed the shotgun. He

ended up being the lethal on [redacted]'s side. So he already had addressed a tactic -- we had a tactical plan already as this was unfolding, sir.

DETECTIVE BROWN: Okay. Well, let me ask one last follow-up question then. Now, you described, you know, you work with your partner regularly and discuss tactics. [redacted], you said he's your OIC for the gang unit?

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: Now, have you and your partner, Officer Quintanilla, and [redacted] been to other calls where there was lethal and less lethal --

POLICE OFFICER ZAVALA: Utilized?

DETECTIVE BROWN: -- utilized or deployed?

POLICE OFFICER ZAVALA: Oh, yes, sir. Yes, sir. Yeah, many incidents -- in many, many, incidents, right? And then we just had an incident a few days ago, a 415 man with a knife. He was running around on 52 and Ascot with a knife, high on meth, running around, crossing -- vandalizing windows.

You know, we were able to respond there and I communicated with the suspect, right? I made him -- I made him drop this knife, and we were able to take him in custody without the use of force, sir. And those were my intentions today. I was just replaying that

incident a few days ago where we had -- I wanted -- I wanted that to happen today. I wanted -- I wanted to make him drop that knife.

DETECTIVE BROWN: And as a unit, do you guys typically debrief those scenarios or --

POLICE OFFICER ZAVALA: Yes, sir.

DETECTIVE BROWN: -- when you respond to those?

POLICE OFFICER ZAVALA: Yes, sir. We debrief every incident that we go through. Every day that we work, sir, we always debrief incidents.

DETECTIVE BROWN: And do you feel that you have a rapport or understanding to how your -- how your sergeant and your partner reacts to these and do you feel comfortable in maybe without communicating in some of these situations?

POLICE OFFICER ZAVALA: Oh, yes, sir. Most definitely. We've been working together for almost three years now, going on four. Yes, sir.

DETECTIVE BROWN: Okay. Okay. Anything else you wanted to address or clarify?

POLICE OFFICER ZAVALA: Just I wish, you know, we would have saved the guy, you know?

DETECTIVE BROWN: Okay. With that then -- okay. We're going to go ahead and conclude the interview then. The time is now 0132 hours. ///

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Ms. Christine Ford
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CA Commission on Peace Officer Standards and Training
860 Stillwater Road, Suite 100
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Sent Via Email

February 12, 2026

Regarding: Los Angeles Police Department Shooting involving Officers Zavala and Quintanilla on December 18, 2021.

Dear Ms. Ford,

The following report contains my opinions from a review of the Los Angeles Police Department shooting case involving Officers Zavala and Quintanilla. I have studied the reports, documents, and videos listed below. This report presents my expert opinions based on the materials reviewed, my training and education, and more than three decades of law enforcement experience. If additional materials are provided, a supplemental report that adds to or refines my opinions may be necessary.

Expertise

I currently serve as the Director of Public Safety for Grand Canyon University (GCU) in Phoenix, Arizona. Before serving as the Director of Public Safety at GCU, I was the police chief in Huntington Beach and San Bernardino, California. I am a policing executive with over 35 years of comprehensive law enforcement experience. My experience includes extensive experience training and teaching new police officers, veteran officers, and command-level officers.

In addition to reviewing thousands of use-of-force cases and hundreds of police shooting cases in my policing career, I have also been retained as a subject matter expert to review police use-of-force incidents and policing practices and procedures nationwide. Attached is my curriculum vitae for a more detailed description of my related experience.

Brief Incident Summary

On December 18, 2021, at approximately 1710 hours, Los Angeles police officers responded to a call of a suicidal man with a knife call. Witnesses had reported Victim walking on the street, waiving a knife in the air and frightening families[1]. When the officers arrived, they found Victim armed with a large meat cleaver-style knife on the front porch of a residential building. The officers attempted to get Victim to drop the knife for more than eight minutes before the incident ended in an officer-involved shooting, where Victim was shot and killed[2].

Expert Opinions and Basis for Opinions

My expert opinions in this case are listed below, with the prominent opinions numbered and in bold type. The basis for the opinions follows the opinions and includes sub-opinions regarding the encounter between the suspect and the officers. The opinions expressed are based on my review of the materials listed, the citations listed throughout the report, my extensive law enforcement training, and more than three decades of policing and academic experiences in policing.

1. **The officers' attempts to contact and detain Victim were appropriate and consistent with training, practices, and the standards for police officers in California and across the country.**

2. **The officers' display of their firearms and threatened use of lethal force on Victim as they attempted to detain him was consistent with training, practices, and the standards for police officers in California and across the country.**

Basis For Opinion

A series of court decisions interpreting the U.S. Constitution governs an officer's authority to contact, detain, and arrest individuals. Officers are taught laws of arrest based on these decisions, starting with reasonable suspicion to temporarily detain a person, probable cause to arrest an individual, and the authority to use force to detain or arrest a person. Peace officers may need to detain a person to investigate involvement in criminal activity. To be lawful, a

[1] FID Report, Page 3
[2] Zavala and Quintanilla BWC

detention must be based on reasonable suspicion that unlawful activity has occurred, is taking place, or is about to occur, and that the person detained is connected to that activity[3].

In this instance, the officers were responding to radio calls of a subject threatening suicide with a knife. They also received information that Victim was chasing people down the street with a knife. Sergeant was first to arrive, followed by Officers Zavala and Quintanilla. When Sergeant arrived, he observed Victim sitting on the exterior stairs of the apartment building holding a knife in his right hand. Victim was holding the blade of the knife pressed up against his neck.

At this point, the officers had information that Victim was suicidal and that he had chased people down the street with the knife. When they arrived, they confirmed that Victim was armed with a large, meat cleaver-style knife. The response from Sergeant, Officer Zavala, and Officer Quintanilla when they arrived and exited their cars was to draw their weapons and give Victim orders to drop the knife. The officers had parked their police vehicles perpendicular to the apartment building and were using their vehicle doors as partial cover and concealment while giving commands to Victim[4]. The presence of the marked vehicles, officers in uniform, and the orders given to Victim constituted an attempt to detain Victim and prevent harm to himself or others and further investigate the reports of assaults with the knife before the officers' arrival. Based on the totality of the circumstances, the attempt to detain Victim using officer presence, verbal commands, and the display of firearms was appropriate and consistent with police officer training, standards, and practices in California and across the United States.

3. The use of 40 mm less lethal munitions to get Victim to drop the knife and comply with orders from the officers was appropriate and consistent with training, practices, and the standards for police officers in California and across the country.

Basis for Opinion

Sergeant, along with Officers Zavala and Quintanilla, were engaging with Victim when additional officers arrived. As officers arrived, Sergeant assigned them to positions (specific angles of coverage) and to specific responsibilities, such as serving as less-lethal or cover officers. Officer 1 ended up with a less lethal assignment, positioning himself with a 40 mm less lethal launcher pointed at Victim. Sergeant assigned officers Zavala and Quintanilla lethal coverage. Officers Officer 2 and Officer 3 were assigned as an arrest team. The air unit arrived, and the pilot and tactical flight officer directed responding units to perimeter and crowd control positions.

[3] CA POST Learning Domain 15, Chapter 3
[4] FID Report, BWC, Zavala, Quintanilla, Sergeant

Several officers were giving Victim commands in English and Spanish throughout the encounter. The officers yelled commands and intermittently used the public address system on Sergeant [redacted]'s police vehicle. The commands were clearly and calmly delivered and varied throughout the more than eight minutes of attempting to persuade Victim to drop the knife. The commands incorporated techniques designed to be persuasive, such as using Victim's first name and offering him services[5].

At approximately 1704 hours into the contact with Victim, at the direction of Sergeant, Officer 1 fired a 40 mm round, striking Victim in the abdominal area. Sergeant ordered the 40 mm deployed because he was concerned Victim would flee and start attacking civilians. Sergeant was hopeful the 40 mm would cause Victim to drop the knife and surrender. The round did not initially appear to have any effect. Victim brushed off the sponge round with a swipe of his hand and did not drop the knife or make any move to surrender. Victim did sit back down on the bottom step shortly after being struck with the 40 mm. Sergeant did not give a specific warning to Victim before ordering the 40 mm round to be fired because he thought the situation was too dangerous and that Victim might run if he were warned. However, Sergeant did announce "Forty stand-by" out loud to the group of officers so that there would not be any confusion with lethal rounds being fired[6].

Officer 1 fired a second 40 mm less lethal round at approximately 1710 hours. Prior to the round being fired, Sergeant again announced, "Forty stand-by." Less than one second after the 40 mm was fired, lethal rounds were also fired by Officers Zavala and Quintanilla[7].

The 40 mm less-lethal round is a sponge-like projectile 40 mm in diameter. The round is fired from a launcher specifically designed to deploy 40 mm projectiles. Officers are trained to utilize devices such as a 40 mm less lethal round when confronting a person who is "aggressive, or combative; attempting to assault the officer, another person, verbally, or displays an intention to assault another person[8]."

Provided that Victim was armed with a knife, threatening suicide, and refusing commands for several minutes to drop the knife, the 40 mm was an appropriate option whose application under the circumstances was consistent with police officer training and standards in California and across the United States.

4. **Given the totality of circumstances, the lethal force used by Officers Zavala and Quintanilla in this incident was not consistent with the requirements for use of deadly force in the California Penal Code, nor police officer training and standards in California.**

[5] FID Report pages 1- 14
[6] FID Report pages 9-11
[7] FID Report pages 9-11
[8] California PST Learning Domain 20, Chapter 3

Basis for Opinion

Police officers are taught the legal authority and considerations for using deadly force. The legal authority and standards for lethal force are based on an objective reasonableness standard based on the Constitution's Fourth Amendment, as determined by the U.S. Supreme Court. Officers are taught that they may use deadly force when it reasonably appears necessary to stop an imminent threat of death or serious bodily injury based on the totality of the circumstances presented to them at the time. The force they use must be objectively reasonable compared to the threat, resistance, and other circumstances perceived by or known to the officer when the force was used[9].

The California Penal Code further instructs officers on the definition of an imminent threat, which is required for a peace officer to use deadly force in California.

> "A threat of death or serious bodily injury is 'imminent' 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 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[10]."

In this instance, Sergeant, and Officers Zavala, Quintanilla, O-1, O-2, Meraz, Officer 4, and Officer 3 were in the immediate area and involved in the contact with Victim. Initial contact with Victim was made when Sergeant arrived, followed shortly by Officers Zavala and Quintanilla. The other officers arrived shortly thereafter as the incident continued. Sergeant supervised the scene and issued orders assigning specific tasks to the officers. Sergeant's initial organization of the officers and division of specific responsibilities was consistent with contemporary training and standards for handling such incidents.

Officers Zavala and Quintanilla were assigned as lethal coverage officers by Sergeant, meaning they were to have their firearms out and pointed at the suspect in case an imminent deadly threat was presented. Officer 1 and Officer 4 maintained positions with less lethal tools, Officer 1 with a 40mm and Officer 4 with a beanbag shotgun. Officer Meraz was assigned as lethal coverage and positioned himself next to Officer 1[11].

At approximately 1704 hours, Sergeant decided to have Officer 1 fire the 40 mm projectile as described in the previous section. The first attempted use of the 40 mm struck Victim in the abdomen but had little effect; it did appear to get Victim to sit down again, this time on the bottom step of the apartment building[12].

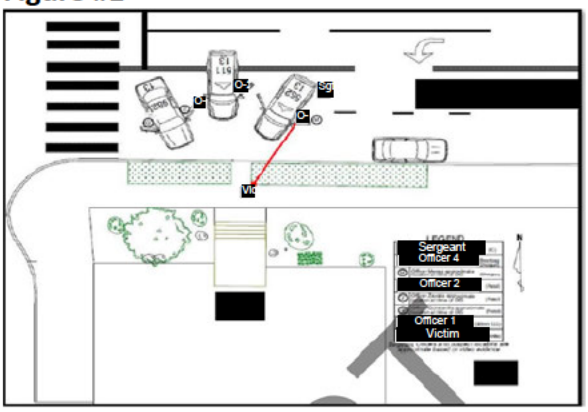
[9] CA POST Learning Domain 20, Chapter 3, 4
[10] CA Penal Code 835(a)(e)(2)
[11] FID Report
[12] Quintanilla BWC 3:35-3:42

After the first 40 mm deployment, Sergeant continued to refine the officers' containment positions as additional resources arrived. Officer 4 was moved with a less lethal (beanbag shotgun) to the west near where Officers Zavala and Quintanilla were positioned[13]. The team had established lethal and less lethal coverage to the north and slightly east, and the same to the north and slightly west of the subject, Victim. The LAPD air unit also arrived overhead and began to callout positions for traffic control

As Sergeant negotiated with Victim (over the patrol vehicle PA system), Victim stood up abruptly, knocked his hat off, and took four steps north, in the general direction of Officer 1 (less lethal, 40mm) and Officer Meraz (lethal, shotgun). Sergeant ordered another deployment of a 40 mm less lethal round at approximately 1710 hours[14].

Various BWC videos show Victim standing up, holding the knife at head level, and taking four steps toward the officers. Sergeant yelled out, "Forty forty up," and Officer 1 deployed the 40 mm one-time, striking Victim on the right side of his torso. Officer 1 fired the second 40 mm round at approximately 1710 hours. The Officer 1's position is depicted below in the diagram taken from the FID report, labeled as Figure #1[15].

Figure #1



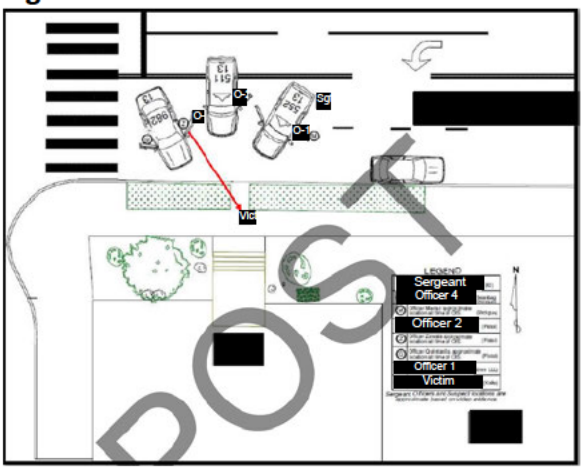
The red line in Figure #1 indicates the approximate positioning of Officer 1 on one end and the approximate position of Victim on the other end. Officer 1 was in the opening of the police vehicle's doorway, and Victim was on the sidewalk. The diagram depicts the approximate positions of Victim and Officer 1 when Officer 1 fired the 40 mm projectile (the second round at approximately. 1710). The second deployment of the 40 mm was ordered based on Sergeant 's concerns about Victim standing up and knocking his hat off, and that Victim was going to get up and run toward a witness[16].

[13] Sergeant BWC 9:52
[14] FID Report
[15] The diagrams and referenced measurements related to Figures #1, #2, and #4 along with the timing of the gunshots are all taken from the FID report, pages 15-21
[16] FID Report page, 12-16

As Officer 1 was firing the 40mm, Victim started turning his body to his left, toward Officers Zavala and Quintanilla. Near simultaneously with the firing of the 40mm, Victim turned his body to face west, and Officer Zavala fired his handgun three times. Officer Quintanilla fired his handgun one-time at Victim. The positioning, timing, reasons, and analysis for each officer firing their handguns are detailed below.

Officer Zavala fired three rounds from his handgun, starting .382 seconds after Officer 1 fired the 40 mm round. Officer Zavala was positioned at the driver's door opening of the patrol vehicle, as depicted in the diagram labeled Figure #2.

Figure #2



The red line in Figure #2 indicates the approximate positioning of Officer Zavala on one end and the approximate position of Victim on the other end. Officer Zavala is in the opening of the police vehicle's driver's side doorway, and Victim is on the sidewalk. The diagram depicts the approximate positioning of Victim and Officer Zavala when Officer Zavala fired three rounds from his handgun. The distance between Officer Zavala and Victim was approximately 25 feet.

Figure #3 is a screenshot from Officer Zavala's body-worn camera (BWC) recording of the approximate time Officer Zavala fired the first round from his handgun. The second and third rounds followed in rapid succession. From the BWC video of Officer Zavala, it appears his camera was mounted in the center of his chest, providing a view from that perspective.

Figure #3[17]



Officer Zavala's reasons for using deadly force by firing his weapon are summarized below in his words to the FID investigators.

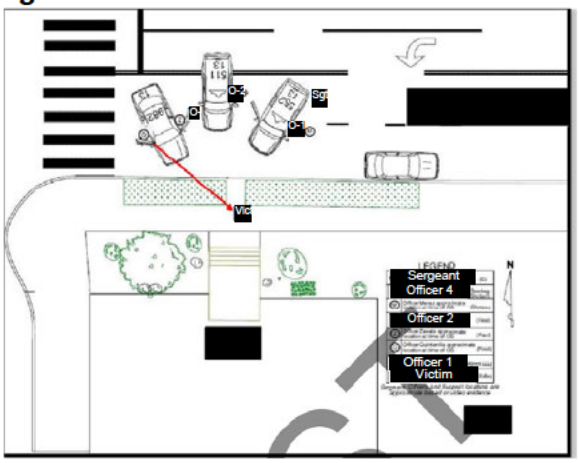
> *"The suspect gets up very rapidly with the -- with the large butcher knife in his right hand. He takes a deep breath, like getting courage, looks at me, looks at my fellow officers. At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified. The suspect then starts advancing towards the officers and turns his body towards myself and my partner. And in fear --I was afraid, sir. I thought this guy was going to come at me with this butcher knife. He already cut his hand. He cut his throat -- he attempted to cut his throat. He chased pedestrians and civilians around the neighborhood with this large butcher knife. And to protect myself and any partner's life and the citizens nearby from serious bodily injury, imminent threat, I fired approximately two, three rounds to stop the threat, sir."*
>
> *"So when I fired two, three shots, that's when I assess. He was already on the ground. So at the time I fired, there was the steps behind and there was that lobby in the back. So -- so it was just the steps and the lobby in the back, sir, and it was clear. Nobody was back there*[18]*.*
>
> "So the second time he rapidly got up, sir, holding the knife in front of Him. He took approximately five, six steps towards the office -- towards the officers and myself, sir, turning his torso towards me in a threatening manner and that's when we fired to stop the threat, sir[19].

[17] Screenshot from Officer Zavala's BWC recording
[18] FID Report pages 18-19, Zavala interview transcript, pages 12-13
[19] Zavala interview transcript, page 26

> "Oh, sir, I was afraid that the suspect was going to stab me, sir. I was afraid of my life. I was afraid of my partner's life and the other officers that were to the left of me. Not only that, sir, I was afraid of the pedestrians that were nearby. He already had chased several pedestrians, based on the comments of the call, with this large butcher knife. His demeanor, his cutting his hand, attempting to cut his throat, standing up, took a deep breath, tensed up, and boom, took these five, six steps towards us. I was afraid of my life, sir[20].
>
> "Yes, sir. Approximately -- I would say 10, 15, maybe 20 feet, sir. You know, maybe 10, 15 I would say, yeah[21]."
>
> "And even more resources where we were at too, sir, right? And maybe have more officers there. Have another officer with a Taser ready. You know, we needed resources there and we didn't have resources[22]."

Officer Quintanilla fired one round, approximately .322 seconds after Officer Zavala's third shot. Officer Quintanilla was positioned at the opening of the patrol vehicle's passenger door, as depicted in the diagram labeled Figure #4.

Figure #4



The red line in Figure #4 indicates the approximate positioning of Officer Quintanilla on one end and the approximate position of Victim on the other end. Officer Quintanilla is in the opening of the police vehicle's passenger side doorway, and Victim is on the sidewalk. The diagram depicts the approximate positioning of Victim and Officer Quintanilla when Officer Quintanilla fired one

[20] Zavala interview transcript, pages 26-27
[21] Zavala interview transcript, pages 43-44
[22] Zavala interview transcript, page 44

round from his handgun. The distance between Officer Quintanilla and Victim was approximately 28 feet[23].

Figure #5[24]



Officer Quintanilla's reasons for using deadly force by firing his weapon are summarized in quotes to the FID investigators below.

> *"When he came down, we kept giving him commands and once he hit the sidewalk, I mean, I was scared and he ended up walking towards us -- towards the officers and myself and that's when I -- I had to use deadly force[25].*
>
> *"I had to stop the threat. He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death. And also, there was still civilians just to the right of me, just a few feet away from me. So he could have caused serious bodily injury or death to them if I didn't do that. I had to do it[26]."*
>
> *"So the background to where the suspect was and where I was pointing my firearm, there's an apartment building that was behind him. However, the apartment building is elevated. There's a stairway where he comes down from, which is below where the apartment is…And when he went down, I stopped shooting. I stopped.[27]"*

[23] The diagrams and referenced measurements related to Figures #1, #2, and #4 along with the timing of the gunshots are all taken from the FID report, pages 15-21
[24] Screenshot from Officer Quintanilla's BWC recording
[25] FAID Report page 19
[26] FAID Report page 19
[27] FAID Report page 19

> *"So I'm using the vehicle as cover and I'm standing behind my ballistic door and I'm trying to -- I'm trying to just use my vehicle as cover as best I can, not giving him ground[28].*
>
> *"I want to say about 15 feet[29]."*
>
> *"Once he comes down the sidewalk, he faces towards my partner and I direction and he advances at us. He makes an advance motion at us and I deploy my firearm[30]."*
>
> *"I deployed it because I had -- you know, it was -- I had to use – I had to stop him. I had to stop the threat. He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death. And also there was still civilians just to the right of me, just a few feet away from me. So he could have caused serious bodily injury or death to them if I didn't do that. I had to do it[31].*
>
> *"I see this gentleman that's -- that's trying to come eastbound towards – towards where the suspect is and between -- pretty much between us -- the officers and the suspect. And obviously I didn't want that to happen. I didn't want him to get hurt. I see an officer in his vehicle, and I tell him -- you know, because he's not getting out the car and telling him to leave. So I scream at him and I tell him, "Hey, get out the car and address this citizen and tell him to get out the way or leave the area," I believe, I told him. But I did scream that to the officer[32]."*

When Officers Zavala and Quintanilla arrived, Sergeant was already on scene. Sergeant assigned them to be lethal coverage and essentially containment on the west side of the subject, Victim. Officer 4 was moved over to assist on the west side with a less lethal beanbag shotgun, and another officer was moved over with a police vehicle on the west side to control pedestrian traffic and provide containment to the west[33].

When Victim got up and started moving the first time with the knife, the 40 mm was ordered deployed by Sergeant . Victim was moving down the stairs when the 40 mm struck him, but it seemed to have little impact based on his reaction. However, Victim stopped moving farther away from the steps and sat down on the bottom step of the building.

When Victim got up to move a second time, more than six minutes after the first 40 mm, Sergeant again yelled for the 40 mm to be deployed. Victim appeared to move four steps toward officers O-1 and Meraz. Officer 1 deployed the 40mm as Victim turned toward the

[28] Quintanilla Interview with Investigators, page 24
[29] Quintanilla Interview with Investigators, page 25
[30] Quintanilla Interview with Investigators, page 29
[31] Quintanilla Interview with Investigators, page 30
[32] Quintanilla Interview with Investigators, page 37
[33] Sergeant BWC footage

west, facing Officers Zavala and Quintanilla. Officer Zavala fired first, three times, then Officer Quintanilla fired one time[34].

At the time the shots were fired, the officers were each standing behind vehicle doors equipped with ballistic protection panels. Officer Zavala was approximately 25 feet away from Victim, and Officer Quintanilla was approximately 28 feet away from Victim. Both officers indicated that they fired because they thought Victim was going to cause serious bodily injury or death. For example, Officer Zavala told investigators, "The suspect then starts advancing towards the officers and turns his body towards myself and my partner. And in fear --I was afraid, sir. I thought this guy was going to come at me with this butcher knife." Officer Quintanilla told investigators, "He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death."

While the officers' reasons for firing their weapons are reasonable fears of what could happen, they are speculative and do not amount to imminent harm as defined by the California Penal Code. Factors indicating Victim was not an imminent threat include:

- Victim, at the time he was shot, was standing, facing officers Zavala and Quintanilla, not advancing on them
- Less lethal tools were in place in two directions, including next to Officer Zavala (Officer 4 with a beanbag)[35]
- Both officers were standing behind the police vehicle doors with ballistic panels more than 28 feet away from Victim
- Sergeant ordered the less-lethal rounds to be fired moments before the officers fired their handguns
- A 40 mm less lethal round was fired a second time, less than one second before Officer Zavala fired from his handgun. There was no opportunity to see if the less lethal, ordered by the sergeant, was effective
- There were multiple officers and options available to try and stop Victim had he advanced toward Officers Zavala and Quintanilla
- There were officers closer to Victim than Officer Zavala and Quintanilla, who did not fire their handguns. Officers O-1 and Meraz were approximately 22 feet away from Victim when Officer Zavala first fired[36]. Officer 1 fired the 40 mm as directed, less than one second before Officer Zavala fired his handgun. Officer Meraz, who was providing lethal

[34] Zavala, Quintanilla, Sergeant BWC video, FID Report
[35] FID Report page, 14
[36] FID Report page, 16

coverage next to Officer 1, did not fire

- Less lethal was available immediately next to Officer Zavala (Officer 4 with a stun bag shotgun), but was not utilized.

- The organization of this small team of officers was designed to provide less-lethal options for each grouping of officers. Victim's initial movement (4 steps) just before being shot was toward Officers O-1 and Meraz; thus, the 40 mm (Officer 1) was ordered deployed by Sergeant and fired by Officer 1.

- There were at least eight officers present and organized to deal with any of the possible scenarios that Officers Zavala and Quintanilla stated they feared, and as reasons they shot Victim

- Based on the totality of the circumstances, Victim's turning toward Officers Zavala and Quintanilla does not constitute an imminent threat as defined in California law.

> "A threat of death or serious bodily injury is 'imminent' 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 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[37]."

Throughout the videos and all the materials available, I did not see, hear, or review any documented direct threats toward the officers or any other person. Victim was suicidal, a threat to himself, and posed many potential threatening scenarios based on possible actions. When Victim stood up and stepped toward the officers, the situation was changing. The officers were set up to prevent Victim's movement and to address potential threatening scenarios under the direction of Sergeant . Sergeant ordered the second 40mm less lethal deployment. When the 40mm round was ordered, Victim had started moving forward in the direction of Officers O-1 and Meraz.

By the time the 40mm was deployed, Victim was no longer moving forward toward Officers O-1 and Meraz; he was turning his body and feet toward Officers Zavala, Quintanilla, and Officer 4. When Victim was stepping toward Officer 1 and turning toward Officer Zavala, the movements were not hurried. He was not running, lunging, or aggressively advancing toward the officers. Victim's turn toward Officer Zavala was also at normal speed and did not appear to be a sudden or aggressive move.

[37] CA Penal Code 835(a)(e)(2)

Based on the material reviewed, Victim's turn toward Officer Zavala initiated the lethal response by Officers Zavala and Quintanilla. However, Victim, upon turning and facing officers Zavala and Quintanilla, did not pose an imminent threat to them. The situation had not changed dramatically; the four steps Victim took were more toward Officers O-1 and Meraz than toward Officers Zavala and Quintanilla. The lethal force was deployed before any assessment of the 40mm round ordered by Sergeant.

Based on my extensive experience in policing and review of the videos, statements, and other materials available, it is my opinion, the lethal force used against Victim was not in response to an imminent threat as required by the California Penal Code.

Conclusion

Police officers responding to a suicidal man who was also reported to have chased people with a knife can be a dangerous and complicated situation. The objective of modern training for police officers responding to these incidents is to provide tools and techniques that minimize the danger to the subject, citizens, and officers. Those tools include many of the things employed in this situation by the Los Angeles Police Department and the officers involved (small team tactics, less lethal tools – 40mm, bean bag shotguns, and TASERS, ballistic door panels, CIT-type negotiation techniques, and more).

From Sergeant's arrival through the ensuing eight-plus minutes leading up to the shooting, Sergeant and the officers were employing many of the techniques and tools designed to minimize the level of danger to all the parties involved[38]. The group of officers had a modest level of containment and many options in place if Victim were to become violent toward others. The officers had a variety of less-lethal options (OC Spray, Batons, TASERs, 40mm, Beanbag Shotgun) and were properly using other tools available (ballistic door panels, PA System, hand-held shield).

The group of officers was working through the situation under the direction of Sergeant, who had clearly defined officer roles and responsibilities and was controlling the police response. It did not appear that Victim's movements were significant enough for Officers Zavala and Quintanilla to respond with lethal force when Sergeant had ordered less lethal force to be deployed. In addition, due to the lethal force being fired so close (less than one second) to the less lethal force, there was no opportunity to evaluate the effectiveness of the less lethal force ordered by Sergeant.

[38] Sergeant BWC 4:18 – 13:09

The use of lethal force by Officers Zavala and Quintanilla appeared to be inconsistent with the tactics being directed by Sergeant in this incident. Victim's turn in direction, toward the two officers, did not significantly change the circumstances to warrant a lethal response. The use of deadly force did not appear to be in response to an imminent threat as defined by the California Penal Code.

Respectfully Submitted,

Robert Handy
Peoria, Arizona

Documents Reviewed

I have examined the following reports, documents, audio recordings, photos, and other evidence listed to render my opinions:

Number	File
1	BWC footage Officer Zavala
2	BWC footage Officer Quintanilla
3	BWC Footage Sergeant
4	FID Report F064-21
5	Chief of Police (COP) Interdepartmental Report
6	Letter of Transmission (LOT 22-003757)
7	Letter of Transmission (LOT 22-003418)
8	Quintanilla Discipline Notice
9	Zavala Discipline Notice
10	Federal civil complaint
11	Quintanilla EDI profile
12	Quintanilla LADP image
13	Zavala EDI profile
14	Zavala LAPD image
15	Zavala interview transcript
16	Quintanilla interview transcript
17	LAPD edge weapon policy
18	Graham v Connor, 490 U.S. Supreme Court 386 (1989)
19	California Penal Code 835
29	California POST Learning Domains 15, 20

Tactical Concept No. 11 July 2024

WEAPONS OTHER THAN FIREARMS

The purpose of this Tactical Concept is to provide officers with options to deal with a suspect armed with a weapon other than a firearm.

The Los Angeles Police Department is guided by the principle of reverence for human life in all investigative, enforcement, and other contacts between officers and members of the public. Unfortunately, dangerous confrontations between suspects armed with weapons other than firearms can sometimes result in serious bodily injury or death. Weapons other than firearms pose a threat to the public and officers and generally fall into two categories: edged weapons and blunt weapons. Both edged and blunt weapons are objects that can be used to strike a person and inflict serious bodily injury or death. For the purposes of this Tactical Concept, edged weapons include any object capable of cutting, slashing, or stabbing.

When dealing with suspects armed with weapons other than firearms, distance is not the only factor that should be considered. For example, barriers, if available, may inhibit a suspect from getting close enough to harm officers. Additionally, officers should consider the type of weapon and assess the suspect's ability to inflict serious bodily injury or death with that weapon. Resolving the situation safely using de-escalation techniques and proper planning should be primary objectives for officers dealing with suspects armed with weapons other than firearms. In those situations where force is used, officers should always attempt to resolve the situation with reasonable and proportional force. Officers are not required to use lethal force, even though it may be authorized, if they believe the situation can be resolved safely with other force options.

PROCEDURES

Communications Division personnel will proactively dispatch a field unit with available intermediate force options and a supervisor to all calls involving edged weapons – with the goal of pre-positioning resources so officers have multiple tactical options when arriving on scene.

Establishing Control

A situation is more likely to have a positive outcome if officers are able to establish control of the situation. The first concern is the safety of the public, which must be balanced with officer safety. Officers should attempt to obtain information about the suspect, including the type of weapon involved and anything that could help establish

rapport, from family members, witnesses, or bystanders. These measures are important to attempt to maximize the safety of everyone at scene.

Use of Force and De-escalation

Officers have several use of force options available if the suspect poses an immediate threat to the public or officers. The force used must be appropriate for the actions displayed by the suspect. If a suspect armed with a weapon other than a firearm is contained and poses no immediate threat to himself/herself, the public, or officers, officers should attempt to resolve the situation using tactical de-escalation techniques to gain voluntary compliance, or in an effort to mitigate the need to use a higher level of force while maintaining control of the situation.

Tactical De-Escalation Techniques

- Planning
- Assessment
- Time
- Redeployment and/or Containment
- Other Resources
- Lines of Communication

> **Note:** Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning: Officers should attempt to arrive at scene with a coordinated approach based upon initial information and any pre-existing knowledge of the suspect(s) or the involved parties. The dynamic nature of most incidents will require tactical plans to be flexible, and officers need to adapt their plan(s) as additional information or factors become known.

Assessment: There is no single solution and every situation will be handled differently based upon the totality of the circumstances. When feasible, officers should consider available options and discuss tactics prior to an encounter with a suspect armed with a weapon other than a firearm.

Some factors to consider during the **initial** assessment:

- The type of radio call or activity that brings the officers into the situation (e.g., emotionally charged incidents such as domestic violence, a person showing signs of impaired judgment, or a crime in progress).
- Suspect's apparent size, age, and physical condition.
- Danger signs (e.g., persons talking to themselves or unprovoked agitation).
- The individual's apparent state of mind (e.g., angry, confused, evasive, threatening).
- The availability of known cover and concealment or barriers.
- The need to increase the distance from an individual with a weapon.
- Access to places where dangerous objects could be concealed such as bags, pockets or bulky clothing.

- Observations of the individual's hands.

After the initial assessment, officers should conduct a **continuous** assessment of the situation as circumstances change and new information is received. If a suspect is failing to comply with orders, officers should attempt to determine whether a suspect's lack of compliance is a deliberate attempt to resist or escape, or an apparent inability to comprehend the situation due to environmental, physical, cognitive, or other conditions. If it appears that the suspect is unable to comprehend the situation, other tactical options may be more effective in resolving the situation safely.

Time: There is an equation that saves lives, Distance + Cover = Time. Time generally gives officers options. Time is an essential element of de-escalation as it generally allows officer the opportunity to communicate with the suspect, refine tactical plans and, if necessary, call for additional resources.

Entering the suspect's space prematurely may result in the suspect reacting, which could result in escalating the situation. Whenever possible, officers should place an object/barrier between themselves and the suspect as cover. A barrier could be a chain-link fence, wrought-iron gate, or any similar object that prevents the assailant from reaching the officer.

Due to "lag time," the urgency for officers to create distance between themselves and a suspect armed with a weapon other than a firearm cannot be overstated. Lag time is the time it takes a person to react to an action. If officers close the distance too quickly before assessing the situation, lag time could put them in danger.

If a suspect is contained and does not pose an immediate threat to officers, the public, or themselves, time is an officer's best tool. In these situations, time allows more opportunity to communicate with the suspect and calm the situation. A Systemwide Mental Evaluation Assessment Response Team (SMART) can be requested through the Mental Evaluation Unit (MEU) if officers' assessment indicates an individual is suspected of suffering from a mental illness or developmental disability. If the suspect is barricaded or suicidal, the Crisis Negotiation Team can be requested through Metropolitan Division.

Redeployment and/or Containment: Redeployment and/or containment can afford officers the added benefit of time and distance while continuing to maintain control of the situation. This includes redeployment to cover and/or concealment, such as physical barriers. The addition of time, distance and cover/concealment may give officers an opportunity to re-assess, communicate, request additional resources, or deploy other tactics to reduce the likelihood of injury to both the public and officers while also mitigating any potential ongoing threats. Redeployment, however, should not enable a subject to gain a tactical advantage, arm himself/herself, or flee and pose a greater danger to the public or officers.

Other Resources: In the case of a tense or potentially dangerous encounter, requesting additional resources can provide officers with specialized expertise,

personnel and tools to help control and contain an incident. In concert with the Department's guiding principle of reverence for human life, officers and incident commanders shall consider the use of intermediate force options whenever practical. Intermediate force options often offer the most reasonable force option to safely resolve the situation. Some intermediate force options include but are not limited to:

- 40mm Less-Lethal Launcher
- Beanbag Shotgun
- TASER
- OC Spray

Lines of Communication: Effective communication throughout the incident is vital when dealing with a suspect armed with a weapon other than a firearm. Officers must be flexible in the communication they are using, monitoring the suspect's reactions to determine if the particular line of communication appears to be working. Officers may have to give clear direct orders using command presence, then switch to acting as a crisis negotiator, and then back to using command presence as the situation evolves. If environmental conditions allow, officers should attempt to establish rapport by treating the individual with respect and using a low, soothing tone of voice. The contact officer should introduce himself/herself by name and ask what is troubling the person. Open-ended questions should be used to get the person talking, including:

- "What happened today?"
- "Why are you troubled?"
- "How can I help you?"

Talking with a person may defuse the crisis or buy time, thus increasing the opportunity for a peaceful resolution.

Listening skills are essential to identify the individual's problem and provide a possible solution. Repeat the individual's problem back to them and attempt to solve the problem by discussing solutions. Give the person hope that the problem can be solved. Using active listening skills, paraphrasing, and allowing the suspect to vent frustrations can have a positive impact on the situation.

When dealing with a person who is suspected of suffering from a mental illness and armed with a weapon other than a firearm, communication can be an officer's best tool in resolving the situation. Although communication efforts may seem to be slow and tedious, they frequently result in the de-escalation of the situation. Remember, when an armed individual is also a person with a mental illness, it is important to try to speak slowly in a calm, firm voice to attempt to create a tranquil environment.

Individuals who are suspected of suffering from a mental illness may be easily overwhelmed or distressed by too many demands. When communicating, use short sentences and give one order at a time. Officers may have to repeat orders numerous times before the person will respond. If tactics permit, give more than one option, instead of an ultimatum. It is important not to join in with the person's hallucinations.

Effective communication with the suspect can prevent the incident from escalating to a use of force, thus reducing the threat of injury to the officers and the suspect.

All or some of the following tactics may be used in the same incident as time or circumstances allow:

- Verbal warnings
- Persuasion
- Defusing
- Empathy
- Redirecting
- Advisements
- Building rapport
- Asking open ended questions
- Giving clear and direct orders

CONCLUSION

Officers often come into contact with emotionally charged suspects in situations such as domestic violence, crimes in progress, and people in crisis. With the rise of incidents involving weapons other than firearms, the equation that is most likely to produce a positive outcome is Distance + Cover = Time. Time generally gives officers options. A barrier between officers and the suspect may give them additional time to handle the incident safely. If the suspect is contained and poses no immediate threat to the officers, the public, or himself/herself, officers can use techniques in an effort to reduce the intensity of an encounter with a suspect and potentially enable them to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

Important Reminder

Deviations from these basic concepts sometimes occur due to the fluid and rapidly evolving nature of law enforcement encounters and the environment in which they occur. Deviations may range from minor, typically procedural or technical, to those which substantially deviate from Department tactical training. Any deviations are to be explained by the involved officer(s), and the justification for substantial deviations from Department tactical training shall be articulated.

This Tactical Concepts – Tactics Training Overview replaces Training Bulletin Volume XLVI, Issue 3, Weapons Other Than Firearms, October 2017.

Field Training Services Unit
Police Training and Education

DISTRIBUTION “A”



LOS ANGELES POLICE DEPARTMENT

USE OF FORCE-TACTICS DIRECTIVE

Directive No. 1.3 August 2022

USE OF FORCE POLICY

PURPOSE

The purpose of this Directive is to provide Department personnel with a Use of Force Policy that is concise, easily understood, and consistent with prevailing law and industry best practices.

PREAMBLE TO USE OF FORCE

The use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communication, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible and reasonable to do so. When warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community, and fellow officers.

POLICY

Use of De-Escalation Techniques. It is the policy of this Department that, whenever feasible, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

Verbal Warnings. Where feasible, a peace officer shall, prior to the use of *any* force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is aware of those facts.

Proportionality. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

Fair and Unbiased Policing. Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct on the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

Use of Force – Non-Deadly. It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

Factors Used to Determine Reasonableness. Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used:

A) From the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and,

B) Based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention, or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the subject;
- Whether the subject was posing an immediate threat to officers or a danger to the community;
- The potential for injury to citizens, officers, or subjects;
- The risk or apparent attempt by the subject to escape;
- The conduct of the subject being confronted (as reasonably perceived by the officer at the time);

- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the subject;
- Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion, and number of officers versus subjects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

Drawing or Exhibiting Firearms. Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. Moreover, any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms.

Use of Force – Deadly. It is the policy of this Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or to another person; or,
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

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. Before discharging a firearm, officers shall consider their surroundings, background, and potential risk to bystanders to the extent reasonable under the circumstances.

> **Note:** Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

Department's Evaluation of Deadly Force. The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with California Penal Code Section 835(a) as well as the factors articulated in Graham v. Connor.

Rendering Aid. After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, subjects of a use of force, and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and,
- To the level of equipment available to an officer at the time assistance is needed.

Warning Shots. Warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers, and property damage.

Shooting At or From Moving Vehicles. Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force.

An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistence with the policy regarding the use of deadly force. The driver of a vehicle should not draw their weapon while operating a moving vehicle; the drawing of a weapon while operating a moving vehicle is unsafe for both officers and the community. If an officer determines that it is necessary to draw their firearm while operating a vehicle, it should be to address an imminent threat and conform to the Department's policy on drawing and exhibiting firearms.

> **Note:** It is understood that the policy in regard to discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, Department members are expected to act with intelligence and exercise sound judgment, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

Requirement to Report Potential Excessive Force. An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer [as delineated in California Penal Code Section 835(a)], shall immediately report such force to a superior officer.

An officer who has a sustained excessive force complaint shall be prohibited from training other officers for a period of at least three years from the date that the complaint was sustained.

Retaliation for Reporting Potential Excessive Force or Violation of Any Law or Regulation. Retaliation for reporting potential excessive force or violation of any law or regulation by any employee of this Department is strictly prohibited, shall be reported immediately, and is considered to be serious misconduct.

Requirement to Intercede When Excessive Force is Observed. An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

> **Note:** For the purposes of this section, "intercede" includes, but is not limited to, physically stopping the excessive force (when safe and reasonable to do so) and recording the excessive force, if equipped with a body worn video (BWV) camera. Officers shall attempt to document on BWV the efforts to intervene, efforts to de-escalate the excessive use of force, and confronting the offending officer about the excessive force during the use of force. If the offending officer continues to use excessive force, the witnessing officer shall immediately report the excessive force to a superior officer.

Any officer who has received all required training on the requirement to intercede and fails to do so when excessive force is observed as described above shall be subject to discipline up to and including in the same manner as the officer who committed the excessive force.

DEFINITIONS

Deadly Force. Deadly Force is defined as that force which creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

Excessive Force. Excessive Force means a level of force that is found to have violated Section 835(a) of the California Penal Code or the requirements of any other law or statute.

Feasible. Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Imminent. Pursuant to California Penal Code Section 835a(e)(2), "[A] threat of death or serious bodily injury is "imminent" 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 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 to likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed."

Intercede. Intercede includes, but is not limited to, physically stopping the excessive force (when safe and reasonable to do so) and recording the excessive force, if equipped with a BWV camera.

Necessary. In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternative to deadly force; and, d) whether a warning was feasible and/or given.

Objectively Reasonable. The legal standard used to determine the lawfulness of a use of force is the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). Graham states in part, "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. The test of reasonableness is not capable of precise definition or mechanical application." The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard, rather than a subjective standard.

Retaliation. Retaliation means demotion, failure to promote to a higher position when warranted by merit, denial of access to training and professional development opportunities, denial of access to resources necessary for an officer to properly perform their duties, or intimidation, harassment, or threat of injury while on or off-duty.

Serious Bodily Injury. Pursuant to California Penal Code Section 243 (f)(4) defines Serious Bodily Injury as including, but not limited to:

- Loss of consciousness;
- Concussion;

- Bone fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement.

Totality of the Circumstances. All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the subject leading up to the use of force.

Vulnerable Population. Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

Warning Shots. The intentional discharge of a firearm off target, not intended to hit a person, to warn others that deadly force is imminent.

AMENDMENTS

This Directive replaces Use of Force-Tactics Directive No. 1.2, Use of Force Policy-Revised, October 2020.

MICHEL R. MOORE
Chief of Police

DISTRIBUTION "D"

AGENDA ITEM REPORT

Title: POST2311373 - JULIO QUINTANILLA (POST ID: C58-G04)
LAST EMPLOYING AGENCY: LOS ANGELES POLICE DEPARTMENT (CURRENT)

REPORT PROFILE

MEETING DATE 04/15/2026	**BUREAU SUBMITTING THE REPORT** Professional Conduct Southern Bureau	
RESEARCHED BY David Sieber	**REVIEWED BY** Christine Ford	
REPORT DATE 04/15/2026	**APPROVED BY** Annemarie Del Mugnaio	**DATE APPROVED**
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

The matter is before the Peace Officer Standards Accountability Advisory Board (POSAAB) for review and recommendation regarding the Respondent's peace officer certification status.

BACKGROUND:

Respondent began his employment with the Los Angeles Police Department on February 22, 2016. At the time of the captioned incident, the Respondent was a police officer with the Los Angeles Police Department, which is a peace officer position as defined under California Penal Code 830.1(a) and is required to be certified pursuant to California Penal Code 13510.1(a). As of the date of this hearing, Respondent remains employed by the Los Angeles Police Department as a police officer.

On December 18, 2021, the Victim walked out of his residence holding a kitchen knife, reportedly threatened members of the community, and then sat idle on the steps of a neighboring residence while holding the knife to his neck. Officers assigned to LAPD’s Newton Patrol Division (NPD) and Newton Gang Enforcement Detail (GED) responded to the “attempt suicide” call for service within minutes and contained the Victim. The Respondent and his partner responded to the incident, established a perimeter position, and were designated by the

on-scene incident commander as lethal cover officers.

After approximately 13 minutes of de-escalation efforts, the Victim stood up and took four slow steps forward and then stopped. This movement triggered LAPD's deployment of a less-lethal projectile, which struck Victim in the hip. Nearly contemporaneously (.382 seconds after the less-lethal deployment), from a distance of approximately 25 feet and behind the cover of a police vehicle, Respondent's partner fired three rounds from his service pistol, striking the Victim. Approximately .322 seconds after Respondent's partner discharged his third round, Respondent fired a single round from his service pistol, from a distance of approximately 28 feet and behind the cover of his police vehicle. The Victim was detained but ultimately succumbed to the injuries sustained from the use of force.

LAPD's Force Investigation Division (FID) investigated the Officer Involved Shooting and found that the Respondent's actions were not objectively reasonable, proportional, or necessary. Ultimately, Respondent received a 5-day suspension with loss of pay and benefits. In July of 2025, the City of Los Angeles settled the resulting wrongful death suit filed by the Victim's family in the U.S. District Court for the Central District of California and paid the family $8,000,000.

As of April 2026, the Los Angeles County District Attorney's Office's Justice System Integrity Division has not reached a charging decision and continues to review the incident with the assistance of an independent police oversight firm. Based on an analysis of the results of the LAPD Force Investigation Division (FID) and Complaint Investigations, recommendations of the Use of Force Review Board (UOFRB) and the Chief of Police (COP), and a detailed review of multiple Body Worn Video (BWV) perspectives of the Officer Involved Shooting (OIS), the Division determined that the Respondent engaged in serious misconduct as defined in California Penal Code § 13510.8(b)(3) and Commission Regulation § 1205(a)(3) - physical abuse, including, but not limited to, the excessive or unreasonable use of force.

Video Evidence Links:

- **BR14 POST2311373 Quintanilla Julio Attachment M**

Quintanilla BWC

- **BR15 POST2311373 Quintanilla Julio Attachment N Zavala BWC**
- **BR16 POST2311373 Quintanilla Julio Attachment O Officer 1 BWC**

ANALYSIS:

The Division determined there was clear and convincing evidence that Respondent engaged in serious misconduct as defined in California Penal Code § 13510.8(b)(3) and Commission Regulation § 1205(a)(3) - physical abuse, including, but not limited to, the excessive or unreasonable use of force. This misconduct is evidenced by Respondent's discharge of one round at the Victim, who posed a danger only to himself and did not present an imminent threat to the Respondent or others. Respondent's actions demonstrated a disregard for public safety and were inconsistent with the duties and responsibilities of a peace officer. Accordingly, the Division finds that Respondent's conduct constitutes serious misconduct, warranting revocation or suspension of his POST peace officer certification.

RECOMMENDATION:

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

ATTACHMENT(S):

BR01_POST2311373_Quintanilla Julio_ISF_Redacted.pdf
BR02_POST2311373_Quintanilla Julio_Executive Review and Division Recommendation.pdf
BR03_POST2311373_Quintanilla Julio_POSTProfile_Redacted.pdf
BR04_POST2311373_Quintanilla Julio_Attachment C - LAPD Report_Redacted.pdf
BR05_POST2311373_Quintanilla Julio_Attachment D - COP IntradeptMemo_Redacted.pdf
BR06_POST2311373_Quintanilla Julio_Attachment E - 22-003418 LOT_Redacted.pdf
BR07_POST2311373_Quintanilla Julio_Attachment F - 22-003757 LOT_Redacted.pdf
BR08_POST2311370_Quintanilla Julio_Attachment G - LA City Council_Motion to Settle_Redacted.pdf
BR09_POST2311373_Quintanilla Julio_Attachment H - Federal Civil Complaint_Redacted.pdf
BR10_POST2311373_Quintanilla Julio_Attachment I - Respondent Interview Transcript_Redacted.pdf
BR11_POST2311373_Quintanilla Julio_Attachment J - SME Report_Redacted.pdf
BR12_POST2311373_Quintanilla Julio_Attachment K - LAPD Edged Weapons Policy.pdf

BR13_POST2311373_Quintanilla Julio_Attachment L - LAPD Use of Force Policy 10.2020 to 08.2022.pdf

INVESTIGATIVE SUMMARY AND FINDINGS

PEACE OFFICER NAME: Julio QUINTANILLA

POST ID NUMBER: C58-G04

EMPLOYING AGENCY: Los Angeles Police Department (LAPD)

POST CASE NUMBER: POST2311373

WRITTEN BY: LEC Dave Sieber

DATE: 2/12/2026

Contents

I. Executive Summary and Findings 3

II. Investigative Methodology 4

III. Respondent's Background 5

A. Respondent's Peace Officer Certificates and Employment 5

B. Respondent's Service Record 5

IV. Factual Background 13

A. Does the alleged conduct violate Commission Regulation 1205(a)(3)? 18

B. Summary of Findings 23

V. Supporting Evidence 23

I. Executive Summary and Findings[1]

On December 18, 2021, Victim, hereinafter Victim, walked out of his residence holding a kitchen knife,[2] threatened members of the community, and then sat idle on the steps of a neighboring residence while holding the knife to his neck. Officers assigned to LAPD's Newton Patrol Division (NPD) and Newton Gang Enforcement Detail (GED) responded to the "attempt suicide" call for service within minutes and contained Victim. Officer Julio QUINTANILLA (hereinafter, Respondent)[3] and his partner, Officer Jose ZAVALA, responded to the incident, established a perimeter position to the west of Victim, and were designated by the on-scene incident commander, Sergeant, as lethal cover officers.

After approximately 13 minutes of de-escalation efforts, Victim stood up and took four slow steps forward and then stopped. This movement triggered LAPD's deployment of a less-lethal projectile, which struck Victim in the hip. Nearly contemporaneously (.382 seconds after the less-lethal deployment), from a distance of approximately 25 feet and behind the cover of a police vehicle, ZAVALA fired three rounds from his service pistol, striking Victim. Approximately .322 seconds after ZAVALA discharged his third round, Respondent, from a distance of approximately 28 feet and behind the cover of a police vehicle, fired a single round from his service pistol. Victim was detained but ultimately succumbed to the injuries sustained from the use of force.

LAPD's Force Investigation Division (FID) investigated the Officer Involved Shooting (OIS) and the results were conveyed to the LAPD Use of Force Review Board (UOFRB). The UOFRB was critical of Respondent's and ZAVALA's perception of an "immediate threat" and found that their actions were not objectively reasonable, proportional, or necessary. A subsequent Department-initiated Complaint Investigation reached a SUSTAINED finding of "Out of Policy – Administrative Disapproval" regarding Respondent's and ZAVALA's use of force. The incident was not referred to LAPD's Board of Rights (BOR), as the Chief of Police (COP) did not seek Respondent's and ZAVALA's termination. Ultimately, Respondent received a 5-day suspension and ZAVALA received a 10-day suspension with loss of pay and benefits.

Later, on February 3, 2023, the Victim's family filed a complaint, which initiated a second Complaint Investigation, alleging Respondent's and ZAVALA's excessive use of force. The investigation ultimately reached the finding of UNFOUNDED. In July of 2025,

[1] Attachment A (Executive Review and Division Recommendation)

[2] The first officer to arrive on scene described the knife as a *"big butcher knife type meat clever."* LAPD's FID Investigative report described the knife as a "meat clever" with a 6.5-inch blade and a 5.25-inch black plastic handle.

[3] Attachment B (Respondent's EDI Profile).

Victim's family was awarded an $8,000,000 settlement, in connection with a wrongful death lawsuit in the U.S. District Court for the Central District of California.

As of November 2025, the Los Angeles County District Attorney's Office's (LADA's) Justice System Integrity Division (JSID) has not reached a charging decision and continues to review the incident with the assistance of independent police oversight firm, OIR Group.

Based on an analysis of the results of the LAPD FID and Complaint Investigations, recommendations of the UOFRB and COP, and a detailed review of multiple Body Worn Video (BWV) perspectives of the OIS, the Division assesses that Respondent engaged in serious misconduct as defined in California Penal Code section 13510.8(b)(3) and Commission Regulation 1205(a)(3) - physical abuse, including, but not limited to, the excessive or unreasonable use of force. The Division arrived at this assessment because Victim:

- was contained;
- posed a danger only to himself;
- did not pose an imminent threat to officers or others;
- did not possess a demeanor that was particularly threatening;
- was unresponsive to verbal and less-lethal force, signaling a potential mental or physical health condition, cognitive deficiency, or influence of a controlled substance.

Distance and cover were effectively utilized to create time, in conjunction with de-escalation measures; however, Respondent initiated deadly force before exhausting other less-lethal options.

II. Investigative Methodology

This report summarizes the findings related to allegations of serious misconduct. The investigation was conducted in accordance with the regulations and policies of the Commission on Peace Officer Standards and Training (POST). The investigation included a detailed review of LAPD's FID, Complaint Investigations, BWV data and supporting documents, which included interviews of subject and witness officers.

The Division analyzed the information in this investigation using the clear and convincing evidence standard. For purposes of this report, clear and convincing evidence means "evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true. The evidence need not establish a fact beyond a reasonable doubt."

This report is necessarily summary in nature and does not include every fact or issue that might be found in the underlying investigation and attachments. However, it does

contain reference to that evidence that the Division believes establishes the requisite facts and proves the serious misconduct charged by clear and convincing evidence.

III. Respondent's Background

A. Respondent's Peace Officer Certificates and Employment

The following table sets forth Respondent's employment history:

Dates	***Rank***	***Agency***
February 22, 2016	Trainee	Los Angeles Police Department
August 7, 2016	Police Officer	Los Angeles Police Department

Respondent is assigned POST ID **C58-G04**. He received the following peace officer certificates from POST:

Certificate Type	***Certificate Number***	***Date Issued***
Basic	188151	September 27, 2017
Intermediate	145040	September 23, 2020

B. Respondent's Service Record

When evaluating whether suspension or revocation is appropriate, Penal Code section 13510.8(c)(5) and California Regulation section 1213(a)(5) provide that the Commission must consider Respondent's prior conduct, discipline and service record. The relevance and weight the Commission may choose to assign to a peace officer's prior conduct and service record will depend on the facts in each case.

California Penal Code section 13510.8(c)(5) provides that the Commission "shall consider the peace officer's prior conduct and service record, and any instances of misconduct, including any incidents occurring beyond the time limitation for investigation in evaluating whether to revoke certification for the incident under investigation."

Service Record

Respondent's employment with LAPD began on February 22, 2016, as a full-time Trainee. On August 5, 2016, Respondent completed the Basic Course and on August 7, 2016, his Peace Officer powers were conveyed. On September 27, 2017, Respondent received his Basic Course certification and on September 23, 2020, he received his Intermediate Course certification. Respondent continues to serve as an LAPD Police Officer today. Respondent does not have any prior law enforcement appointments in the state of California.

Relevant Training

Respondent's POST Electronic Data Interchange (EDI) profile indicates Respondent completed 28 courses prior to the captioned incident, including the following relevant topics:

Date	***Course Title***
October 26, 2021	Firearms/Tactical-Advanced
October 14, 2021	Electronic Weapons
July 22, 2021	Less Lethal/Munitions
July 30, 2020	De-escalation & Tactical Communication
January 16, 2019	Ballistic Shield Operator
November 5, 2018	Firearms/Tactical-Advanced
November 1, 2017	Crowd Control
August 4, 2017	Mental Health Intervention Training

Prior Complaints/Discipline

Respondent is the subject of the following 20 allegations of serious misconduct with POST:

POST Case ID	***Allegation***	***POST Status***	***Disposition***
POST2305162	Abuse of Power	POST (Priority 4) - NFA	Complaint of excessive force on February 26, 2020, when Respondent and his partner conducted a traffic stop and detained Complainant. Complainant alleged that she was unlawfully detained. LAPD's Complaint Investigation resulted in a finding of EXONERATED. POST assessed that the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action. Additionally, the reported incident occurred before January 1, 2022, and therefore was not actionable by POST. (See Pen. Code § 13510.8(g)(1)(A).)

POST2305274	Abuse of Power/Bias	POST (Priority 4) - NFA	Complaint of abuse of power and bias on March 15, 2020, when Respondent and his partner contacted Complainant for a California Vehicle Code violation. LAPD's Complaint Investigation determined that all six allegations were UNFOUNDED. POST determined that the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action. Additionally, the reported incident occurred before January 1, 2022, and therefore was not actionable by POST. (See Pen. Code § 13510.8(g)(1)(A).)
POST2311373	Use of Force	POST (Priority 1) **CAPTIONED MATTER**	Complaint of use of force on December 18, 2021, when Respondent and his partner used lethal force, resulting in the death of Victim. LAPD's Complaint Investigation SUSTAINED allegations regarding the Use of Force. A second Complaint Investigation found the Officer's Use of Excessive Force UNFOUNDED. The LADA's JSID has not reached a charging decision in this matter. POST seeks to advance this matter to the POST Board and Commission.
POST2311060	Use of Force	POST (Priority 1) **DUPLICATE**	Complaint of use of force, consolidated with POST2311373.
POST2308740	Use of Force	POST (Priority 3) - NFA **DUPLICATE**	Complaint of use of force on December 13, 2022, when a claim for civil damages, associated with POST2311370, was filed by Victim's ([redacted]) family. On June 26, 2025, POST closed the matter with No Further Action.
POST2307765	Abuse of Power	POST (Priority 3) - NFA	Complaint of abuse of power on April 26, 2023, when Respondent

			and his partner contacted Complainant for a violation of California's Vehicle Code. Complainant alleged that officers conducted an illegal search. LAPD's Complaint Investigation EXONERATED Respondent and his partner of all allegations. POST assessed that the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2308807	Bias/Use of Force	POST (Priority 3) - NFA	Complaint of bias and use of force on May 7, 2023, when Respondent and his partner responded to a traffic collision involving a DUI driver that had collided with three parked vehicles. Based on a review of BWV data, the investigating supervisor recommended the allegations be adjudicated as DEMONSTRABLY FALSE. POST assessed that the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2309695	Bias	POST (Priority 3) - NFA	Complaint of bias on May 26, 2023, when Respondent and his partner conducted a traffic stop on Complainant for California Vehicle Code violations. An LAPD supervisory review of Digital In-Car Video of the incident determined that the allegation was DEMONSTRABLY FALSE. POST assessed that the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2402627	Abuse of Power	POST (Priority 3) - NFA	Complaint of abuse of power between May 1, 2023, and May 10, 2023, when Respondent and his partner conducted a traffic stop

			and detained the driver. The complainant alleged that he was unlawfully detained. LAPD's Complaint Investigation determined that the allegation was UNFOUNDED. POST assessed the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2314501	Bias	POST (Priority 3) - NFA	Complaint of bias on June 21, 2023, when Respondent and his partner initiated a traffic stop on Complainant for failing to stop at a red light. Complainant alleged that the officers were racist. An LAPD supervisor's review of the Digital In-Car Video and Body Worn Video (BWV) refuted Complainant's allegations. As a result, the complaint was classified as NON-DISCIPLINARY/DEMONSTRABLY FALSE. POST assessed that the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2401555	Use of Force	POST (Priority 3) – NFA	Complaint of use of force on July 19, 2023, when LAPD officers conducted a traffic stop of a vehicle for California Vehicle Code violations. Officers observed evidence consistent with the sale of controlled substances. The Complainant alleged biased policing and refused to exit his vehicle. Respondent and seven officers removed Complainant from his vehicle. LAPD's Complaint Investigation determined that all allegations were UNFOUNDED. POST assessed that the allegations did not rise to the level of serious

			misconduct and closed the matter with No Further Action.
POST2317588	Bias	POST (Priority 3) - NFA	Complaint of bias on August 29, 2023, when Respondent and his partner conducted a traffic stop. One of the occupants (hereinafter, Complainant), believed he was stopped because of his race. An LAPD supervisory review determined that the complaint was DEMONSTRABLY FALSE. POST assessed that the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2319339	Bias	POST (Priority 3) - NFA	Complaint of bias on October 12, 2023, when Respondent and his partner observed Complainant violating California Vehicle Code sections. Complainant alleged the officers were biased. LAPD adjudicated the allegation as UNFOUNDED. POST assessed that the allegation did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2319379	Bias	POST (Priority 3) - NFA	Complaint of bias on October 6, 2023, when Respondent and his partner conducted a traffic stop on Complainant for California Vehicle Code violations. Complainant stated he was stopped due to his race. LAPD found that the allegation of bias was DEMONSTRABLY FALSE. POST assessed that the allegation did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2321769	Bias	POST (Priority 3) - NFA	Complaint of bias on April 1, 2025, when Respondent and his partner conducted a traffic stop on

			Complainant. Complainant alleged the officers stopped him because of his race. LAPD's review of associated BWV data refuted the allegation, and the complaint was found to be DEMONSTRABLY FALSE. POST assessed that the allegation did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2322387	Bias	POST (Priority 3) - NFA	Complaint of bias on December 8, 2023, when Respondent and his partner conducted a traffic stop on Complainant for California Vehicle Code violations. Complainant alleged he was subjected to biased policing. LAPD adjudicated the allegation as NON-DISCIPLINARY/ DEMONSTRABLY FALSE. POST assessed that the allegation did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2408637	Use of Force	POST (Priority 3) - NFA	Complaint of use of force on March 22, 2024, when Respondent and his partner observed occupants in a vehicle inhaling nitrous oxide. Respondent attempted to remove the Complainant; however, she resisted, struck him and spit in his face. Respondent struck Complainant to neutralize her attacks and requested backup. Complainant was detained and booked for a violation of California Penal Code §243(b) – battery on a peace officer. LAPD's Complaint Investigation identified 12 allegations of misconduct by Respondent and his partner. Ultimately, four of the allegations were adjudicated as UNFOUNDED, two were

			EXONERATED and six were determined to be DEMONSTRABLY FALSE. POST assessed that the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2404452	Abuse of Power	POST (Priority 3) - NFA	Complaint of abuse of power on May 22, 2024, when Respondent and his partner conducted a vehicle stop and the Driver/Complainant was found to be driving under the influence (DUI). The Complainant alleged that he was detained without cause. LAPD's Complaint Investigation was adjudicated as UNFOUNDED. POST assessed that the allegation did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2405373	Bias	POST (Priority 3) - NFA	Complaint of bias on June 26, 2024, when Complainant contacted the LAPD Complaint Hotline and alleged that LAPD officers cursed at him, made fun of him, and addressed him with racial slurs. LAPD adjudicated the allegations as UNFOUNDED. POST assessed that the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action.
POST2409215	Abuse of Power	POST (Priority 3) - NFA	Complaint of abuse of power on October 30, 2024, when Respondent and his partner conducted a vehicle stop for California Vehicle Code violations. The Complainant alleged that he was searched without cause. LAPD's Complaint Investigation adjudicated the allegations as UNFOUNDED.

			POST assessed that the allegations did not rise to the level of serious misconduct and closed the matter with No Further Action.

In addition to the above-detailed 20 allegations of serious misconduct with POST, LAPD conducted a review of Respondent's "TEAMS II" personnel report. The report indicated Respondent had one sustained complaint:

- CF NO. 21-002558: July 6, 2021 – Out of Policy Pursuit (SUSTAINED) with a penalty of "ADMONISHMENT"

In addition to the captioned Categorical Use of Force, Respondent has been involved in 13 Non-Categorical Uses of Force (NCUOF), all of which were adjudicated as "IN POLICY."

Respondent has been involved in seven vehicle pursuits, six were adjudicated as IN-POLICY and the seventh, detailed above (CF NO. 21-002558), resulted in a SUSTAINED finding and penalty of ADMONISHMENT.

Lastly, Respondent has been involved in the following two preventable traffic collisions:

- DR NO. 19-1311641
- DR NO. 17-0314261

IV. Factual Background

On December 18, 2021, at 1654 hours, Reporting Party 1 called Communications Division (CD) and reported that her brother, Victim (Victim),[4] walked out of their residence, located at Home Address, armed with a 6.5-inch kitchen knife. At approximately 1656 hours, an "Ambulance Attempt Suicide" radio call was generated for the Newton Patrol Division (NPD). According to Reporting Party 2, his son (Victim) had been drinking alcohol and using narcotics since he was 18 years-old, causing what he described as *"an altered state of mind."* NPD Officers 1 and 2, along with Sergeant[5] responded "Code 3"[6] to the radio call. Newton

[4] Victim was a 22-year-old Hispanic male, 4'9" tall, weighing approximately 98 pounds. Victim's family claimed that Victim was going through a mental health crisis at the time of the incident.

[5] Sergeant Sergeant assumed On Scene Command (OSC) upon arrival at the incident.

[6] "Code 3" indicates an emergency response requiring the activation of vehicle lights and siren.

Gang Detail (GED) Officers Julio QUINTANILLA (hereinafter, "Respondent") and Jose ZAVALA responded "Code 2"[7] to the radio call.

At approximately 1654 hours, another bystander called CD reporting Victim was walking near Street 1 gazing at him angrily while swinging a knife in the air. At 1656 hours, RP 1 informed CD that Victim tried to hit someone and was going to attack a person with the knife. At 1657 hours, CD broadcast, "*additional on your attempt suicide,* Home Address*, the subject is now chasing people with the knife in front of* Home Address [8]

As Sergeant arrived on Street 2, a male and female directed Sergeant's attention to Victim. As Sergeant exited his patrol vehicle, Victim sat idle on the steps in front of the apartment building located at Incident Location, holding a knife in his right hand with the blade pressed against his neck. Sergeant attempted to communicate with Victim but failed to obtain compliance. At 1702:05 hours, Respondent and ZAVALA arrived and took positions to the west of Victim, behind their patrol vehicle doors, and unholstered their service pistols. Respondent gave commands to Victim to drop the knife and ZAVALA requested backup for a "*415 man with a knife*." ZAVALA also requested a rescue ambulance to stage near Street 2 and Street 1.

At 1702:22 hours, Officers 1 and 2 arrived on scene. In his role as OSC, Sergeant directed O-1 to retrieve his 40mm Less-Lethal Launcher (LLL). O-1 complied and took a position of cover behind the driver's side door, east of Sergeant's patrol vehicle. As depicted on Sergeant's BWV, at 1702:24 hours, Victim held the knife in front of his body at shoulder level, repeatedly moving the blade from side to side. Sergeant directed O-2 to take a position of cover behind the passenger side door, west of his patrol vehicle while unholstering his service pistol and designating Respondent and ZAVALA as "lethal cover officers." Sergeant also informed Respondent and ZAVALA of O-1's role as the "less-lethal officer" with the LLL.

At 1702:59 hours, as depicted on ZAVALA's BWV, ZAVALA told Respondent that he was going to attempt to communicate with Victim in Spanish. At 1703:02 hours, Victim placed the knife's blade against the side of his throat, prompting multiple officers to yell "*Don't do it!*" Sergeant directed O-1 to deploy the LLL; however, before O-1 could comply, Sergeant withdrew his command. Officer 3, from LAPD's Rampart Patrol Division, arrived on scene in his patrol vehicle. Sergeant directed O-3 to join O-2 as part of the arrest team.

At 1703:35 hours, Sergeant retrieved a ballistic shield from his patrol vehicle and gave it to O-3. Sergeant yelled to Respondent and ZAVALA, *"You still got lethal coverage right*

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[7] "Code 2" indicates urgency but not to the level requiring the activation of vehicle lights and sirens.

[8] LAPD's Force Investigation Division (FID) investigation determined that the CD Radio Transmission Officer (RTO) embellished RP 1's statement that Victim was going to attack someone and broadcast *"the subject is now chasing people with a knife,"* when Victim was not in fact chasing anyone.

here." For the next several minutes, Respondent, ZAVALA and Sergeant alternated communicating with Victim. Moments later, Victim stood, held the knife to his throat and gestured the sign of the crucifix across his chest with his left hand. Sergeant directed O-1 to deploy the LLL by announcing, "*Forty stand by!*" At 1704:06 hours, O-1 discharged one 40mm round from his LLL at Victim from a distance of approximately 30 feet. The round struck Victim in the abdomen but did not appear to have any effect. Victim walked down a small flight of steps towards officers and then sat idle on the bottom step while holding the knife to his throat.

At 1705:36 hours, BWV recordings captured officers alerting one another that a bystander was attempting to exit the apartment building behind Victim. Sergeant yelled, *"Hey stay right there, do not come out."* Additional officers warned the bystander to stay inside and to move away from the windows. The bystander complied with the officers' orders and remained inside the building with the door closed. Victim appeared oblivious to the presence of the bystander in the building behind him (south of his position).

Newton GED Officers Meraz and Officer 4 arrived on scene. Meraz deployed a shotgun, positioning himself as a lethal cover officer alongside O-1. O-4 deployed a less-lethal "Beanbag" shotgun and was directed by Sergeant to move to the west side of the containment perimeter, to provide less-lethal cover for ZAVALA. Sergeant and ZAVALA continued alternating commands to Victim. Sergeant utilized the patrol vehicle's public address (PA) system to communicate his commands. Sergeant directed Officer 3 to re-position his vehicle to the southeast corner of Street 2 and Street 1 to block pedestrian traffic. At 1709:44 hours, Sergeant continued to use the PA system to communicate with Victim.

At 1710:17 hours, Victim stood up, removed his hat while holding the knife above his shoulders and looked east toward his family members who were standing behind the containment perimeter. Sergeant announced, *"Get ready,"* while transitioning from the passenger side of his patrol vehicle to the driver's side where O-1 had taken cover. Sergeant announced, *"Forty forty up."* Victim took four slow steps forward, turned to his left (west) and stopped. Contemporaneously, O-1 announced, *"Forty standby,"* as Sergeant instructed O-1 to fire the LLL. O-1 fired one 40mm round from a distance of approximately 22 feet, impacting the lower right side of Victim's torso. Approximately .382 seconds later, ZAVALA discharged the first of three rounds from his service pistol, from a distance of approximately 25 feet and behind the cover of his police vehicle, striking the Victim. Approximately .322 seconds after ZAVALA discharged his third round, Respondent fired a single round from his service pistol, from a distance of approximately 28 feet and behind the cover of his police vehicle. Victim fell to the ground and was subsequently detained. Victim was provided medical aid and transported to the hospital where he succumbed to his injuries.

On December 21, 2021, the Los Angeles County Coroner's Office performed a post-mortem examination of Victim.[9] The report indicated that Victim sustained three gunshot wounds, two to the torso and one to the neck. The coroner concluded that Victim's death was a result of a gunshot wound to the torso.

On December 18, 2021, in response to the Officer Involved Shooting (OIS) involving Respondent and ZAVALA, LAPD's Force Investigation Division (FID) initiated case FID NO.064-21.[10]

On September 12, 2022, the results of FID NO.064-21 were presented to LAPD's Use of Force Review Board (UOFRB). The UOFRB was critical of Respondent's and ZAVALA's perception of an "immediate threat" and found that their actions were not objectively reasonable, proportional, or necessary. Ultimately, the UOFRB arrived at the following findings:

- **Tactics:** Respondent, ZAVALA and O-1 - Tactical Debrief
  Sergeant - Administrative Disapproval
- **Drawing/Exhibiting:** Respondent, ZAVALA and O-2 – In Policy (No Further Action)
- **Less-Lethal Use of Force:** O-1 - In Policy (No Further Action)
- **Lethal Use of Force:** Respondent and ZAVALA - Out of Policy - Administrative Disapproval

On October 5, 2022, LAPD's COP informed the Honorable Board of Police Commissioners that he adopted the above-referenced recommendations of the UOFRB.[11]

On November 8, 2022, an LAPD-initiated Complaint Investigation (CF No. 22-003418)[12] reached a SUSTAINED finding of Out of Policy – Administrative Disapproval regarding Respondent's and ZAVALA's use of force; however, the incident was not referred to LAPD's Board of Rights, as the COP did not seek to terminate Respondent or ZAVALA. As a result, ZAVALA received a 10-day suspension with loss of pay and benefits and Respondent received a 5-day suspension with loss of pay and benefits.

[9] On March 25, 2022, a Forensic Science Laboratories Report was approved by Department of Medical Examiner-Coroner, Los Angeles County. The blood analysis results identified the presence of Benzodiazepines, Cannabinoids and Ethanol in Victim's blood.

[10] Attachment C (LAPD Report FID NO.064-21-Redacted).

[11] Attachment D (COP Intradepartmental Communication).

[12] Attachment E (CF No. 22-003418 Letter of Transmittal).

Later, in February of 2023, Victim's family filed a complaint with LAPD which initiated a second Complaint Investigation (CF No. 22-003757)[13] alleging Respondent's and ZAVALA's Excessive Use of Force; however, the investigation ultimately reached the finding of UNFOUNDED.

In July of 2025, the Victim's family was awarded an $8,000,000 settlement,[14] in connection with a federal wrongful death suit in the U.S. District Court for the Central District of California.[15]

As of February 2026, the LADA Office's Justice System Integrity Division (JSID) has not reached a charging decision, despite the fact that they have a completed independent review of the incident from police oversight firm, OIR Group.

Post OIS Statements

ZAVALA told investigators the reason he fired the shots was because: "*The suspect gets up very rapidly with the -- with the large butcher knife in his right hand. He takes a deep breath, like getting courage, looks at me, looks at my fellow officers. At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified. The suspect then starts advancing towards the officers and turns his body towards myself and my partner. And in fear -- I was afraid, sir. I thought this guy was going to come at me with this butcher knife. He already cut his hand. He cut his throat -- he attempted to cut his throat. He chased pedestrians and civilians around the neighborhood with this large butcher knife. And to protect myself and my partner's life and the citizens nearby from serious bodily injury, imminent threat, I fired approximately two, three rounds to stop the threat, sir."*

Respondent told investigators the reason he fired was because: *"When he came down, we kept giving him commands and once he hit the sidewalk, I mean, I was scared and he ended up walking towards us -- towards the officers and myself and that's when I -- I had to use deadly force."* Respondent further stated, *"I had to stop the threat. He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death. And also, there was still civilians just to the right of me, just a few feet away from me.[16] So he could have caused serious bodily injury or death to them if I didn't do that. I had to do it."*

[13] Attachment F (CF No. 22-003757 Letter of Transmittal).

[14] Attachment G (Los Angeles City Council (Item No. 34) Motion to Settle).

[15] Attachment H (Federal Civil Complaint, Case No. 2:22-cv-07534-FLA-MAA).

[16] Based on a review of crime scene diagrams from the LAPD FID report and multiple BWV perspectives, it does not appear that any civilians were positioned inside the LAPD perimeter, nor were any civilians positioned between officers and Victim.

V. Analysis and Findings

Timeline:

On December 18, 2021, the captioned OIS occurred.

On December 18, 2021, LAPD's Force Investigation Division (FID) initiated an OIS investigation.

On November 8, 2022, an LAPD-initiated Complaint Investigation resulted in a SUSTAINED finding regarding Respondent's and ZAVALA's Use of Lethal Force.

On February 3, 2023, a Victim-family-driven Complaint Investigation resulted in an UNFOUNDED finding regarding Respondent's and ZAVALA's Use of Excessive Force.

On June 17, 2023, LAPD reported the incident to POST's Professional Conduct Bureau (PCB), alleging a violation of Commission Regulation 1205(a)(3) - physical abuse, including, but not limited to, the excessive or unreasonable use of force.

In July of 2025, Victim's family was awarded an $8,000,000 wrongful death settlement.

On February 6, 2026, Trichief Consulting Services completed an independent review of the incident.

As of February 10, 2026, the LADA's JSID has not reached a charging decision.

A. Does the alleged conduct violate Commission Regulation 1205(a)(3)?

Did Respondent use excessive force when he fired one round at Victim? According to Commission Regulation 1205(a)(3), excessive force is defined as:

> Physical abuse, including, but not limited to, the excessive or unreasonable use of force.

The United States Supreme Court recently addressed the issue of a police officer's use of deadly force in *Barnes v. Felix* (2025) 605 U.S. 73, and unanimously reaffirmed that a "police officer's use of deadly force violates the Fourth Amendment when it is not 'objectively reasonable.'"[17] The Court also reaffirmed that an "inquiry into reasonableness…requires assessing the 'totality of the circumstances.'"[18]

In issuing its ruling, the Court rejected the "so-called moment-of-threat rule" adopted by lower courts, which "looks only to the circumstances existing at the precise time an officer perceived the threat inducing him to shoot."[19] Rather, the Court reiterated that

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[17] *Barnes v. Felix* (2025) 605 U.S. 73, 76 (*"Felix"*), citing *Graham v. Connor* (1989) 490 U.S. 386, 397 ("*Graham v. Connor*") [internal citations omitted].

[18] *Id.*, citing *Graham* at 396.

[19] *Id.*

"all the relevant circumstances, including facts and events leading up to the climactic moment…" must be considered when determining "whether a peace officer acted reasonably in using force."[20]

The *Felix* opinion is consistent with California law. Under Penal Code section 835a, peace officers may use deadly force "only when necessary in defense of human life."[21] Further, although peace officers may use "objectively reasonable force to effect arrest…," prevent escape, or overcome resistance, deadly force is only justified "when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary…" to: 1) "defend against an imminent threat of death or serious bodily injury to the officer or another person…;" or 2) "apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended."[22] However, a "peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person."[23]

In reviewing Respondent's statements regarding his decision to use deadly force, his decision was based primarily on the moments immediately preceding the application of deadly force without appearing to consider all relevant circumstances leading up to that moment. When applying the "totality of the circumstances" as required under *Felix, Graham v. Connor,* and Penal Code section 835a, however,[24] the Division concluded that Respondent failed to leverage reasonable and available less-lethal alternatives at the time deadly force was utilized. Accordingly, Respondent's use of deadly force was both unreasonable and excessive.

Under California Penal Code section 835a(a)(2), "peace officers use deadly force only when necessary, in defense of human life. 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." Here, ZAVALA requested an ambulance upon arrival at the incident but neither ZAVALA nor Respondent requested support from LAPD's Mental Evaluation Unit (MEU), despite having both previously completed "Mental Health Intervention" training. Prior to ZAVALA's and Respondent's

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[20] *Id.*

[21] Pen. Code § 835a, subd. (a)(1).

[22] Pen. Code § 835a, subd. (c)(1)(A)-(B).

[23] Pen. Code § 835a, subd. (c)(2).

[24] Under Penal Code section 835a(a)(2), "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."

use of deadly force, officers fired two rounds from a LLL device, hardly exhausting its potential benefit, and the on scene commander (OSC) had not readied or directed the deployment of other available less-lethal options such as the "Bean Bag" shotgun, Conducted Energy Devices (CED) "taser," or a ballistic shield team equipped with CEDs and/or Oleoresin Capsicum (OC) "pepper" spray. Respondent's use of force did not result from an order from the OSC to employ lethal force. More importantly, the absence of the OSC's order to deploy other less-lethal options does not necessarily mean that the OSC wasn't considering them, nor did it render the threat posed by the Victim more imminent.

During his LAPD Complaint interview, ZAVALA stated he was afraid Victim was going to come at him with the butcher knife and harm him or his partner. To protect himself, his partner and nearby citizens from imminent serious bodily injury, ZAVALA said he fired "two to three rounds" to stop the threat. LAPD's Personnel Complaint Investigation SUSTAINED that ZAVALA's and Respondent's use of lethal force was unreasonable. The subsequent Complaint Investigation initiated by the Victim's family, alleging ZAVALA's and Respondent's use of excessive force, reached a contradictory finding of UNFOUNDED; however, this investigation also appeared to focus on the moment ZAVALA and Respondent used deadly force and did not consider the following relevant circumstances:

- Victim was contained - never closer than approximately 22 feet to any officer;
- Officers were positioned behind the cover of police vehicles;
- Victim only appeared to pose a danger to himself;[25]
- Once contained, Victim did not exhibit a demeanor that was particularly threatening, nor did he exhibit an intent to injure officers/others;
- State of Victim's mental/physical health, cognitive function and/or influence from alcohol or controlled substances;
- OSC's rationale for delaying the deployment of other readily available less-lethal options.

During his LAPD Complaint interview,[26] Respondent stated that he was scared when Victim walked towards officers, and that's when he decided the threat was imminent and he had to use deadly force. He further stated that Victim was going to cause death and that civilians were in harm's way. The Division opines that Respondent's statements were not supported by the collective facts at the time he utilized deadly force, nor were they supported in any showing in the FID investigation or subsequent Complaint Investigations. Again, LAPD's investigations collectively failed to consider all the

[25] California Penal Code section 835a(c)(2) states that "a peace officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the peace officer or to another person."

[26] Attachment I (Respondent's Interview Transcript)

relevant circumstances, starting with the Victim leaving his residence approximately 18 minutes before ZAVALA and Respondent used deadly force.

At the moment ZAVALA and Respondent chose to use deadly force, Victim was contained and had not exhibited an intent to harm bystanders or officers, attempted to avoid officers by entering the apartment building, nor had he used the knife to meaningfully injure himself. Approximately 13 minutes after responding to the incident, Victim stood up, took a few steps and then stopped. Victim was stationary, yet Respondent felt the threat was most imminent and required the use of deadly force. Respondent's use of deadly force appeared to be a sympathetic reaction to ZAVALA's initial use of deadly force.

Independent Subject Matter Expert Opinion

At the request of POST Executive Management, Rob Handy of Trichief Consulting Services was retained to provide an independent Subject Matter Expert (SME) opinion regarding the UOF incident involving LAPD Officers ZAVALA and QUINTANILLA. Handy is a policing executive with more than 35 years of comprehensive law enforcement experience, currently serving as the Director of Public Security for Grand Canyon University (GCU) in Phoenix, Arizona. Prior to that role, he served as the Chief of Police for the city of San Bernardino, California from December 28, 2011, to December 6, 2013, and the Chief of Police for the city of Huntington Beach, California from December 7, 2013, to October 16, 2020. In addition to reviewing thousands of UOF cases and hundreds of police shooting cases during his policing career, Handy has been retained as a SME to review police UOF incidents and policing practices and procedures nationwide.

On February 12, 2026,[27] based on a review of the reports, documents, audio recordings, photos and other evidence listed in the supporting-evidence section of this report, Handy concluded that given the totality of circumstances, the lethal force used by Officers Zavala and Quintanilla in this incident was not consistent with the requirements for use of deadly force in the California Penal Code, nor police officer training and standards in California. He further opined that the Victim's change in direction toward the two officers did not significantly change the circumstances to warrant a lethal response, and that the use of deadly force did not appear to be in response to an imminent threat as defined by the California Penal Code.

[27] Attachment J (Trichief Consulting Service's Independent SME Report)

Summary of Findings

Based on a careful review of Respondent's, ZAVALA's, and other officer's BWV data, LAPD's Tactical Concept No. 11[28] (Edged Weapons), LAPD's Use of Force Policy,[29] an evaluation of crime scene documentation, and a review of various sections of California Penal Code section 835a, Commission Regulation 1205(a)(3), in conjunction with recent case law, the Division assesses that both Respondent's and ZAVALA's belief that the Victim posed an imminent threat was not reasonable and that their application of deadly force was based solely on a perceived or future threat. BWV recordings depict the Victim standing up, taking four slow steps forward, turning, and then stopping. At no point did the Victim vocalize an intent to harm officer or others, attempt to leave the scene, conceal himself from officers, lunge, rapidly advance, or make any sudden or furtive movements towards officers or others that necessitated the use of deadly force.

While Victim certainly posed a threat to the community when he initially left his residence armed with a kitchen knife, the Division carefully considered all of the relevant circumstances during the approximately 18-minute incident and concluded that the threat was not imminent at the moment deadly force was utilized because the Victim was quickly contained, did not possess a particularly threatening demeanor and/or intent to cause injury to officers or others, and only posed a danger to himself. Officers were positioned between 22 and 30 feet from Victim and behind the cover of police vehicles during the incident. There were no bystanders positioned closer to the Victim than any officer and the occupants located inside the apartment building at [Incident Location] (behind Victim) had complied with officer's orders to remain inside the building with the door closed. Therefore, Respondent and ZAVALA failed to meet the standard set forth under California Penal Code section 835a(c)(2). Specifically, Respondent and ZAVALA's use of deadly force against the Victim was based on the danger the Victim posed to himself, not on an objectively reasonable belief that the Victim posed an imminent threat of death or serious bodily injury to themselves or another person.

Based on the totality of the evidence, the Division finds that reasonable grounds exist to refer this case to the Peace Officer Standards Accountability Advisory Board and the POST Commission for consideration of certificate revocation or suspension pursuant to California Penal Code section 13510.8.

[28] Attachment J (LAPD's Tactical Concept No. 11 - Edged Weapons)
[29] Attachment L (LAPD's Use of Force Policy - 10/2020 to 8/2022)

V. Supporting Evidence

Evidence	Attachment
Executive Review and Division Recommendation	A
Respondent's EDI Profile	B
LAPD Report FID NO.064-21-Redacted	C
LAPD Intradepartmental Correspondence	D
CF No. 22-003418 Letter of Transmittal	E
CF No. 22-003757 Letter of Transmittal	F
Los Angeles City Council (Item No. 34) Motion to Settle	G
Federal Civil Complaint (Case No. 2:22-cv-07534-FLA-MAA)	H
Respondent's Interview Transcript	I
Trichief Consulting Service's Independent SME Report	J
LAPD's Tactical Concept No. 11 - Edged Weapons	K
LAPD's Use of Force Policy (10/2020 to 8/2022)	L

Commission on Peace Officer Standards and Training
860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1603
(916) 227-3909 • www.post.ca.gov

EXECUTIVE REVIEW & PEACE OFFICER STANDARDS ACCOUNTABILITY DIVISION RECOMMENDATION

DATE: 11/25/2025

CASE #: POST2311373

PEACE OFFICER: Julio QUINTANILLA

POST ID#: C58-G04

AGENCY: Los Angeles Police Department

POST CONSULTANT / BC: LEC Dave Sieber / BC Christine Ford

ALLEGATION(S):

California Code of Regulations Title 11 § 1205(a)(3) – Abuse of power/Excessive or Unreasonable Use of Force

On December 18, 2021, LAPD Officers Jose ZAVALA and Julio QUINTANILLA, responded to an "attempt suicide" call for service. The victim was armed with a 6.5-inch kitchen knife. After approximately 13 minutes of de-escalation efforts, the victim stood up and took four slow steps forward and then stopped. This movement triggered the deployment of a less-lethal projectile, which struck victim. Nearly contemporaneously, from behind the cover of a police vehicle, ZAVALA fired three rounds from his service pistol, striking the victim. Approximately .322 seconds after ZAVALA discharged his third round, QUINTANILLA, from behind the cover of a police vehicle, fired a single round from his service pistol. The victim was detained but ultimately succumbed to the injuries sustained from the use of force. LAPD's Force Investigation Division investigated the Officer Involved Shooting and the results were conveyed to the LAPD Use of Force Review Board (UOFRB). The UOFRB was critical of ZAVALA's and QUINTANILLA's perception of an "immediate threat" and found that their actions were not objectively reasonable, proportional, or necessary. A subsequent Department-initiated Complaint Investigation reached a SUSTAINED finding of "Out of Policy – Administrative Disapproval" regarding both officer's use of force. The incident was not referred to LAPD's Board of Rights. Ultimately, ZAVALA received a 10-day suspension and QUINTANILLA received a 5-day suspension with loss of pay and benefits.

The Peace Officer Standards Accountability Division, Certification Executive Review Panel has reviewed the above referenced case involving alleged serious misconduct and has determined the following:

☒ There are reasonable grounds for suspension or revocation of a peace officer's certification.

POST determined clear and convincing evidence exists to show Respondent committed serious misconduct as defined in Penal Code §13510.8(b)(3) and Title 11, California Code of Regulations 1205(a)(3) - Physical abuse when he used excessive or unreasonable force resulting in the death of the Victim.

☐ There is insufficient evidence to support a recommendation of revocation or suspension of certification.

William Darden Chief Legal Counsel	 Signature	2/11/26 Date
Annemarie Del Mugnaio Assistant Executive Director	 Signature	2-11-2026 Date
Manny Alvarez Executive Director	 Signature	02/17/2026 Date

cc: Bureau Chief Christine Ford

cc: Jason Morlock

cc: Chandler Knapp

cc:

POST PROFILE NAME:

QUINTANILLA, JULIO DANIEL

AKA: ZAMORA

DATE: 08/20/2025

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

PERSONAL IDENTIFICATION

POST I.D.	Agency	Birth Date	Gender	Race/Ethnicity
C58-G04	LOS ANGELES PD	[redacted]		[redacted]

CERTIFICATES AWARDED

Cert No.	Type	Awarded	Education	T	T+	Comments
188151	B	09/27/2017		45.60	0.00	
145040	I	09/23/2020	77.00	45.60	7.80	[redacted]

Total Number of Certificates: 2

EMPLOYMENT

Hired From	To	R*	Rank	Rank Date	Agency	Agency Name	F/P	P/U	Seas
02/22/2016	08/07/2016	6	TRN	02/22/2016	19420	LOS ANGELES PD	F	P	
08/07/2016			PO	08/07/2016	19420	LOS ANGELES PD	F	P	

***Reason for Separation: 6 = Other**

POST CERTIFIED TRAINING

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
05/03/2016	K	1850-31777-15-013	8	X	Y	19420	LAPD		WMD L. E. PROTECTIVE MEASURES (LEPM)
05/04/2016	K	4890-23272-15-074	8		Y	19420	M TOLERNCE		CULT. DIV.-TOOLS FOR TOLERANCE (MOT ONLY)
07/28/2016	K	1850-31771-16-001	8	X	Y	19420	LAPD		WMD L.E. RESPONSE ACTIONS (LERA)
08/05/2016	A	1850-00100-15-009	912	R	Y	19420	LAPD		BASIC COURSE-INTENSIVE
07/30/2017	K	1850-29000-17-248	2	X	Y	19420	LAPD		POST TRAUMATIC STRESS DISORDER & TRAUMATIC BI
07/30/2017	K	1850-29000-17-264	2	X	Y	19420	LAPD		HOMELESSNESS AND POLICING: A COLLABORATIVE APPROAC
08/04/2017	K	1850-20911-17-002	36	R	Y	19420	LAPD	*	MENTAL HEALTH INTERVENTION TRAINING
09/19/2017	K	1850-20268-17-045	4	X	Y	19420	LAPD		IMPLICIT BIAS AND COMMUNITY POLICING
09/19/2017	K	1850-29303-17-044	4	X	Y	19420	LAPD		BELOW 100
10/05/2017	K	1850-20662-17-004	4	X	Y	19420	LAPD		CRIMINAL RECORDS SYSTEM
11/01/2017	K	1850-21954-17-014	9	X	Y	19420	LAPD	*	CROWD CONTROL
03/08/2018	K	1850-29502-17-070	4	X	Y	19420	LAPD	*	DRIVING(PSP)
06/30/2018	K	1850-20167-17-020	6	X	Y	19420	LAPD		MAC TAC UPDATE
07/20/2018	K	9180-25586-18-020	8	X	Y	19420	POST		FIRST AID/CPR/AED (WEB)
08/19/2018	K	1270-20272-18-005	16	X	Y	19420	CHP		ADVANCED ROADSIDE IMPAIRED DRIVER ENFORCEMENT
10/16/2018	K	9180-25587-18-108	2	X	Y	19420	POST		VEHICLE PURSUIT POLICY (WEB)
11/05/2018	K	1850-21647-18-033	10	X	Y	19420	LAPD	*	FIREARMS/TACTICAL-ADVANCED
01/16/2019	K	1850-10207-18-055	3	X	Y	19420	LAPD		BALLISTIC SHIELD OPERATOR
03/28/2019	K	1850-32592-18-006	8	X	Y	19420	LAPD		UNDERCOVER OPS/TACTICAL RESP.
12/04/2019	K	9180-25587-19-157	2	X	Y	19420	POST		VEHICLE PURSUIT POLICY (WEB)
03/11/2020	K	1850-29502-19-099	4		Y	19420	LAPD	*	DRIVING(PSP)
07/30/2020	K	1850-20799-20-016	8		Y	19420	LAPD	*	DE-ESCALATION & TACTICAL COMMUNICATION
03/17/2021	K	1850-32063-20-010	8	X	Y	19420	LAPD		FIREARMS - SIGHTING SYSTEMS
06/17/2021	K	1850-22405-20-008	32		Y	19420	LAPD	*	OFFICER SAFETY/FIELD TACTICS UPDATE

POST PROFILE NAME:

QUINTANILLA, JULIO DANIEL

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

AKA: ZAMORA

DATE: 08/20/2025

POST CERTIFIED TRAINING *continued*

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
06/23/2021	K	1850-23216-20-006	8	X	Y	19420	LAPD		GANG INTERVENTION, INTRO
07/22/2021	K	1850-30986-21-011	4		Y	19420	LAPD		LESS LETHAL/MUNITIONS
10/14/2021	K	1850-23090-21-335	4	X	Y	19420	LAPD		ELECTRONIC WEAPONS
10/26/2021	K	1850-21647-21-043	4	X	Y	19420	LAPD	*	FIREARMS/TACTICAL-ADVANCED
03/23/2022	K	1850-29502-21-091	4		Y	19420	LAPD	*	DRIVING(PSP)
08/31/2022	K	1850-33886-22-005	6	X	Y	19420	LAPD	*	USE OF FORCE AND DE-ESCALATION
10/05/2022	K	9180-25586-22-097	8	X	Y	19420	POST		FIRST AID/CPR/AED (WEB)
11/22/2022	K	9180-25595-22-145	4	X	Y	19420	POST		BEYOND BIAS:RACIAL & ID PROFILING UPD- SELF PACED
12/08/2022	K	1850-22405-22-003	32		Y	19420	LAPD	*	OFFICER SAFETY/FIELD TACTICS UPDATE
02/15/2023	K	1850-28008-22-025	8	X	Y	19420	LAPD	*	MASS-VIOLENCE TACTICAL RESPONSE
05/10/2023	K	1850-31809-22-009	30	X	Y	19420	LAPD	*	FIREARMS SEMI-AUTO PISTOL 1911
06/12/2023	K	1850-21647-22-091	4	X	Y	19420	LAPD	*	FIREARMS/TACTICAL-ADVANCED
06/30/2023	K	1850-33886-22-051	6	X	Y	19420	LAPD	*	USE OF FORCE AND DE-ESCALATION
08/11/2023	K	1850-10738-23-023	8	X	Y	19420	LAPD		ACTIVE BYSTANDER FOR LAW ENFORCEMENT
01/22/2024	K	1850-21954-23-024	8	X	Y	19420	LAPD	*	CROWD CONTROL
04/12/2024	K	1850-31725-23-009	40		Y	19420	LAPD		FIELD TRAINING OFFICER
05/02/2024	H	8870-10221-23-005	32	X	Y	19420	LAPPL		LEADERSHIP DEV TRACK I
05/11/2024	K	1850-10738-23-246	8	X	Y	19420	LAPD		ACTIVE BYSTANDER FOR LAW ENFORCEMENT
07/18/2024	K	1850-29502-24-003	4		Y	19420	LAPD	*	DRIVING(PSP)
07/18/2024	K	1850-29503-24-013	4		Y	19420	LAPD	*	ARSTCTL(PSP)
02/22/2025	K	1487-29580-24-237	4		Y	19420	PLI	*	USE OF FORCE (PSP)
04/17/2025	K	1378-21772-24-017	8		Y	19420	ST		TACTICAL EMERG. FIRST AID/TRAUMA CARE

***Meets Perishable Skills**

FOOTNOTES

NO FOOTNOTE ON FILE.

PLEASE REFER TO THE ENCLOSED EXPLANATION SHEET FOR ADDITIONAL INFORMATION.

COMMISSION ON POST – PROFILE REPORT

The Profile Report contains confidential information.

EXPLANATION SHEET

PERSONAL IDENTIFICATION: Subject's personal information as indicated in POST database (EDI system)	
POST ID:	Unique identification number assigned to subject by POST.
Agency:	Indicates the agency (or one of the agencies) where subject is currently employed. An "*" indicates that the subject is employed in more than one position within the same agency.
Birth Date/Gender:	Self-explanatory.
Race/Ethnicity:	**A** = Asian **B** = African American (Black) **N** = Native American **S** = Spanish/Hispanic **W** = White **O** = Other

CERTIFICATES AWARDED	
Cert:	Certificate serial number.
Type:	**B** = Basic **I** = Intermediate **A** = Advanced **S** = Supervisory **M** = Management **E** = Executive **R** = Reserve **D** = Public Safety Dispatcher **SX**= Specialized X (example: SA = Specialized Advanced)
Awarded:	Date certificate was issued.
Education:	Educational points or degree used for earning a certificate.
T:	Training points used for awarding the certificate.
T+:	Additional training points.
Comments:	Comments regarding training or institute(s) where subject received education.
Total Number of Certificates:	Number of certificates awarded to subject as indicated in POST database.

EMPLOYMENT: Subject's employment history as indicated in POST database	
Hired From:	Date subject was hired or sworn into the agency.
To:	Date subject left agency (if applicable).
R*:	Reason for separation as indicated by number in the Report description.
Rank / Rank Date:	Indicates rank as translated by POST database and date subject made rank.
Agency / Agency Name:	Agency code number and name where subject is currently working or previously worked.
F/P:	Time base: **F** = Full time **P** = Part time
P/U:	Wage status: **P** = Paid **U** = Unpaid
Seas:	Provisional or seasonal employment.

POST TRAINING: Courses attended or completed as indicated in POST database	
Comp Date:	Date course ended.
Cat:	General course category (for POST use only).
CCN:	Course Control Number.
Hrs:	Hours completed in course.
Rmb:	Reimbursement indicator: **R** = Reimbursed *(before FY 83/84 reimbursable agency not necessarily reimbursed)* **J** = Job specific * = Job specific, SALARY NOT PAID **Blank** = None or no data available
Cmp:	Completion indicator: **Blank or Y** = Course completed **N** = Course not completed **?** = Prior to 1979
Agency:	Agency where subject was employed at time of course enrollment.
School:	Training institute offering the course.
Course Name:	Course name as shown in POST database.

NON-CERTIFIED COURSES
This section will only appear if applicable.

FOOTNOTES
This section reserved for additional information.

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FORCE INVESTIGATION DIVISION REPORT NUMBER

F064-21

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Force Investigation Division
F064-21
OFFICER-INVOLVED SHOOTING



Force Investigation Division Investigators

Administrative Team:

DII T. Brown
Serial No. 34045

DIII K. Huff
Serial No. 34099

Criminal Team:

DIII N. Pikor
Serial No. 35384

DII S. Carrillo
Serial No. 35791

Criminal Apprehension Team

DIII T. Lee
Serial No. 32870

DII J. Chavez
Serial No. 27375

Date and Time of Incident:	**December 18, 2021, 1710 Hours**
Location of Incident:	[redacted]
Area of Occurrence:	**Newton Area, RD 1323**
Suspect(s):	Victim **Male, Hispanic, 22 years of age**
Injuries:	**Gun Shot Wounds to the chest, neck and torso (Deceased)**
Criminal Activity:	**Assault with a Deadly Weapon on a Peace Officer**
DR Nos.	**2113-20675 and 2113-20677**
Involved Officer(s):	**PO II Jose Zavala** **Serial No. 40197** **Newton Area Gang Enforcement Detail** **PO II Julio Quintanilla** **Serial No. 42454** **Newton Area Gang Enforcement Detail**

CONFIDENTIAL

This report is for the confidential use of the Chief of Police

F064-21
TABLE OF CONTENTS

Section	**Page**
Synopsis	1
Investigative Summary	1
Scene Description	26
Canvass for Witnesses	26
Suspect Information	27
Injuries	28
Evidence	28
Coroner's Investigation	29
Weapons	29
Firearms Analysis	31
Visual Documentation	32
Notifications	34
Personnel at Scene	34
Communications	34
Justice System Integrity Division	34
Investigators' Notes	35

Transcribed Statements

[redacted] (Pages 1-32)
[redacted] (Pages 1-23)
Sergeant [redacted] (Pages 1-55)
Police Officer II Julio Quintanilla (Pages 1-54)
Police Officer II Jose Zavala (Pages 1-56)
Officer 1 [redacted] (Pages 1-46)
Officer 2 [redacted] (Pages 1-24)
Officer 3 [redacted] (Pages 1-32)
[redacted] (Pages 1-33)
Officer 4 [redacted] (Pages 1-43)

F064-21
TABLE OF CONTENTS

Police Officer II Enrique Meraz (Page 1-45)
Sergeant I Arnold Castellanos (Pages 1-16)
Sergeant I Victor Cruz (Pages 1-16)

Addenda

Addendum No. 1 — Los Angeles Fire Department, Pre-Hospital Care Summary Report, for [redacted] Victim, dated December 18, 2021, Call No. 1212.

Addendum No. 2 — Los Angeles Police Department, Newton Area, Watch Commander's Daily Report, Watch 3 and 5, Lieutenant I Celina Robles, Serial No. 38064, dated December 18, 2021.

Los Angeles Police Department, Sergeant's Daily Report, Sergeant [redacted], Serial No. [redacted], dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I Victor Cruz, Serial No. 38632, dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I Gabriel Gaxiola, Serial No. 35056, dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I Jason Adkins, Serial No. 35881, dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I Stephen McClean, Serial No. 37049, dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I Phillip Scallon, Serial No. 31318, dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I James Lee, Serial No. 38328, dated December 18, 2021.

Los Angeles Police Department Sergeant's Daily Report, Sergeant I Dominic Santiago, Serial No. 34994, dated December 18, 2021.

Los Angeles Police Department, Revised Sergeant's Daily Report, Sergeant I Arnold Castellanos, Serial No. 40402, dated December 18, 2021.

Addendum No. 3 — Los Angeles Police Department, Interdepartmental Correspondence 15.2, Assessment of Supervisory Response to a Categorical Use of Force, FID Case No. F064-21, dated February 8, 2022.

F064-21
TABLE OF CONTENTS

Addendum No. 4	Los Angeles County, Consolidated Criminal History Reporting System (CCHRS) printout for [redacted], dated December 18, 2021.
Addendum No. 5	Los Angeles Police Department, Investigative Report, for Assault with A Deadly Weapon, DR Nos. 2113-20675 and 2113-20677, dated December 18, 2021.
Addendum No. 6	Los Angeles Police Department, Follow-Up Investigation Report, DR Nos. 2113-20675 and 2113-20677, dated March 29, 2021.
Addendum No. 7	Los Angeles Police Department, Forensic Science Division, Laboratory Report, Evidence Collection, dated May 11, 2022.
Addendum No. 8	Los Angeles Police Department, Property Report, DR No. 2113-20675, dated January 5, 2022.
Addendum No. 9	Department of Medical Examiner-Coroner, County of Los Angeles County, Autopsy Report, dated June 1, 2022.
Addendum No. 10	Department of Medical Examiner-Coroner, County of Los Angeles County, Forensic Science Laboratories, Analysis (Toxicology) Report, dated March 25, 2022.
Addendum No. 11	Los Angeles Police Department, Forensic Science Division, Laboratory Report, Firearms-Test Fire Firearm, for Officer Zavala, dated January 12, 2022.
Addendum No. 12	Los Angeles Police Department, Forensic Science Division, Laboratory Report, Firearms-Test Fire Firearm, for Officer Quintanilla, dated January 12, 2022.
Addendum No. 13	Los Angeles Police Department Training Division, Ordnance Unit, Weapon Discharge Inspection Report, dated December 21, 2021.
Addendum No. 14	Los Angeles Police Department, Forensic Science Division, Laboratory Report, Firearms-Bullet Path Analysis, dated May 11, 2022.
Addendum No. 15	Los Angeles Police Department, Forensic Science Division, Laboratory Report, Firearms-Type and Caliber, dated April 7, 2022.
Addendum No. 16	Los Angeles Police Department, Forensic Science Division, Laboratory Report, Serology/DNA - STRI, dated May 12, 2022.

F064-21
TABLE OF CONTENTS

Addendum No. 17	Los Angeles Police Department, Department Operations Center, Incident Notification Log, dated December 18, 2021, Incident No. 21121800002616.
Addendum No. 18	Los Angeles Police Department, Communications Division, Incident Recall Report, Incident No. 21121800002616, dated December 18, 2021.
Addendum No. 19	Los Angeles Police Department, Police Sciences and Training Bureau Inservice Training, Training Division, Notice 12.1.2, Distribution "A."

FORCE INVESTIGATION DIVISION
REPORT OF AN OFFICER INVOLVED SHOOTING
F064-21

The following report in its digital form contains video links that can be viewed during the review of the report. All addenda, diagrams, investigators' notes, and video can be viewed by clicking on the colored link.

TO: MICHEL R. MOORE, CHIEF OF POLICE

SIR:

Synopsis: On Saturday, December 18, 2021, at approximately 1710 hours, Newton Area Gang Enforcement Detail (GED) Officers, responded to a suicidal male, armed with a knife radio call. While at scene, the officers contacted the suspect and an Officer-Involved Shooting (OIS) occurred. The suspect sustained multiple gunshot wounds and was transported to Los Angeles County, University of Southern California Medical Center (LAC+USCMC) for treatment; where he succumbed to his injuries.

The following Investigative Summary is based upon Body Worn Video (BWV), witness statements, officer statements as well as physical evidence. Any discrepancies are noted in an intended note.

INVESTIGATIVE SUMMARY

On December 18, 2021, at 1654 hours, [redacted] called 911 and Communications Division (CD) Radio Telephone Operator (RTO) Larry Gates, Serial No. N2995, answered the call.[1] [redacted] reported that [redacted] Victim was [redacted] and just walked out of the house armed with a knife (Audiolink).[2] At approximately 1656 hours, an *"Ambulance Attempt Suicide"* radio call was generated for Newton Patrol Division, Incident No. 21121800002616 (Audiolink) (Investigators' Note No. 1).

According to [redacted] when Victim walked away from his residence, he removed a knife from his pocket and held it in his hand. Victim walked west through the rear alley to the south sidewalk in front of [redacted][3]

Witness [redacted] told investigators that [redacted] had begun to drink beer and smoke drugs when he turned 18 years old.[4] [redacted] further stated about [redacted] that, *"He's a very hyper boy. He's very, very -- how do you say it? When he drinks -- because of the beer and the drugs, he's in an altered state of mind."*[5]

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[1] [redacted] PII - Civ. Code secs. 1798.3 & 1798.24 .
[2] Victim male Hispanic, 22 years of age, 4 feet 9 inches tall, 98 pounds.
[3] Communications Division recording, audio play time stamp, 0 minutes and five seconds of the recording. The audio was recorded at approximately 1654 hours.
[4] [redacted] statement, Page No. 4, Lines 5-17.
[5] [redacted] statement, Page No. 5, Line 21-24.

Newton Patrol Division, uniformed Police Officers II Officer 1 Serial No. [redacted], passenger, and Officer 2, Serial No. [redacted], driver, were assigned to unit 13A13, Watch Two.[6] The officers activated their BWV cameras and responded Code Three to the call.[7]

Newton Gang Enforcement Detail (GED), uniformed Sergeant, Serial No. [redacted], was assigned to [redacted].[8] Sergeant activated his BWV camera and responded Code Three to the call. According to Sergeant, *"It follows edge weapons protocols, so with that being said, a supervisor has to respond with the unit. They requested a supervisor to respond. Again, being the only field supervisor available, I responded to the call."*[9]

According to Sergeant, earlier that day during roll call, he discussed tactics regarding men with knives with the officers assigned to GED. Sergeant further stated, he and the officers assigned to GED regularly discuss tactics and how to handle different scenarios.[10]

Sergeant stated, *"When we came in, there wasn't a lot of resources to handle the radio. So we volunteered -- I volunteered our unit to go -- to help out, because there was a lot of calls dropping. [redacted] Myself -- I was the only supervisor out in the field. I had my units log on, start replying to radio calls."*[11]

Newton GED, uniformed Police Officers II Jose Zavala, Serial No. 40197, and Julio Quintanilla, Serial No. 42454, were assigned to [redacted].[12] The officers responded Code Three to the call.

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[6] Officer Officer 1, four years and seven months, with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 [redacted]. Officer Officer 2, 3 years with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 [redacted]. The Officers were wearing ballistic vests and had Department-approved handguns, handcuffs, TASERs, canisters of Oleoresin Capsicum (OC) spray and flashlights attached to their Sam Browne equipment belts. The officers had a Hobble Restraint Device (HRD) in their sap pockets. The officers were equipped with Body Worn Video (BWV) cameras. The officers were in a marked black and white police vehicle, Shop No. 81511, equipped with emergency equipment and a Digital In-Car Video System (DICVS). The officers had side-handled batons and a 40mm Less Lethal Launcher stored inside their police vehicle.

[7] Los Angeles Police Department Manuel, Volume 4, Section No. 120.40, defines Code Three, as a radio transmission code, indicating a unit is responding to an emergency call, with lights and sirens activated.

[8] Sergeant Sergeant, 18 years and 11 months with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 [redacted] Sergeant was wearing a ballistic vest and had Department-approved handgun, handcuffs, canister of OC spray, and a flashlight attached to his Sam Browne equipment belt. Sergeant was equipped with a BWV camera. Sergeant was driving a marked black and white police vehicle, Shop No. 81552, equipped with emergency equipment and a DICVS. Sergeant had a side-handled baton stored inside his police vehicle.

[9] Sergeant's statement, Page No. 7, Lines 18-23.

[10] Sergeant's statement, Page No. 18, Lines 14-25 and Page No. 19, Lines 1-6.

[11] Sergeant's statement, Page No. 7, Lines 9-14.

[12] Officer Jose Zavala, 12 years and five months, with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 [redacted]. Officer Julio Quintanilla, five years and 10 months, with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 PII - Civ. Code secs. 1798.3 & 1798. The officers were wearing ballistic vests and had Department-approved handguns, handcuffs, TASERs, canisters of OC spray and flashlights attached to their Sam Browne equipment belts. The officers were equipped with their BWV cameras. The officers were in a marked black and white police vehicle, Shop No. 87982, equipped with emergency equipment and a DICVS. The officers had HRD's and side-handled batons stored inside their police vehicle. Officers Quintanilla and Zavala did not activate their BWV cameras while driving Code Three to the call.

At approximately 1654 hours, witness [redacted], called 911 and reported to the RTO that Victim had a large knife.[13] [redacted] gave the RTO Victim's description and location.

According to [redacted] he was walking from Street 2 and Street 3 to catch the 53 Line bus on South Central. [redacted] stated he stopped at [redacted] to rest, when he saw Victim looking at him and walking toward him, while holding a knife. [redacted] stated that Victim looked angry and he was swinging the knife in the air, which caused him to be scared.[14] [redacted] also stated, *"There were families crossing, and when they saw him, they also got scared."*[15] *"And in that direction, there was also a family who was already calling the police. They said, 'are you calling, too?'"*[16] [redacted] stated he called the police because he believed that Victim was dangerous.[17] [redacted] further stated, he saw the police arriving and he walked away to catch the bus.[18]

At approximately 1656 hours, on the CD 911 call recording, [redacted] was heard telling the RTO that Victim tried to hit someone and was going to attack a person with the knife (Audiolink) (Investigator's Note No. 2).

At 1657 hours, CD broadcast an information update, *"additional on your attempt suicide, [redacted] the subject is now chasing people with the knife in front of [redacted]* (Audiolink).

> **Note:** Investigators' review of the 911 call recording noted that [redacted] did not say that Victim was chasing people with the knife; as stated by the RTO in the radio broadcast. Investigators heard [redacted] tell the RTO that Victim was going to attack a man with the knife.

Referring to the radio call, Sergeant stated, *"Then it upgraded stating that he was outside of the location, chasing people down the street with a knife. Okay. Once I heard that, I knew it was serious. So I responded Code Three to the location due to the fact that I believed that, you know, this individual was a danger to the community and a danger to the public based on the upgraded radio call."*[19]

At approximately 1700 hours, as Sergeant drove west on [redacted] toward the [redacted] block, [redacted]. Officers assigned to GED [redacted] were [redacted].[20] Sergeant told investigators,

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[13] [redacted], male Hispanic, [redacted]
[14] [redacted] statement, Page No. 5, Lines 4-16 and Page No. 7, Lines 6-13.
[15] [redacted] statement, Page No. 4, Lines 22-24.
[16] [redacted] statement, Page No. 4, Lines 24-25 and Page No. 5, Line 1.
[17] [redacted] statement Page No. 17, Lines 22-24.
[18] [redacted] statement, Page No. 6, Lines1-8.
[19] Sergeant s statement, Page No. 8, Lines 1-8.
[20] Los Angeles Police Department Manuel, Volume 4, Section No. 120.40, defines Code Six as a radio designation term indicating that a unit is at a location, for enforcement activity or an investigation.

based on edge weapons protocol and that he was the only Newton Patrol supervisor in the field, he did not respond to [redacted].[21]

According to Sergeant, as he drove west on [redacted] a male Hispanic and a female Hispanic were flagging him down and pointing to Victim sitting on the stairs in front of [redacted].[22] Sergeant further stated he, *"Identified him based on the comments of the radio call, what he was wearing and the fact that I observed right away he was holding like a big butcher knife type meat cleaver."*[23]

According to Sergeant's BWV, at 1701:31 hours, he parked the police vehicle facing southwest toward the south curb, activating the vehicle spot light and illuminating the area around Victim. According to Sergeant, *"At that point, I didn't go Code Six initially right away. I knew that we had 13-Adam-13 was en route and one of my George units was en route also, [redacted]. Simultaneously, as we were responding, one of my other units [redacted] I was already committed to this call. Obviously I didn't want to tie up the air, and I knew other units were en route.*[24] *I just didn't want to tie up the air, because we had a dangerous situate -- they actually subsequently [redacted]"*[25]

As Sergeant exits his vehicle, Victim is depicted sitting on the exterior stairs of the apartment building located at [redacted] Victim was holding a knife in his right hand with the blade pressed against his neck (Photolink).

Sergeant can be heard telling Victim to, *"Just drop that, you're going to be good! Drop the knife alright, hey bro, just drop the knife."* Victim did not appear to respond to or acknowledge Sergeant. According to Sergeant, he unholstered his pistol, held it in a single hand grip, with his trigger finger along the slide, at a low-ready position as he stood behind the open driver side door of his vehicle (Videolink).

According to Sergeant, he unholstered his pistol, *"Due to the fact based on the comments of the radio call, based on my observations of him -- seeing him with a meat cleaver, large butcher knife, I believed that the situation may escalate to the use of deadly force. I drew my firearm and to protect myself in the event that he may try to charge at me."*[26]

According to Officers Zavala and Quintanilla's BWV at 1702:05 hours, the officers arrived at [redacted] Officer Zavala parked the police vehicle facing southeast toward the south curb and turned on the spotlight illuminating the area around Victim, who was still seated on the stairs.

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[21] Sergeant's statement, Page No. 7, Lines 18-23.
[22] Sergeant's statement, Page No. 8, Lines 9-11, Page No. 20, Lines 18-25 and Page No. 21, Line No. 1.
[23] Sergeant's statement, Page No. 8, Lines 16-19.
[24] Sergeant's statement, Page No. 8, Lines 21-25, and Page No. 9, Lines 1-5.
[25] Sergeant's statement, Page No. 20, Lines 12-15.
[26] Sergeant's statement, Page No. 9, Lines 7-12.

According to Officer Quintanilla, he did not broadcast that they were Code Six, *"Because at the same time that we were responding to this man with a knife call,* [redacted] *and the radio was tied up. So I didn't -- you know, yeah, I didn't push the button and I didn't show myself on the radio code six, but my partner did put out an RA request. So I assume that they were -- they knew that we were there already because of the request of the RA."*[27]

Officer Quintanilla's BWV depicts him exit the vehicle and take a standing position behind the vehicle passenger door. Officer Quintanilla unholstered his pistol with his right hand as he simultaneously turned on and positioned the vehicle spotlight with his left hand. Officer Quintanilla is depicted transitioning to a two-hand grip on the pistol, as he held it in a low-ready position. According to Officer Quintanilla, he had his trigger finger along the frame and his sights were aligned toward the suspect.[28] According to Officer Quintanilla, he unholstered his pistol, *"When I came out the vehicle, I took my firearm out because based on the tactical situation and just by the radio call saying that he had a butcher knife and he was chasing people in an attempt to hurt them. I believe that, you know, it could escalate to the point where deadly force may be justified, so I drew my firearm out."*[29] Officer Quintanilla further stated, regarding Victim, *"At the time we began to give commands to the suspect who was sitting there at the time with this big ol' butcher knife and, you know, there was civilians around the area too. So, you know, we wanted to make sure that he wouldn't go and chase other civilians, because he was -- he had already done that."*[30]

According to Officer Quintanilla's BWV, at 1702:12 hours, his BWV was recording in buffer mode, when he pressed the record button, activating the audio. Officer Quintanilla can be heard speaking to Victim in English and then in Spanish, giving commands to drop the knife. According to Officer Quintanilla, *"I noticed that he's not really responding to it. He seemed a little -- kind of like if he was under the influence of a narcotic. So I'm like, you know what, I'll just try talking to him in Spanish. So I start talking to him in Spanish. I start kind of, you know, letting him know that we're here to help him out and that we wanted to help him. We didn't want to hurt him. And whatever it was, just to drop the knife, you know, because we're here to help him out"* (Videolink).[31]

Simultaneously, Officer Zavala made a radio broadcast, "*Let me get a Back-up on a 415 man with a knife."* Officer Zavala also broadcast a request for a Rescue Ambulance (RA) to respond and stage at [redacted]. According to Officer Zavala, *"So my intent to request the RA, if the incident would escalate to the point where deadly force may be justified, I want to render aid as soon as possible to this suspect and save his life."*[32]

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[27] Officer Quintanilla's statement, Page No. 18, Lines 6-13.
[28] Officer Quintanilla's statement, Page No. 25, Lines 8-24.
[29] Officer Quintanilla's statement, Page No. 9, Lines 21-25 and Page No. 10, Lines 1-2.
[30] Officer Quintanilla's statement, Page No. 10, Lines 3-10.
[31] Officer Quintanilla's statement, Page No. 11, Lines 2-10.
[32] Officer Zavala's statement, Page No. 18, Lines 10-13.

As the officers arrived at [redacted] was still on the phone telling the RTO that the officers had arrived, and [redacted] was holding the knife to his throat.[33]

According to Officers 1 and 2 's BWV at 1702:22 hours, Officer 1 parked the police vehicle in front of [redacted], facing west in the east lanes, east of Sergeant [redacted] 's vehicle. Sergeant yelled to the officers to, *"Get that forty out!"* According to Sergeant , *"Then 13-Adam-13 arrived. I knew that unit was equipped with a 40. I had them -- directed them to come up to my vehicle, positioned the 40 on the driver side. I positioned the partner officer as lethal on the passenger side."*[34]

According to Officer 1 's BWV, he retrieved the 40mm Less Lethal Launcher (40mm LLL) from the vehicle gun rack and loaded a sponge round into the launcher, as he walked to Sergeant [redacted] 's location.

According to Sergeant 's BWV, at 1702:24 hours, Victim held the knife in front of himself, at shoulder level and rotating the blade back and forth, from left to right repeatedly. Sergeant directed Officer 1 to take a cover position behind the driver's door of his vehicle. Sergeant directed Officer 2 to take a cover position behind the passenger side door of the vehicle. At 1702:36 hours, Sergeant holstered his pistol and told Officers Zavala and Quintanilla, *"He's got less lethal right here, you guys got cover, you guys got lethal, good to go, alright."* Officer 1 is depicted with the 40mm LLL shouldered and pointed toward Victim (Videolink).

According to Officer 1 , *"At this point I can see the subject. He's got a knife to his neck. He's motioning that he's cutting his neck with the knife. At one point he puts the knife on his hand and looks like he's cutting his hand open."* [35] Officer 1 further stated Victim appeared to be sweaty and visibly crying.

Simultaneously, Officer 2 took a position behind the open passenger door of Sergeant [redacted] 's vehicle. According to Officer 2 's BWV, at 1703:02 hours, it captures Victim [redacted] placing the blade of the knife against his left palm and making a slicing motion.

Officer 2 unholstered his pistol and held it in a two-hand grip, at a low-ready position. According to Officer 2 , *"When I got there, I saw him holding -- he was sitting down holding the knife."*[36] According to Officer 2 , he unholstered his pistol, *"Because the suspect was armed with a knife and due to the comments of the call, it said that he was chasing people with that knife. The knife can be used as a -- as a deadly weapon."*[37] Officer 2 further stated, he held his firearm in a two-hand low-ready position with his finger on the frame (Videolink).[38]

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[33] Communications Division recording, audio play time stamp, 9 minutes and 53 seconds of the recording. The audio was recorded at approximately 1701 hours.
[34] Sergeant 's statement, Page No. 9, Lines 22-25 and Page No. 10, Lines 1-2.
[35] Officer 1 's statement, Page No. 8, Lines 13-17.
[36] Officer 2 's statement, Page No. 11, Lines 7-8.
[37] Officer 2 's statement, Page No. 6, Lines 19-23.
[38] Officer 2 's statement, Page No. 12, Lines 4-12.

According to Officer Quintanilla's BWV, at 1702:40 hours, Quintanilla can be heard acknowledging Sergeant 's direction, replying, *"Got it DCO, DCO."*[39]

According to Officer Quintanilla, *"And then I remember hearing my name saying, 'You're lethal, lethal.' So, I had that assignment. You know, it's a tough assignment, but you're protecting your brothers or sisters that are there. Because, you know, obviously when someone's lethal and if deadly force needs to be used to transition to that, that's going to be a tough job. So it's on me to protect not only myself, but my partners and the people around there."*[40]

According to Officer Zavala, *"So* Sergeant *was to my left -- the vehicle to my left, sir, and I could communicate with* Sergeant . Sergeant *is assigning a less lethal, a shield on his side. And when he looked towards our direction -- at the time we were only two vehicles and an XL car. We looked at each other. He designated me as the lethal officer and my partner as the DCO, designated cover officer, sir."*[41]

> **Note:** According to Sergeant 's BWV, he used his left hand to point to Officers Quintanilla and Zavala and stated, *"You guys got lethal!"*

According to Officer Zavala's BWV, at 1702:42 hours, he unholstered his pistol and held it in a single-hand grip, in a low-ready position and then transitioned to a two-hand grip of the pistol, as he stood behind the open driver's door of his vehicle.

According to Officer Zavala, he unholstered his pistol, *"Based on the tactical situation, I had reason to believe that it may escalate to the point where deadly force may be justified."*[42] According to Officer Zavala, he had his trigger finger *"On the side -- on the side of the rail, sir."*[43]

At 1702:56 hours, Officer Zavala pressed the record button on his BWV camera and the audio microphone was activated. According to Officer Zavala, he *"activated late,"* referring to turning on his BWV camera.[44] Officer Zavala further stated, *"What I mean by that, sir, is when I exited my vehicle, my first -- my first train of thought is to put out a backup. I observed this suspect with a knife. There's pedestrians nearby. Puts the knife on his hand. I request the backup, then I turn on my camera. That was my priority at the time, sir."*[45]

> **Note:** Officer Zavala's BWV camera was recording in buffer mode and the audio microphone was not actively recording sound for the initial 51 seconds that he was at the scene.

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[39] DCO is acronym meaning Designated Cover Officer, which is a term used by police officers to describe an officer whom has been assigned the responsibility of providing lethal cover during an incident.
[40] Officer Quintanilla's statement, Page No. 32, Lines 1-9.
[41] Officer Zavala's statement, Page No. 19, Lines 16-24.
[42] Officer Zavala's statement, Page No. 20, Lines 5-7.
[43] Officer Zavala's statement, Page No. 21, Lines 2-3.
[44] Officer Zavala's statement, Page No. 18, Lines 3-4.
[45] Officer Zavala's statement, Page No. 18, Lines 24-25 and Page No. 19, Lines 1-5.

When describing Victim, Officer Zavala stated, *"He appeared to be under the influence of some unknown controlled substance by the way he was acting."*[46]

Officer Zavala is heard on his BWV directing a responding unit to drive into a position between his vehicle and Sergeant 's vehicle (Videolink).

At approximately 1702:57 hours, the officers that were Code Six at Broadway and 66th Street, made a broadcast of *"Code Four suspects in custody."* Immediately after that broadcast, Sergeant made a radio broadcast that he was Code Six on the 415 man with a knife and requested additional units to respond for traffic control.

According to Officer Zavala's BWV, at 1702:59 hours, Officer Zavala is heard telling Officer Quintanilla that he is going to talk to Victim in Spanish. Officer Zavala took over communications from Officer Quintanilla.

At 1703:02 hours, BWV depicts Victim placing the blade of the knife against his left palm and making a cutting motion once again. Victim then placed the blade against the side of his throat and multiple officers can be heard yelling *"Don't do it."*

According to Sergeant 's BWV, at 1703:22 hours, Sergeant yelled to Victim, *"Don't do it!"* Sergeant then yelled out, *"Forty stand by, forty stand by!"* Sergeant is heard directing Officer 1 to deploy the 40mm LLL. Sergeant abruptly told Officer 1 to *"wait, hold on, hold on,"* as a black and white patrol vehicle maneuvered in between the police vehicles already in position.

That unit was Rampart Patrol Division, uniformed Officer 3 , Serial No. , assigned to unit 2XL14.[47] Officer 3 drove his police vehicle into position between Sergeant 's vehicle and Officer Zavala's vehicle. Officer 3 exited the vehicle and stood behind the open drivers' door.

According to Officer 3 , *"When I showed up, I kind of waited for a lull on the radio traffic and I asked the sergeant, you know, who they were and he told me who they were and so I went code six over the air."*[48]

Sergeant resumed giving commands to Victim , *"Put the knife down bro, you're going to be good! Hey, put the knife down, you're going to be good!"* Sergeant told investigators that he did not tactically disengage from Victim because, *"He was a danger to the community absolutely 100 percent, the crowd to the west, to the east, and there was actually an individual that almost came out of the apartments behind him. So I -- the*

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[46] Officer Zavala's statement, Page No. 9, Lines 21-22.
[47] Officer 3 , 5 years and 3 months with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 . Officer 3 was wearing a ballistic vest and had a Department-approved handgun, handcuffs, a canister of OC spray and a flashlight attached to his Sam Browne equipment belt. Officer 3 was equipped with a BWV camera. Officer 3 was in a marked black and white police vehicle, Shop No. 81975, equipped with emergency equipment and DICVS. Officer 3 had a side-handled baton and an HRD stored inside his police vehicle.
[48] Officer 3 ' statement, Page No. 17, Lines 23-25 and Page No. 18, Lines 1-2.

community no doubt was in danger, and there was no way I was going to tactically disengage from that."[49]

According to Sergeant , *"The way we positioned our vehicles, I was to the east of the location of where he was sitting in a diagonal type position. came from -- they came to the west -- They came. Yeah, eastbound They positioned themselves at a 90-degree position, so we had a triangle position on him."*[50] Sergeant estimated the distance between the officers and Victim to be approximately 20 to 40 feet.[51]

Sergeant further stated, *"I wanted to set containment around him and not give him the opportunity to -- my concern was he was going to charge. We already got comments on the radio call. I was concerned that he was going to charge, start trying to hack at people. I just wanted to contain him in that area."*[52]

According to Sergeant s BWV, at 1703:40 hours, he returned to the passenger side of his vehicle and announced out loud to the officers, *"Hey let me get a team ready to go."* Sergeant yelled to Officers Quintanilla and Zavala, *"Listen you got lethal, stay right here,"* as he pointed at them.

Sergeant directed Officer 3 to join Officer 2 and assigned them to be an arrest team. Officer 3 joined Officer 2 behind the open passenger door of Sergeant s vehicle (Videolink).

According to Witness she saw Victim , *"Trying to cut his neck or try to cut his self."*[53] further stated, *"I went out and saw right there and I was kind of asking him to please put it down, put it down."*[54]

According to Officer Zavala's BWV, at 1703:45 hours, he broadcast another request for an RA to respond and stand by at can be heard on BWV pleading with Victim Victim stood up, holding the knife to his throat. Victim then gestured the sign of the crucifix across his chest with his left hand (Videolink).

According to Sergeant when he saw Victim make the gesture of the cross, he felt *"Like he was -- it was going to be a suicide by cop, you know? Like he was -- he wanted something to happen to him."*[55] *"I was thinking -- in my mind, I was thinking he might run towards , you know what -- you know what I -- that's where I was kind of thinking he may go, you know? He*

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[49] Sergeant s statement, Page No. 45, Lines 15-25 and Page No. 46, Lines 1-4.
[50] Sergeant s statement, Page No. 9, Lines 15-21.
[51] Sergeant s statement, Page No. 23, Lines 19-20.
[52] Sergeant s statement, Page No. 11, Lines 2-9.
[53] statement, Page No. 8, Lines 13-14.
[54] statement, Page No. 9, Lines 1-3.
[55] Sergeant s statement, Page No. 55, Lines 7-9.

might try to make an attempt to run toward [redacted] *So I wanted to get over to the east side and maybe see if we can get -- get a round off to stop that from occurring."*[56]

According to Sergeant [redacted]'s BWV, he went back to Officer 1 [redacted]'s position and simultaneously directed Officer 2 [redacted] to *"put his gun up and be ready to respond."* Sergeant [redacted] announced aloud *"Forty stand by!"* as he directed Officer 1 [redacted] to fire the Less Lethal Launcher. According to Sergeant [redacted], the reason for giving the notification was, *"To make sure that they knew we were firing less lethal. I didn't want -- I didn't want any lethal rounds to be fired, for that to be mistaken to be lethal rounds."*[57] According to Sergeant [redacted] *"That's the point where I directed* Officer 1 [redacted] *to discharge the 40 at him. Reason why I did that was due to the fact that my concern was that at this point he may possibly take off running and go and start, you know, attacking civilians. I was hoping it would end with the one shot to the 40."*[58]

According to Sergeant [redacted] he did not give Victim [redacted] a use of force warning because, *"At that point I believe the situation was -- it was too dangerous with that. I didn't want to -- I didn't want to give him that warning to let him know that we were going to hit him, because that might have had him take off running. So I didn't want -- I didn't want to do that."*[59]

According to Officer 1 [redacted]'s BWV, at 1704:06 hours, he fired the 40mm LLL from an approximate distance of 30 feet. According to Officer 1 [redacted], *"He stands up at one point and I'm aiming at his navel area with the 40-millimeter, and* Sergeant [redacted] *advises me to hit him with the 40-millimeter. I do so, because I'm trying to get him to drop the knife and it's unsafe for us to approach him at this time."*[60]

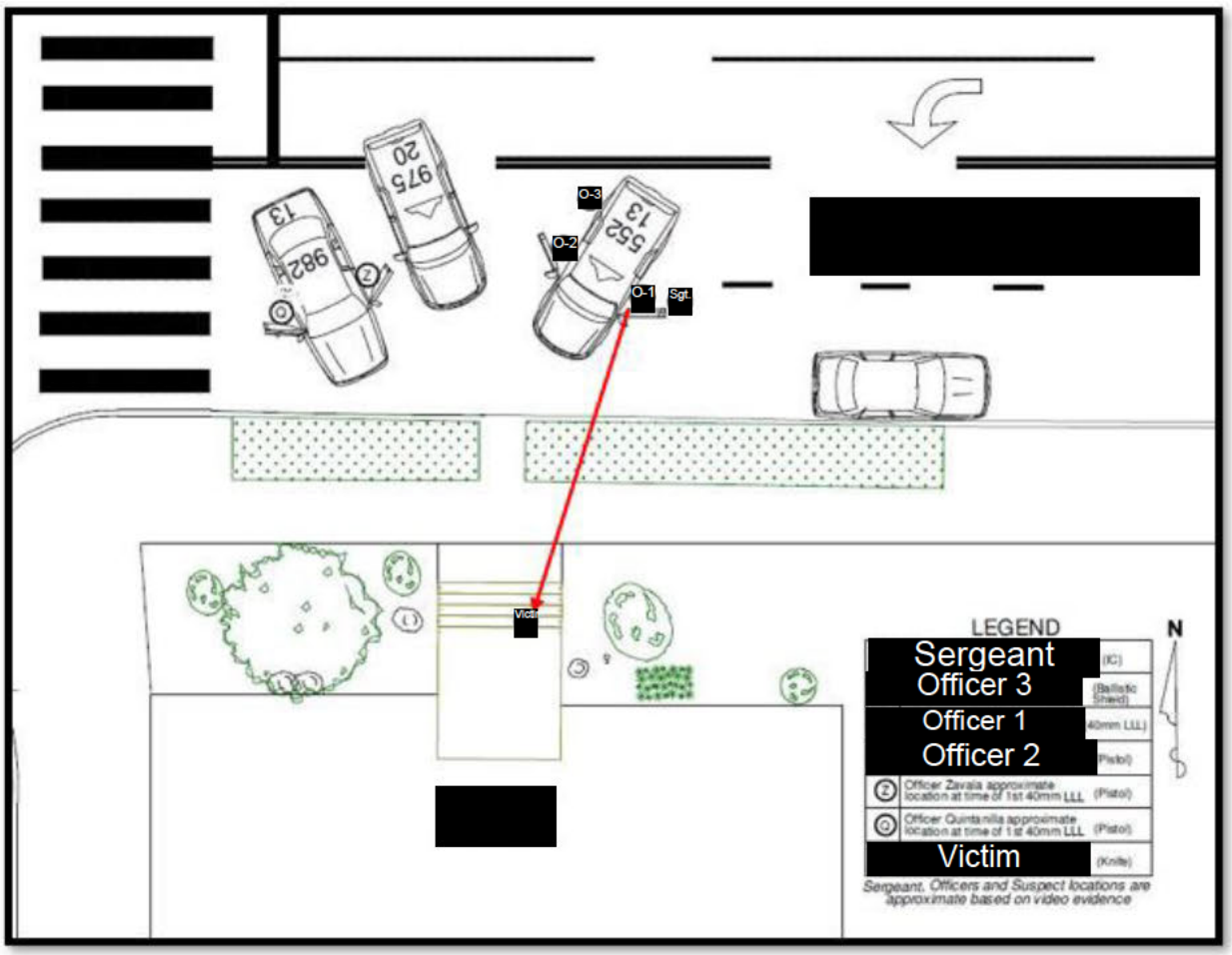
According to Officer 1 [redacted] he did not give a warning that he was going to fire the 40mm LLL because Sergeant [redacted] had already *"gave it for me."*[61]

Officer 1 [redacted] further stated, Victim [redacted] did not react to the shot, *"He didn't make any, like pain gestures, like grabbing his navel area. He just sat back down.*[62] *He continued to put the knife back up to his neck."*[63]

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[56] Sergeant [redacted]'s statement, Page No. 32, Lines 14-21.
[57] Sergeant [redacted]'s statement, Page No. 30, Lines 20-25.
[58] Sergeant [redacted]'s statement, Page No. 12, Lines 2-8.
[59] Sergeant [redacted]'s statement, Page No. 30, Lines 13-18.
[60] Officer 1 [redacted]'s statement, Page No. 8, Lines 18-22.
[61] Officer 1 [redacted]'s statement, Page No. 8, Lines 24-25.
[62] Officer 1 [redacted]'s statement, Page No, 22, Lines 12-13.
[63] Officer 1 [redacted]'s statement, Page No. 22, Lines 19-20.



(Diagram of Officers' position at the time Officer 1 fired the 40mm LLL)

According to Officer Zavala's BWV, at 1704:06 hours, the sponge round struck Victim on the lower right abdomen area. The shot did not appear to effect Victim as he brushed his stomach area with his right hand. Victim then walked down the steps to the side walk, while he continued to hold the knife to his throat. Sergeant yelled commands to Victim to *"Drop the knife. And to put it on the ground."* Simultaneously, Officer 1 reloaded the 40mm LLL and pointed it at a low-ready position in front of Victim. Victim took a seat on the bottom step and continued holding the knife in his right hand (Videolink).

According to Sergeant *"It hit him. It didn't seem like it phased him. He walked down a few more stairs and then he sat. And at that point I was -- I was good with that, because I think, I believed that that made him change his mind from going to run. He hit it. He felt it. Now he sat down, and I think, you know, it gave us some time for him to, you know, maybe in his mind evaluate what was going on. So, I believed that was successful in that aspect, because he didn't take off running, trying to hurt anybody."*[64]

[64] Sergeant s statement, Page No. 29, Lines 21-25 and Page No. 30, Lines 1-6.

According to Sergeant 's BWV, at 1704:35 hours, Sergeant retrieved a ballistic shield from the trunk of his vehicle and gave it to Officer 3 telling him to use the shield if they need to approach the suspect. Sergeant yelled to Officers Quintanilla and Zavala, "*You still got lethal coverage right here."* Sergeant walked back to the drivers' door of his vehicle and stood next to Officer 1 (Videolink).

According to Sergeant, *"So, my plan -- my plan was I wanted to have the shield ready. In case he did drop the knife, we were going to approach with a stick. We utilize the shield and move up on him and take him into custody."*[65]

At approximately 1704:45 hours, Air Support Division, [redacted] manned by Pilot Police Officer II+6 Rutilio Villarreal, Serial No. 35041, and Tactical Flight Officer Police Officer II+5 Jaime Delieuze, Serial No. 37195, arrived overhead and provided aerial support to responding units, directing officers to perimeter and containment positions.

At 1705:03 hours, Sergeant made a second radio broadcast request for more units to respond for traffic control. He provided an update on the status of the incident, advising that Victim was holding the knife to his throat and the officers were talking to him.

Sergeant announced aloud, *"Hey, I got it, I got it, let me talk."* Sergeant began asking Victim if he spoke English. Victim did not acknowledge nor respond to Sergeant. Sergeant told Officer Zavala to speak to Victim in Spanish. Officer Zavala resumed talking to Victim in Spanish.

According to Sergeant 's BWV, at 1705:36 hours, officers can be heard warning that someone was coming out of the building, as a person attempted to walk out of the entry door of the apartment building. Sergeant yelled the command, *"Hey stay right there, do not come out."* Additional officers can be heard warning the person to stay inside and move away from the windows.

Newton Division, GED, uniformed Police Officers II Enrique Meraz Serial No. 41215, passenger, and Officer 4, Serial No. [redacted], driver, assigned to [redacted] responded Code Three to the radio call.[66]

According to Officer 4, prior to arrival he and Officer Meraz monitored the radio transmissions and responded to Sergeant 's request to block traffic and they discussed deploying the less lethal Beanbag Shotgun and the shotgun.[67]

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[65] Sergeant 's statement, Page No. 34, Lines 9-13.

[66] Officer Enrique Meraz, 9 years and 10 months, with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 [redacted]. Officer 4, 8 years and 4 months with the Department, PII - Civ. Code secs. 1798.3 & 1798.24 [redacted]. The Officers were wearing ballistic vests and had Department-approved handguns, handcuffs, TASERs, ASP batons, PR24 side-handled baton canisters of OC spray and flashlights attached to their Sam Browne equipment belts. Officer Meraz had a HRD in his sap pocket. According to Officer 4, he had a HRD on his left chest. The officers were equipped with their BWV cameras. The officers were in a marked black and white police vehicle, Shop No. 87042, equipped with emergency equipment and DICVS.

[67] Officer 4 's statement, Page No. 13, Lines 24-25 and Page No. 14, Lines 1-9.

According to Officer 4 's BWV, at 1706:05 hours, Officer 4 parked the police vehicle across the west traffic lanes of [redacted] to stop vehicle traffic. The officers retrieved the Less Lethal Beanbag Shotgun and the shotgun from the trunk of their police vehicle. Officer Meraz held the shotgun in a port arms position with the barrel pointed up, he racked the slide handle and loaded a round into the chamber.

According to Officer Meraz, he took the shotgun because, *"It's a good tool that we employ whenever there's a threat of serious bodily injury or death. It's a tool that can cover a large area, just like we used it today. We had two less lethal firearms on one side and one shotgun on my side. So, I felt very confident with that tool. We qualify with that tool, and I take one out almost every day. So I knew that that would be a good tool if the situation escalated to a point where lethal force would be necessary."*[68]

Simultaneously, Officer 4 held the Beanbag Shotgun in a port arms position, with the barrel pointed up, as he manipulated the slide handle and cycled a round into the chamber. According to Officer 4 the Beanbag Shotgun was stored in the trunk already loaded with four live rounds in the magazine well.[69]

According to Sergeant 's BWV, at 1706:15 hours, Sergeant walked toward [redacted] and asked, *"Tell me his name, does he speak English?"* A voice was heard on the BWV stating the name Victim " Sergeant returned to his vehicle and yelled aloud *"I got it, he speaks English"* as he called out to Victim by his first name several times. Victim did not respond to Sergeant

According to Officer Quintanilla and Zavala's BWV, at 1706:35 hours, the officers resumed attempts to talk to Victim in Spanish and Victim did not respond.

Officers O-4 and Meraz ran to Sergeant 's vehicle. Officer 4 took a position to the left of Officer 1 and shouldered the Beanbag Shotgun with the barrel pointed at a low-ready. Sergeant advised Officer 4 that a 40mm LLL was already deployed at that position. Officer 4 repositioned the Beanbag Shotgun, pointing the barrel upward as he stepped back away from the driver's door.

Sergeant directed Officer Meraz to provide lethal cover for Officer 1 Officer Meraz took a standing position at the driver's door and to the left of Officer 1 holding the shotgun in a low-ready position, with his trigger finger on the safety. According to Officer Meraz, *"So I decided to place myself there as designated cover officer for that 40 -- that 40 millimeter"*[70] Officer Meraz further stated, *"I think I initially self-deployed and then* Sergeant *confirmed my spot saying, 'Hey, you're going to be DCO for these two guys right here,' which were the two less lethal guys."*[71]

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[68] Officer Meraz' statement, Page No. 20, Lines 2-11.
[69] Officer 4 s statement, Page No. 25, Lines 22-25 and Page No. 26, Lines 1-11.
[70] Officer Meraz' statement, Page No. 11, Lines 12-14.
[71] Officer Meraz' statement, Page No. 20, Lines 15-19.

Sergeant directed Officer 4 to move to the west side of the containment with Officer Zavala to provide less lethal cover at that position (Videolink).

According to Officer 4 's BWV, at 1707:12 hours, he asked Officer Zavala, *"where do you need me?"* as he took a standing position at the driver's door and to the left of Officer Zavala, providing less lethal cover with the Beanbag Shotgun. According to Officer 4 , he held the Beanbag Shotgun at a low-ready position with his trigger finger along the frame, with the safety engaged.[72] Officer Zavala is heard giving commands to Victim in Spanish. According to Officer 4 , Victim was pressing the knife against his neck and he thought Victim was going to cut his own throat (Videolink). [73]

According to Sergeant 's BWV, at 1707:25 hours, he used the Public Address (PA) speaker of his vehicle to communicate with Victim . Sergeant addressed Victim by his first name and requested that he drop the knife and offered him assistance. Victim did not react or respond to Sergeant . According to Sergeant , *"There was a certain point to where he was sitting there, communication -- it was just -- it was like a dead -- like a dead stare. It didn't seem like we were getting through to him. A blank stare."*[74]

According to Officer Zavala's BWV, at 1708:10 hours, he yelled to Sergeant *"Let me talk to him in Spanish!"* Officer Zavala took over attempts to communicate with Victim . Officer Zavala told investigators that he heard [redacted] calling him Junior, so Officer Zavala began to communicate with Victim , addressing him as Junior.[75]

According to Sergeant s BWV, at 1708:36 hours, Officer 3 moved his vehicle to the south east corner of [redacted] to block pedestrian and vehicle traffic. According to Sergeant , *"I moved it over to the southeast corner just to block it. You know, just to have more containment set up. At least we had, like, two corners set up. We had the north side and west side covered for containment."*[76] Officer 3 moved the vehicle and parked it facing south in the crosswalk and north bound curb lane of [redacted]. Officer 3 is heard on BWV directing pedestrians in the area to move to the west side of [redacted]

According to Officer 4 's BWV, at 1708:54 hours, he told Officer Zavala, *"Tell him god doesn't want him to do it."* According to Officer 4 , he saw Victim gesture the sign of the cross, *"I was like, okay, you know myself being Catholic, I'm seeing him and I tell Z, 'Hey, he just -- he just did the sign of a cross. Tell him that God doesn't want him to do it.'"*[77] According to Officers O-4 and Zavala's BWV, Officer Zavala continued speaking to Victim in Spanish.

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[72] Officer 4 's statement, Page No. 31, Lines 13-25.
[73] Officer 4 's statement, Page No. 16, lines 10- 17.
[74] Sergeant 's statement, Page No. 11, Lines 18-21.
[75] Officer 3 ' statement, Page No. 11, Lines 11-17.
[76] Sergeant 's statement, Page No. 11, Lines 2-6.
[77] Officer 4 's statement, Page No. 18, Lines 2-5.

Officer 4 further stated, *"I can see him nodding his head up and down and then Z tells him 'Hey, God doesn't want you to do it.' But it didn't -- it didn't work. He was still -- the subject was still shaking his head, crying, sweating."*[78]

At 1709 hours, Sergeant broadcast a request for responding units to block traffic and set up containment. Sergeant directed [redacted] that were standing in the front yard of [redacted] to go inside. Sergeant walked to Officers Meraz and O-4 and reaffirmed their roles of lethal and less lethal cover.

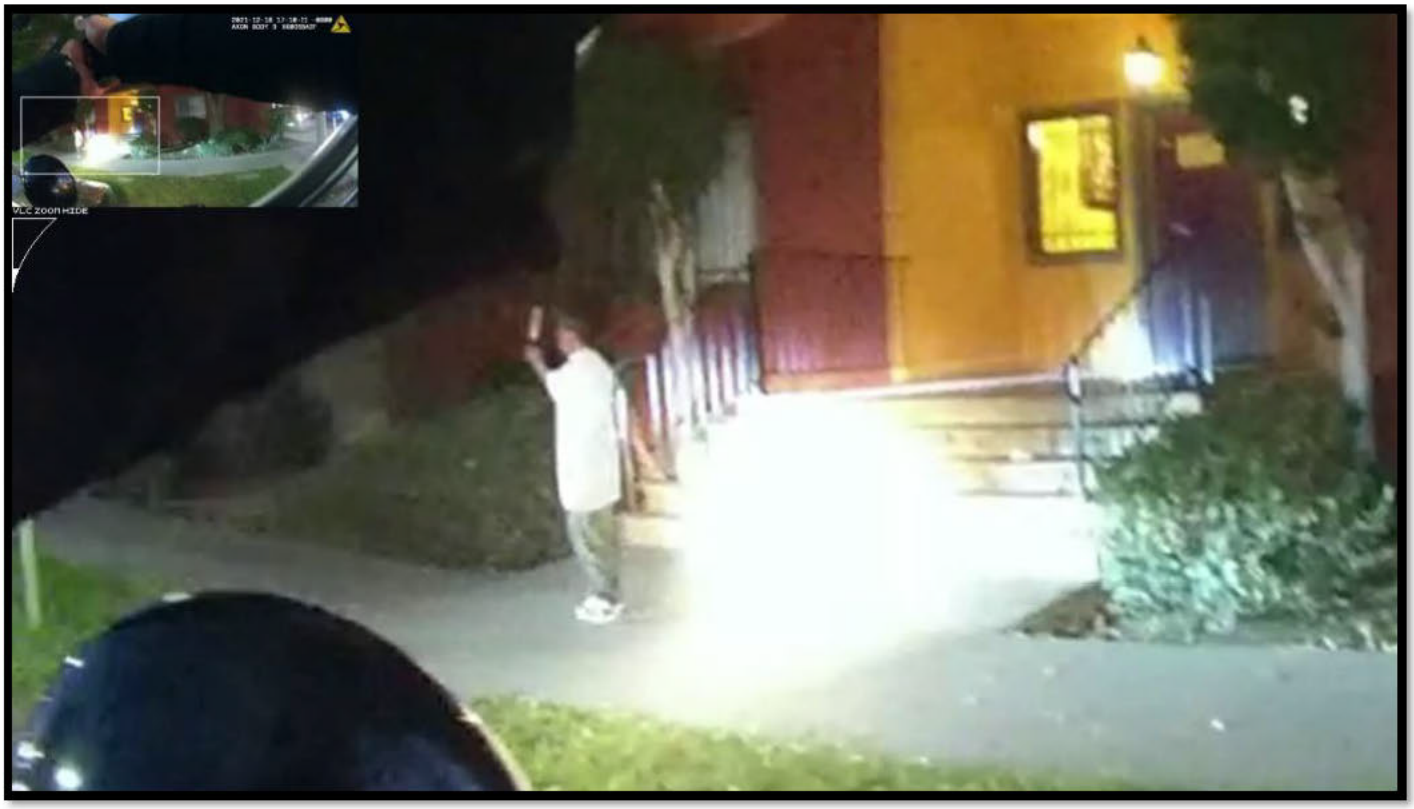
According to Sergeant 's BWV, at 1709:41 hours, he announced to the officers *"I got it, I got it!"* as he again utilized the PA speaker in his vehicle and resumed his attempts to talk to Victim . Sergeant directed Officer 2 to move his vehicle between the two police vehicles in front of Victim and then resumed talking to Victim on the PA speaker.

According to Officer 2 's BWV, at 1709:44 hours, he holstered his pistol and ran to his police vehicle. Officer 2 drove the vehicle to a position between Sergeant and Officers Zavala's vehicle, and parked his vehicle facing south. Officer 2 exited the vehicle, stood behind the open driver's door, unholstered his pistol and held it in a two-handed grip, in a low-ready position. According to Officer 2 , *"And I unholstered because the situation still could have escalated or was still escalating and to the point where deadly point may be justified."*[79]

According to Officer Zavala's BWV, at 1710:17 hours, Victim was sitting on the bottom step with the knife positioned down between his legs as his head is lowered down toward the ground. Suddenly, Victim used his left hand to knock his hat off his head and stood up holding the knife up in front of himself, above his shoulder at head level. Victim looked in the direction of [redacted] gathered in their front yard; approximately 35 feet east of his location. [redacted] can be heard on the officers' BWV yelling, *"Put the knife down Junior!"* and *"Don't do it!"* (Videolink).

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[78] Officer 4 's statement Page No. 18, Lines 10-14.
[79] Officer 2 's statement, Page No. 16, Lines 20-22.



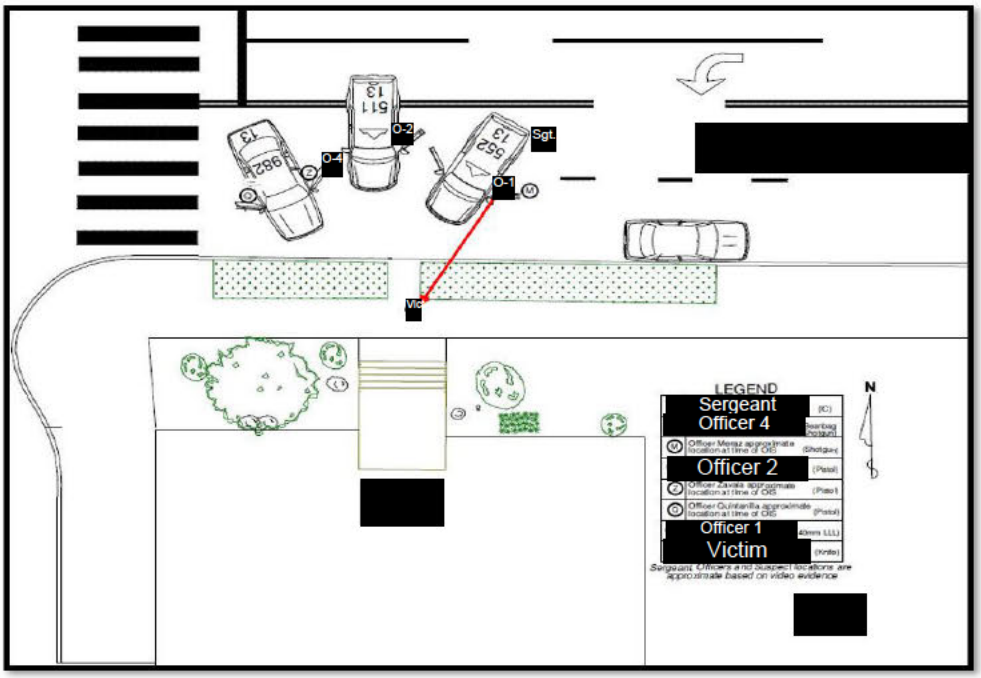
(Enlarged still frame photograph from Officer Quintanilla's BWV)

Sergeant announced, *"Get ready!"* as he simultaneously ran around the back of his vehicle toward Officer 1 's position and announced *"Forty, forty up."* According to Sergeant *"I just had a feeling, based on seeing what he did, that he was going to get up and run. You know, so I wanted to get around. I felt more comfortable with the 40 again."*[80] *"He might try to, make an attempt to run toward So, I wanted to get over to the east side and maybe see if we can get – get a round off to stop that from occurring."*[81]

According to Officer Meraz' BWV, at 1710:19 hours, Victim took four steps forward in a northerly direction toward Officer 1 and then he turned to his left in a westerly direction. At that moment, Officer 1 announced, *"Forty, stand-by"* as Sergeant directed Officer 1 to fire the 40mm LLL giving the command of "*Forty, forty up!*" Officer Meraz' BWV captured Officer 2, Officer 1 firing the 40mm LLL, from an approximate distance of 22 feet and the sponge round impacting Victim on the lower right side of the torso (Videolink).

According to Officer 1 he was aiming at Victim navel area when he fired the 40mm LLL.

[80] Sergeant 's statement, Page No. 32, Lines 11-14.
[81] Sergeant 's statement, Page No. 32, Lines 17-21.



(Diagram of Officers' positions at the time of the second 40mm LLL shot)

According to Officer 1, *"I was thinking -- I mean, once he made the praying gesture, I was thinking that he was going to try to do suicide by cop and he was going to try to attack us with the knife and that's when I fired the 40."*[82] According to Officer 1, Victim was closer to other officers than to him, and he feared that Victim was going to attack his partners.[83]

According to Officer Meraz, *"He stood up and -- man, he stood up and I just saw him, like, look in the direction of Zavala and Quintanilla. And I just saw him, like, move towards them, and honestly I was going to shoot him. I was going to shoot him to stop his movement from hurting my partners or any people that were on that side, because there was a large crowd forming. But before I shot him, I was like, '40, 40.' I wanted the 40 guy to hit him with the 40 and see if that would cause him to drop the knife."*[84] Officer Meraz further stated, *"And obviously I didn't shoot him, because I knew that they had that side covered. You know, although I had that angle on him, I knew that they had that side covered, and this is what we practice and that we -- you know, there's DCO's and they cover their side. We cover our side. And that's obviously, you know, in reverence for all life."*[85]

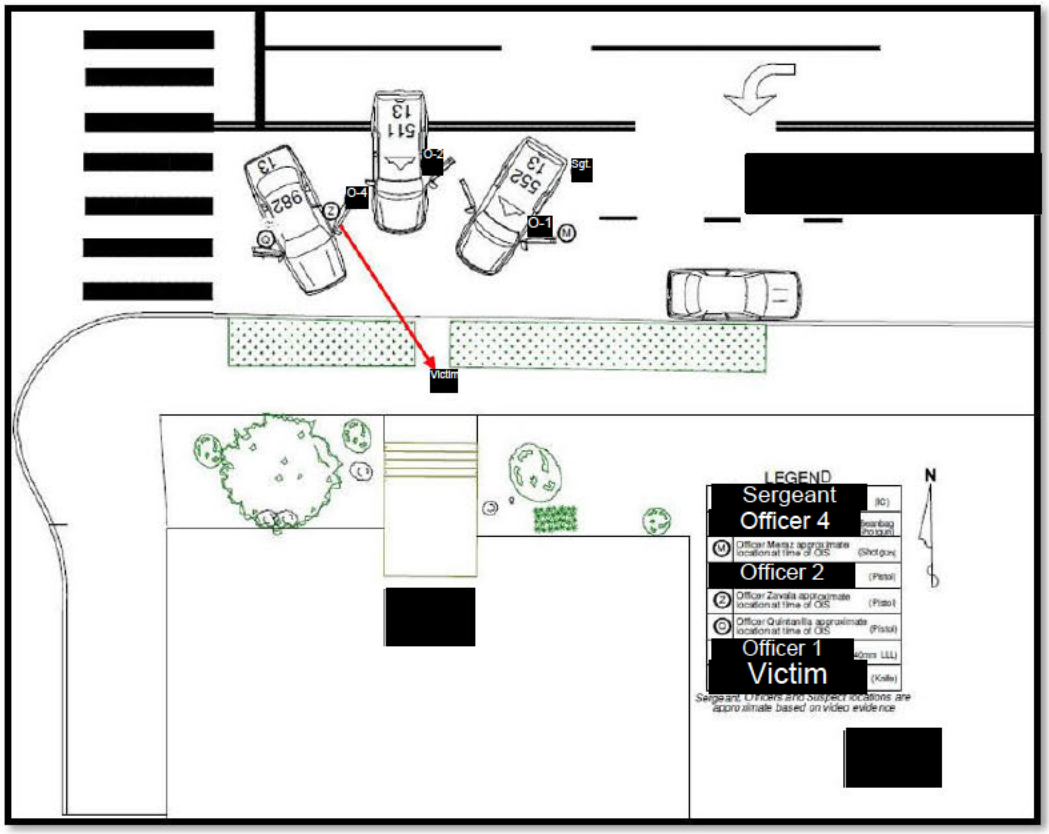
According to Officer Zavala's BWV, Victim turned to his left and Officer Zavala yelled the command to *"Stop, stop, stop!"* followed by the sound of Officer 1 firing the 40mm LLL in the back ground.

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[82] Officer 1 s statement, Page No. 27, Lines 22-25 and Page No. 28, Line 1.
[83] Officer 1 s statement, Page No. 28, Lines 13-24.
[84] Officer Meraz' statement, Page No. 15, Lines 14-23.
[85] Officer Meraz' statement, Page No. 16, Lines 11-17.

Approximately .382 seconds later, Officer Zavala fired three rounds from an approximate distance of 25 feet (Investigators Note No. 3).

The rounds struck Victim in the lateral right side of the chest, the anterior right side of the neck and the anterior right side of the torso. Victim fell to the ground, onto his back and the knife fell from his hand coming to rest on the sidewalk (Videolink).



(Diagram of Officers' positions at the time Officer Zavala fired three rounds)

Officer Zavala told investigators, the reason he fired the shots was because, *"The suspect gets up very rapidly with the -- with the large butcher knife in his right hand. He takes a deep breath, like getting courage, looks at me, looks at my fellow officers. At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified. The suspect then starts advancing towards the officers and turns his body towards myself and my partner. And in fear -- I was afraid, sir. I thought this guy was going to come at me with this butcher knife. He already cut his hand. He cut his throat -- he attempted to cut his throat. He chased pedestrians and civilians around the neighborhood with this large butcher knife. And to protect myself and my partner's life and the citizens nearby from serious bodily injury, imminent threat, I fired approximately two, three rounds to stop the threat, sir."*[86]

[86] Officer Zavala's statement, Page No. 12, Lines 8-25 and Page No. 13, Line 1.

> **Note:** The Coroner's report did not identify any injuries to the hands or throat consistent with an edged weapon.

According to Officer Zavala, *"So when I fired two, three shots, that's when I assess. He was already on the ground."* [87] Officer Zavala stated, *"So at the time I fired, there was the steps behind and there was that lobby in the back. So -- so it was just the steps and the lobby in the back, sir, and it was clear. Nobody was back there."*[88]

According to Officer Quintanilla's BWV, Victim stood up and walked in a northerly direction. [redacted] are heard in the background repeatedly yelling *"Don't do it!"* Officer Quintanilla yelled the commands *"Don't walk over here!"* as Victim held the knife up above his shoulder at head level. Victim turned to his left, facing Officer Quintanilla when the sound of the 40mm LLL is heard being fired, followed by the sound of Officer Zavala firing three rounds. Victim is depicted falling to the ground onto his back.

Approximately .322 seconds after Officer Zavala fired his third round, Officer Quintanilla fired one round from an approximate distance of 28 feet (Videolink).

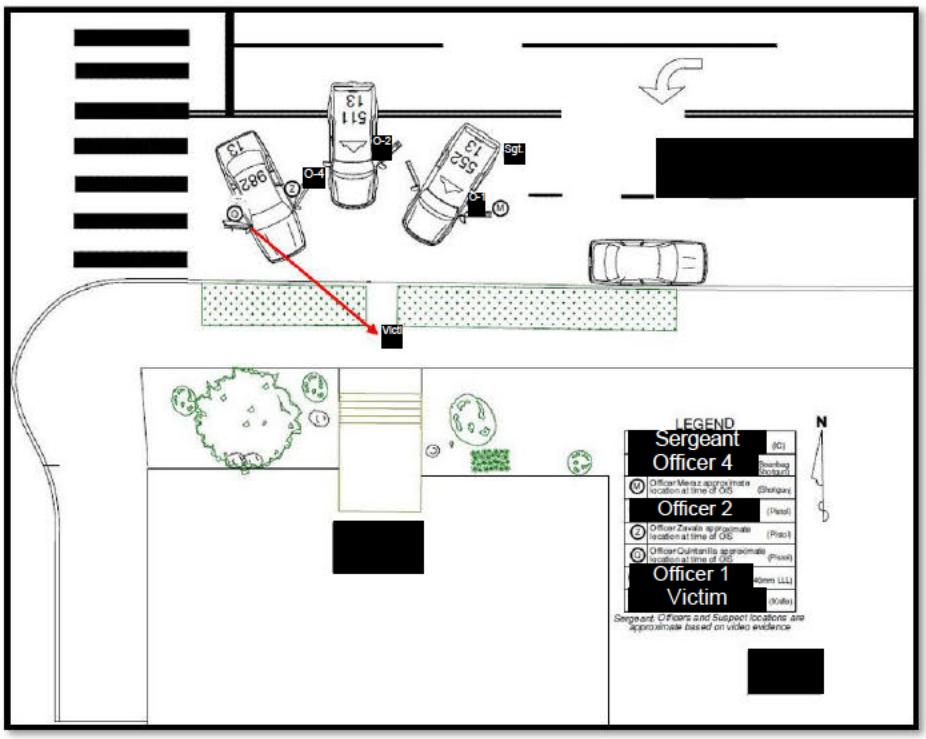
According to Officer Quintanilla, he aligned his sights on Victim' chest, when he fired. Officer Quintanilla told investigators the reason he fired was because, *"When he came down, we kept giving him commands and once he hit the sidewalk, I mean, I was scared and he ended up walking towards us -- towards the officers and myself and that's when I -- I had to use deadly force."*[89] Officer Quintanilla further stated, *"I had to stop the threat. He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death. And also, there was still civilians just to the right of me, just a few feet away from me. So he could have caused serious bodily injury or death to them if I didn't do that. I had to do it."*[90]

Officer Quintanilla further stated, *"So the background to where the suspect was and where I was pointing my firearm, there's an apartment building that was behind him. However, the apartment building is elevated. There's a stairway where he comes down from, which is below where the apartment is."*[91] According to Officer Quintanilla, *"And when he went down, I stopped shooting. I stopped.* [92]

> **Note:** Officer Quintanilla told investigators that he fired two shots. Investigators' review of BWV and the post OIS magazine count determined that Officer Quintanilla fired a single shot.

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[87] Officer Zavala's statement, Page No. 28, lines 24-25 and Page No. 29, Line 1.
[88] Officer Zavala's statement, Page No. 29, Lines 16-19.
[89] Officer Quintanilla's statement, Page No. 14, Lines 13-15.
[90] Officer Quintanilla's statement, Page No. 31, Lines 4-10.
[91] Officer Quintanilla's statement, Page No. 26, Lines 3-8.
[92] Officer Quintanilla's statement, Page No. 32, Lines 13-14.



(Diagram of Officers' positions at the time Officer Quintanilla fired a round)

According to Officer 4, he saw Victim stand up and *"He takes one or two steps, and I go up at, like, on target and the he – I remember him pivoting slowly towards our direction. I remember just looking at him like, oh, my God. And then right when I was about to discharge my beanbag, I hear -- I hear what sounded like three -- to me sounded like three 40 rounds, just boom boom boom."*[93] Officer 4 told investigators he intended to shoot the beanbag stating, *"I had every intention to. I remember looking at it, looking downrange, and right when I was about to just -- I heard what sounded like sequential just multiple 40's going off."*[94]

According to Sergeant 's BWV, at 1710:30 hours, he broadcast, *"We got shots fired, officer needs help, shots fired* Street 2 *and* Street 1 *suspect is down."*

According to Sergeant 's BWV, at 1710:42 hours, he moved to Officer Zavala's location and gathered officers for an arrest team.

According to Sergeant , *"He was laying on his back. I was comfortable the knife was a good distance away. I could tell he was injured pretty bad based on the white shirt, it was red. He was on his back semi-conscious the knife is a good distance."*[95]

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[93] Officer 4 's statement, Page No. 19, Lines
[94] Officer 4 's statement, Page No. No. 33, Lines 10-14.
[95] Sergeant 's statement, Page No. 35, Lines 12-15.

Sergeant stated, *"I wanted to push forward and take him into custody, so we did that."*[96] Sergeant further stated, *"I could tell that [redacted] were -- they were being held back. They were going to advance towards him. I didn't want -- I didn't want them to try to lynch him or for them to try and grab the knife from where he was at."*[97]

Sergeant directed Officers Meraz and O-1's attention to [redacted], who had exited the gate of the property and were gathering on the sidewalk. Officers Meraz and O-1 told [redacted] to stay back (Investigators' Note No. 4).

Sergeant began assigning specific roles to individual officers, directing Officer Zavala as lethal cover, Officer 4 as less lethal and Officers O-2 and Quintanilla were assigned as the arrest team. The officers formed together and moved forward. Officer Zavala held his pistol in a two-hand grip pointed at a low-ready as he walked forward. Officer 4 held the beanbag shotgun at a low-ready position as he walked beside Officer Zavala (Videolink).

According to Officer 1's BWV, at 1710:55 hours, Officer 1 placed the 40mm LLL into Sergeant 's vehicle. [redacted] was visibly agitated and emotional as they ignored the officers' direction and walked toward Victim laying on the ground.

> **Note:** Officer 1 told investigators that he had slung the 40mm LLL and then he responded to the approaching [redacted].[98] Investigators' review of Officer Meraz' BWV at time stamp 1711:25 hours, depicts Officer 1 without the 40mm LLL slung as he engaged with [redacted] on the sidewalk.

Officer 1 took a position on the south sidewalk in front of [redacted] and gave the command to *"stay back."* A female adult wearing a blue sweater and yellow shirt did not comply with his direction. Officer 1 stepped in front of the female and attempted to block her movement. The female yelled [redacted] Officer 1 took a hold of the female's arms and pulled her back away from Victim and the officers. Simultaneously, a second female Hispanic, wearing a gray sweater and tan pants, attempted to walk past Officer 1 and a shirtless male Hispanic simultaneously confronted Officer 1 (Videolink).

According to Officer 1 he held a female back and grabbed hold of a male's arm to prevent them from approaching.[99] Officer 1 stated, as he attempted to hold [redacted] back, his BWV camera was knocked loose from the chest plate mount.[100]

According to Officer 1, a male Hispanic spat on his face and uniform, as he attempted to block [redacted] approach.[101] As the two female adults walked past Officer 1, Officer Meraz stepped in front the females to prevent their advance.

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[96] Sergeant 's statement, Page No. 35, Lines 17-18.
[97] Sergeant 's statement, Page No. 36, Lines 20-24.
[98] Officer 1 's statement, Page No. 31, Lines 13-25 and Page No. 32, Lines 1-4.
[99] Officer 1 's statement, Page No. 35, Lines 3-12.
[100] Officer 1 's statement, Page No. 33, Lines 10-25 and Page No. 34, Lines 1-25.
[101] Officer 1 's statement, Page No. Page No. 9, Line 25 and Page No. 10, Lines 1-2.

According to Officer Meraz, *"And I didn't -- the knife was still in play. It was still on the ground next to him and the last thing I wanted is for any more people to get hurt, you know?"*[102] The officers blocked [redacted] approach. According to Officer Meraz, *"And I just kept the rest of [redacted] away and tried to de-escalate them, you know, to prevent any more people from getting hurt or even getting arrested or any, you know, further action."*[103]

According to Sergeant 's BWV, at 1711:15 hours, as the officers approached Victim [redacted], the knife was visible laying on the sidewalk next to Victim. Officer Zavala used his left foot to slide the knife away from Victim to the west. Officer Zavala stated he "kicked" the knife, *"Due to the fact that the suspect was still moving around, and the knife was right by him, sir, and it was unsafe."*[104]

Officer 2 holstered his pistol and walked behind the officers toward Victim. Officer Quintanilla holstered his pistol and moved forward behind Officer 2. Sergeant moved forward with the arrest team directing the officers to roll Victim over and handcuff him.

According to Officer 2 's BWV, at 1711:15 hours, he took a hold of Victim' left forearm with his left hand and Victim' left bicep with his right hand. Officer 2 lifted Victim' left arm up and rolled him onto his stomach. Officer 2 placed his left knee on Victim' buttock area. Officer Quintanilla took hold of Victim' left wrist, as Officer 2 transitioned his left hand to Victim' right wrist. Officer 2 used his left hand to pull Victim' right arm out from under his body, while simultaneously retrieving his handcuffs from his Sam Browne handcuff case using his right hand. Officer 2 secured Victim' wrists behind his back with the handcuffs. Officer 2 [redacted] rolled Victim onto his right side, into a recovery position, as he and Officer Quintanilla then searched Victim' waistband and pockets for weapons. The officers checked Victim for injuries. Officer Quintanilla directed Officer 2 to retrieve his medical kit from the trunk of his vehicle. After Victim was handcuffed, Officer Zavala holstered his pistol (Videolink).

At 1711:33 hours, Sergeant broadcast, *"We have a Code Four suspect is in custody, get an RA to respond to [redacted] for a male, approximately 20 years old, suffering from gun shots wounds to his chest."* Sergeant asked Officer Zavala, *"How many shooters?"* and Officer Zavala replied, *"Me!"* Sergeant asked Officer Quintanilla, *"Did you shoot?"* and Officer Quintanilla replied, *"Yes!"* (Videolink).

Sergeant turned his attention to [redacted] that were moving toward Victim. According to Sergeant, *"They started running towards him while he's was down as we made our approach. So I know Officer Meraz, he utilized some physical force to restrain a woman that was making an advance towards the suspect while he was on the ground."*[105] Sergeant further stated, *"There was a little non-cat with Meraz based on my recollection. He used*

[102] Officer Meraz' statement, Page No. 17, Lines 11-13.
[103] Officer Meraz's statement, Page No. 17, Lines 18-22.
[104] Officer Zavala's statement, Page No. 43, Lines 17-19.
[105] Sergeant 's statement, Page No. 15, Line 1-5.

physical force just to stop that from occurring."[106] *"And I think once he did that,* [redacted] *came out, took ahold of her, and then (Unintelligible) handled that situation."*[107]

> **Note:** Sergeant advised he only observed Officer Meraz use physical force and did not see any other officers involved in a use of force. According to Officer Meraz, he placed a C-grip on an unknown female's wrists and pulled her away and prevented her from reaching Victim

According to Sergeant 's BWV, at 1711:56 hours, an unknown person in the crowd threw a black and yellow dust pan in the direction of Officer Zavala (Photolink) (Photolink). Sergeant broadcast a request for additional units to respond, advising, *"We have a 415 crowd, forming over here, go outside, let's get some more units here."* Sergeant advised that they were taking rocks and bottles, and wanted to set up a skirmish line.

Sergeant gave the command for a skirmish line to form and Officer Zavala repeated the command, yelling "skirmish line." According to Sergeant , *"My -- at this point it was -- I wanted to save the crime scene. I didn't want anybody to jump in the crime scene or do anything, like move any evidence or anything. So requested a skirmish line."*[108]

In the interim, Officer 4 positioned himself on the south sidewalk between the arrest team and [redacted]. According to Officer 4 's BWV, at 1712:03 hours, Officer 4 can be heard talking to [redacted] in Spanish. [redacted] bent down, picked up a broom from the sidewalk and he held it in his right hand as he yelled in Spanish. Officer 4 pointed the Beanbag Shotgun at a low-ready position in front of [redacted] as he gave commands in Spanish. According to Officer 4 when asked if he felt threatened by the man with the broom, he responded, *"I think -- yes. I mean, it was a potential for someone being struck, either myself or other officers that were there."*[109] Officer 4 further stated, he pointed the Beanbag Shotgun at the male and disengaged the safety.[110]

According to Officer 4 's BWV, [redacted] tossed the broom to the ground and Officer 4 then repositioned the Beanbag Shotgun to a port arms position and continued to talk to [redacted]. At that time [redacted] ceased their advance toward Victim [redacted] Officer Meraz continued to talk to [redacted], directing their attention to the RA that was arriving (Videolink).

On Officer 4 's BWV, he is heard directing Officer 1 to pick up the broom and move it away from the area. Officer 4 told investigators that his intent was, *"Just to eliminate it as a potential tool for anybody to use against us or anyone there at the scene."*[111] Officer 1 placed the broom on the ground next to Sergeant 's vehicle.

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[106] Sergeant 's statement, Page No. 36, Lines 4-5.
[107] Sergeant 's statement, Page No. 40, Lines 6-8.
[108] Sergeant 's statement, Page No. 16, Lines14-18.
[109] Officer 4 's statement, Page No. 36, Lines 21-23.
[110] Officer 4 's statement, Page No. 36, Lines 24-25 and Page No. 37, Lines 1-12.
[111] Officer 4 's statement, Page No. 37, Line 25 and Page No. 38, Lines 1-2.

Sergeant walked to the south east corner of [redacted] and directed the officers to take a position on the sidewalk and keep the crowd at the intersection away from the crime scene.

At 1712:15 hours, officers' BWV capture Officer Quintanilla directing Officer 2 to retrieve a medical kit from the trunk of his vehicle to render aid to Victim. Officer 2 went to Officer Quintanilla's vehicle and retrieved the medical kit. As Officer 2 attempted to locate the medical kit in the trunk, LAFD, RA No.1, which was staffed by Firefighter/Paramedics (FF/PM) Craig Shubsda and Matthew Farris, arrived at scene.

According to Officer Quintanilla's BWV, at 1713:18 hours, Officer Quintanilla is heard telling the paramedics that Victim had gunshot wounds, directing their attention to a wound on Victim's chest. Officer Quintanilla removed the handcuffs from Victim at the paramedic's request. The RA transported Victim to LAC+USCMC, Emergency Room (ER), [redacted] (Addendum No. 1).

At 1714 hours, Newton Patrol Division, uniformed Police Officers II Adrian Guzman, Serial No. 42654, and Ricardo Huerta, Serial No. 43801, assigned to unit 13X31, arrived and took a position at the southwest corner of [redacted] to control the crowd of pedestrians gathering at the intersection. Sergeant approached Officers Guzman and Huerta and directed them to go with the RA to the hospital. Sergeant directed Officer 2 [redacted] to retrieve his PR 24 baton and assist with crowd control at the southeast corner. Sergeant [redacted] approached Officers Quintanilla and Zavala and advised them they needed to separate and to leave their BWV cameras on.

According to Officer Quintanilla's BWV, at 1714:10 hours, he turned on the DICVS of his police vehicle. Officer Quintanilla walked back and retrieved Victim's hat from the stairs. Officer Quintanilla picked up an expended 40mm sponge round from the sidewalk, looked at it and dropped it back on the ground. Sergeant and Officer Zavala told Officer Quintanilla to leave the items where they were and advised him not to move the knife.

According to Officer Quintanilla, he picked up the hat because, *"Every time something -- somebody gets transported with the fire department or the RA, we want to make sure, that all their belongings are with him or her. So in my head so much going on, I wanted to make sure that he had his belongings going with him to the hospital. So I picked up his hat in an attempt to make sure he gets it. But then I was told, 'Oh, no. You have to leave it,' and I remembered that's right to an OIS. I'm going to leave it here, so I threw it back -- I tossed it back to -- to the direction where I had picked it up."*[112]

According to Sergeant's BWV, at 1714:58 hours, he directed Officer 1 to secure the crime scene with crime scene tape.

[112] Officer Quintanilla's statement, Page No. 40, Lines 7-18.

According to Sergeant 's BWV, at 1715:16, he directed Officers Quintanilla and Zavala to leave their BWV cameras on, due to the situation being tactical. Sergeant directed the officers to separate from each other and take a seat in separate police vehicles.

At 1716:05 hours, Sergeant broadcast a request for additional supervisors for separation and monitoring of the involved officers.

At 1716:24 hours, Newton GED Sergeant I Gabriel Gaxiola, Serial No. 35056, and Newton Patrol Sergeant Victor Cruz, Serial No. 38632, arrived at [redacted] and Sergeant briefed them. Sergeant Gaxiola took control and managed the skirmish lines. Sergeant Cruz initiated monitoring of Officers Zavala and Quintanilla.

Sergeant Gaxiola set up a skirmish line and blocking forces at the intersection of [redacted] Sergeant Gaxiola directed the officers on the skirmish line to move the crowd to the west side of the intersection as the blocking forces moved and set up skirmish lines on the north and south side of the intersection. Upon establishing control of the intersection, Sergeant Gaxiola directed officers to secure the outer perimeter with crime scene tape.

At 1717 hours, Sergeant broadcast himself as the Incident Commander and requested the response of five additional supervisors to the scene. At approximately 1718 hours, Central Patrol Sergeant I Arnold Castellanos, Serial No. 40202, arrived at [redacted] and assisted with managing the skirmish line on [redacted], east of the OIS scene.

At approximately 1720 hours, Sergeant Castellanos took over monitoring of Officer Zavala. Sergeant Castellanos and Officer Zavala turned off their BWV cameras and Sergeant Castellanos took a Public Safety Statement (PSS).

At approximately1720 hours, Sergeant Cruz directed Officer Quintanilla to turn off his BWV camera. Sergeant Cruz took a PSS from Officer Quintanilla.

At 1722 hours, Sergeant gathered Officers O-4 O-3 Meraz and O-1 for separation and monitoring. Sergeant directed the officers to turn off their BWV cameras at that time.

On December 18, 2021, at approximately 1739 hours, Sergeant notified the Department Operations Center (DOC) that a Categorical Use Of Force, Officer Involved Shooting occurred, Incident No. 21121800002616, at [redacted]

At approximately 1744 hours, the DOC contacted FID Commanding Officer, Captain III Richard Gabaldon, Serial No. 31356, and notified him of the OIS.

Force Investigation Division Detective II Thomas Brown, Serial No. 34045, reviewed all documents and circumstances surrounding the separation, monitoring and the admonition not to discuss the incident to officers prior to being interviewed by FID investigators (Addendum No. 2).

Force Investigation Division received the Assessment of Supervisory Response to a Categorical Use of Force on February 8, 2022 (Addendum No. 3).

During a review of BWV, multiple officers were seen not wearing face coverings during this incident. This was brought to the attention of the Newton Area Commanding Officer.

SCENE DESCRIPTION

The OIS occurred on the public sidewalk in front of the apartment building located at [redacted]

The incident occurred during hours of darkness, at approximately 1710 hours. The weather conditions were dry and clear. Vehicle and pedestrian traffic on Street 2 was very heavy.



CANVASS FOR WITNESSES

On December 18, 2021, Newton Patrol Division officers conducted a canvass of the immediate area of the intersection of [redacted]. On December 20, 2021, investigators conducted a canvass for witnesses at [redacted] On February 22, 2022, investigators canvassed the area of [redacted] for witnesses. No additional witness were identified during the canvass. All witness statements were digitally recorded and stored in the TEAMS II system.

SUSPECT INFORMATION

Victim

Victim, a male Hispanic with black hair and brown eyes. At the time of the incident, he was 4 feet 9 inches tall, weighed approximately 98 pounds, with a date of birth of [redacted] Victim was identified by Criminal Information Index (CII) No. [redacted] and California Department of Motor Vehicle Identification Card No. [redacted]

[redacted] (Addendum No. 4).

Two Investigative Reports (IR) titled Assault with a Deadly Weapon on a Peace Officer, DR No. 2113-20675, Victim Officer Zavala and DR No. 2113-20677, Victim Officer Quintanilla, were completed (Addendum No. 5).

On May 11, 2022, Detective Brown completed a Follow-Up Report for Assault with a Deadly Weapon, for DR Nos. 2113-20675 and 1213-20677, listing the Case Status as Cleared Other (Addendum No. 6).

[redacted]

[redacted]

- [redacted]
- [redacted]
- [redacted]
- [redacted]

[redacted]

Note: According to [redacted] Victim had [redacted] and [redacted].[113]

According to [redacted] had [redacted][114]

INJURIES

At 1715 hours, LAFD RA No. 1, staffed by FF/PM's Tannor Agor, Matthew Farris, Eric Lazar and Craig Shubsda transported Victim to LAC+USCMC. Victim was assigned [redacted] and was treated by Doctor Knipp for [redacted]. Doctor Bryan Knipp provided [redacted]. At 1809 hours, Victim succumbed to his injuries and was pronounced deceased.

EVIDENCE

On December 18, 2021, Forensic Science Division, Firearms Analysis Unit (FSD/FAU), Supervising Criminalist III Marissa Biraimah, Serial No. N3136, Criminalists II Mathew Saucedo, Serial No. N4688, and Andrea Munoz, Serial No. N6276, arrived at scene and conducted an examination for ballistic evidence, projectiles and associated evidence (Addendum No. 7).

A total of 12 items of evidence were collected from the crime scene and booked as evidence in conjunction with this investigation. Included in those items, were a knife (**Item No. 1**), four discharged 9mm caliber casings (**Item Nos. 3-6**), one fired bullet (**Item No. 7**), one bullet jacket fragment **(Item No. 8)**, two discharged 40mm sponge round cartridge casings (**Item Nos. 9-10**), one 40mm sponge round plastic base (**Item No. 11**), two fired 40mm sponge "baton" rounds (**Item Nos. 12-13**), clothing **(Item Nos. 14-16),** cell phone with battery and a sim card (**Item Nos. 17-19**) (Addendum No. 8).

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[113] [redacted] statement, Page No. 2, Lines 8-22.
[114] [redacted] statement, Page No. 4, Lines 21-25 and Page No. 5, Lines 1-11.

CORONER'S INVESTIGATION

On December 21, 2021, at approximately 1000 hours, Los Angeles County Department of Coroner Forensic Attendant Eric Azeredo responded to LAC+USCMC (Coroner's Case No. 2021-13845). Victim' remains were subsequently transported to the Los Angeles County Forensic Science Center (LACFSC).

Autopsy
On December 22, 2021, the Department of Medical Examiner-Coroner, County of Los Angeles, Deputy Medical Examiner Doctor Brice Hunt, performed a post-mortem examination of Victim' remains. Force Investigation Division Detectives Stephanie Carrillo, Serial No. 35971, Jose Olmedo, Serial No. 32391, and Los Angeles County District Attorney's Office Investigator Oscar Rodriguez, were present during the examination. Doctor Hunt completed an Autopsy Report, No. 2021-13845, dated June 1, 2022. Doctor Hunt determined Victim sustained three gunshot wounds. One being to the neck and two to the torso. Doctor Hunt concluded Victim' death was a result of a gunshot wound to the torso and the manner of death was determined to be homicide (Addendum No. 9).

- A nonfatal gunshot entered the soft tissue of the anterior right side of the neck from front to back, right to left and exited the soft tissue of the posterior of the neck.

- The fatal gunshot entered the lateral right side of the chest, traveling from front to back, right to left and in a downward path. The bullet penetrated the soft tissue, perforating the right No. 7 rib bone, travelled into the right thoracic cavity, continued through the right lung, transected the T8 vertebra and spinal cord, into the left thoracic cavity, through the left lung, through the posterior left rib No. 8 and exited the soft tissue of the left side of the back.

- A nonfatal gunshot entered the soft tissue of the anterior side of the right chest from front to back, left to right, in an upward direction, which did not enter the thoracic cavity and exited the soft tissue of the posterior of the right shoulder.

Toxicology
On March 25, 2022, a Forensic Science Laboratories Report was approved by Department of Medical Examiner-Coroner, Los Angeles County, Supervising Criminalist, Sarah Buxton de Quintana. The blood analysis results identified the presence of Benzodiazepines, Cannabinoids and Ethanol in Victim' blood (Addendum No. 10).

WEAPONS

Victim was armed with a knife (meat clever). The knife had a 6 and 1/2 inch blade and a 5 and 1/4 inch black plastic handle. On December 18, 2021, Criminalist Saucedo recovered the knife from the ground in front of [redacted] (Photolink).

Officer Zavala was armed with his Department-approved Glock, Model 17, 9mm caliber, semi-automatic pistol, [redacted]. The pistol was carried in a Department approved Safariland, Level I retention holster on his Sam Browne utility belt. According to Officer Zavala, at the time of the OIS, his pistol was loaded with 20 rounds. One round in the chamber and 19 rounds in the magazine. Officer Zavala further stated, he had two additional magazines each loaded with 17 rounds of Department-authorized ammunition (Photolink) (Investigators' Note No. 5).[115]

On December 18, 2021, at approximately 2230 hours, Detective Brown conducted a post-incident examination of Officer Zavala's pistol. Detective Brown observed that the pistol was loaded with Speer Gold Dot G2, 9mm Smith & Wesson, 180 grain, of Department approved ammunition. There was one round in the chamber and 16 rounds in the magazine. This information was consistent with Officer Zavala having fired a total of three rounds during the OIS. An inspection of the two additional magazines that Zavala had in the magazine pouch on his utility belt, determined that both magazines were loaded to Department standards with 17 rounds each of Speer Gold Dot G2, 9mm Smith & Wesson, 180 grain ammunition to manufactures capacity (Photolink) (Photolink).

On January 12, 2022, FSD/FAU Criminalist Antoinette Woiwode, Serial No. N4427, completed a report documenting the test-firing of Officer Zavala's pistol. The pistol was found to be functional and the trigger pull value for this pistol was within the Departments established range (Addendum No. 11).

Officer Quintanilla was armed with his Department-approved Smith and Wesson, Model M&P, 9mm caliber, semi-automatic pistol, [redacted]. The pistol was carried in a Department approved Safariland, Level III retention holster on his Sam Browne utility belt. According to Officer Quintanilla, at the time of the OIS, his pistol was loaded with 18 rounds. One round in the chamber and his two additional magazines were loaded with 17 rounds of Department-authorized ammunition (Photolink).[116]

On December 18, 2021, at approximately 2230 hours, Detective Brown, conducted a post-incident examination of Officer Quintanilla's pistol. Detective Brown observed that the pistol was loaded with Speer Gold Dot G2, 9mm Smith & Wesson, 180 grain, of Department approved ammunition. There was one round in the chamber and 16 rounds in the magazine. This information was consistent with Officer Quintanilla having fired a total of one round during the OIS. An inspection of the two additional magazines that Quintanilla had in the magazine pouch on his utility belt, determined both magazines, were loaded to Department standards with 17 rounds of Speer Gold Dot G2, 9mm Smith & Wesson, 180 grain Ammunition (Photolink) (Photolink).

[115] Officer Zavala's statement, Page 51, Lines 5-25 and Page No. 52, Lines 1-5.
[116] Officer Quintanilla's statement, Page No. 51, Lines 19-25 and Page No. 52, Lines 1-6.

On January 12, 2022, FSD/FAU Criminalist II Lawrence Iwaki, Serial No. N4687, completed a report documenting the test-firing of Officer Quintanilla's pistol. The pistol was found to be functional and the trigger pull value for this pistol was within the Departments established range (Addendum No. 12).

Officer 1 deployed his Department issued 40mm LLL, Serial No. FW17512 (Photolink).

On December 21, 2021, the Los Angeles Police Department Training Division, Ordinance Unit inspected, and test fired the 40mm LLL. The launcher's trigger pull met Department specifications. The Eotech optic was in working condition and the launcher shot at point of aim and impact at the twenty-five foot range (Addendum No. 13).

FIREARMS ANALYSIS

On May 11, 2022, Criminalist Saucedo, completed a Bullet Path Analysis Report. Criminalist Saucedo documented two bullet pathways that were identified as pathway A and pathway B (Addendum No. 14).

Pathway A (including impacts A and A1) is consistent with a bullet traveling from north to south, west to east, and in a downward direction, deflecting at impact A in a south to north direction and continuing to impact A1. The bullet jacket fragment **(Item No. 8) (Photo ID 12)** is associated with this pathway.

- Impact A was documented as a non-penetrating impact, located on the north facing surface of the stairs, on the third step up (Photolink).
- Impact A1 was documented as a non-penetrating impact, located on multiple branches of a bush in the planter to the east of the stairs (Photolink).

Pathway B (including impacts B and B1) is consistent with a bullet traveling from north to south, west to east, and in a downward direction. The fired bullet **(Item No. 7) (Photo ID 11)** is associated with this pathway (Photolink).

- Impact B was documented as a non-penetrating impact, located on the west facing surface of a tree in the planter east of the stairs (Photolink).
- Impact B1 was documented as a non-penetrating impact, located on the west facing surface of a tree in a planter east of the stairs (Photolink).

On April 7, 2022, Criminalist II Trisha Ariyasu, Serial No. N4729, completed a Type and Caliber Laboratory Report that identified **(Item No. 7)** a fired bullet and **(Item No. 8)** a bullet jacket fragment exhibited general rifling characteristics consistent with **(Item No. 26)** the bullet test fired from Officer Zavala's pistol.

The Laboratory report further indicated that **(Item Nos. 7 and 8)** did not exhibit general rifling characteristics consistent with **(Item No. 21)** the bullet test fired from Officer Quintanilla's pistol.

The Laboratory Report concluded that the fired bullet **(Item No. 29)**, recovered by the Los Angeles County, Coroner's Medical Examiner, during the autopsy lacked sufficient information to make a type and caliber determination (Addendum No. 15).

On May 12, 2022, Criminalist II Gabriel Mueck, Serial No. N4632, completed a Serology/DNA-STRI Laboratory Report that identified **(Item No. 7)** a fired bullet was processed and a deoxyribonucleic acid (DNA) sample was extracted **(LIMS #3-1-1)**. Short Tandem Repeats (STR) analysis of the sample identified the presence of [redacted] Victim ' DNA on the fired bullet recovered from the scene.

Evidence **(Item No. 8)** bullet jacket fragment was processed for DNA sample **(LIMS #3-2-1)** and did not contain enough DNA for STR analysis (Addendum No. 16).

Evidence **(Item No. 29)** bullet recovered by the Medical Examiner during the autopsy was not submitted for DNA analysis.

VISUAL DOCUMENTATION

Digital In-Car Video System (DICVS)
There were three DICVS videos related to this incident. Each video was reviewed in its entirety by FID investigators. The DICVS videos captured the officers' response to the scene and post OIS activity. The DICVS of Officers Zavala and Quintanilla's vehicle was not activated during the UOF and did not capture audio or videos of the OIS. Officer Quintanilla activated the DICVS after the OIS, which captured post OIS activity.

Body Worn Video (BWV)
There were 10 BWV recordings related to this incident. Each video was reviewed in its entirety by FID investigators.

[redacted] Sergeant had his camera on in buffer mode as he initiated his response to the radio call. [redacted] Sergeant 's BWV recorded three videos, one was 21 minutes and 55 seconds, a second was 3 minutes and 6 seconds and a third was 1 minute and 27 seconds in length. [redacted] Sergeant 's BWV captures his Code Three response, his arrival to [redacted] drawing and exhibiting, tactical planning, tactics, the OIS and post OIS activity. [redacted] Sergeant turned off the BWV camera when he initiated administrative duties post OIS.

Officer Zavala did not activate his BWV while responding Code Three to the call. Officer Zavala had his BWV camera in buffer mode, as he arrived at [redacted] The BWV audio microphone was not actively recording sound for the initial 51 seconds he was at the scene. Officer Zavala's BWV recorded 19 minutes and 9 seconds of video, which captured the officers' arrival, contact with [redacted] Victim, drawing and exhibiting, tactics, the OIS and post OIS activity. Zavala turned off the BWV camera when he was directed to do so by [redacted] Sergeant .

Officer Quintanilla did not activate his BWV while responding Code Three to the call. Officer Quintanilla had his BWV camera in buffer mode, as he arrived at [redacted]

The BWV audio microphone was not actively recording sound for the initial 10 seconds that he was at the scene. Quintanilla's BWV recorded 20 minutes and 9 seconds of video, which captured the officers' arrival, contact with Victim, drawing and exhibiting, the OIS and post OIS activity and handcuffing. Quintanilla turned off the BWV camera when he was directed to do so by Sergeant.

Officer 1 had his BWV camera in buffer mode as he initiated response to the radio call. Officer 1 's BWV recorded 26 minutes and 2 seconds of video, which captured the officers' Code Three response, his arrival to the scene, the contact with Victim, drawing and exhibiting, the OIS and post OIS activity. Officer 1 turned off the BWV camera when he was directed to do so by Sergeant.

Officer 2 had his BWV camera in buffer mode as he initiated response to the radio call. Officer 2 's BWV recorded 24 minutes and 42 seconds of video, which captured the officers' Code Three response, his arrival to the scene, the contact with Victim, drawing and exhibiting, the OIS and post OIS activity. Officer 2 turned off the BWV camera when he was directed to do so by Sergeant.

Officer 4 had his BWV camera in buffer mode as he initiated response to the radio call. Officer 4 's BWV recorded 23 minutes and 9 seconds of video, which captured the officers' Code Three response, the arrival to the scene, the contact with Victim, drawing and exhibiting, the OIS and post OIS activity. Officer 4 turned off the BWV camera when he was directed to do so by Sergeant.

Officer Meraz had his BWV camera in buffer mode as he initiated response to the radio call. Officer Meraz' BWV recorded 23 minutes and 13 seconds of video, which captured the officers' Code Three response, the arrival to the scene, the contact with Victim, drawing and exhibiting, the OIS and post OIS activity. Officer Meraz turned off the BWV camera when he was directed to do so by Sergeant.

Officer 3 had his BWV camera in buffer mode, as he initiated response to the scene. Officer 3 ' BWV recorded 18 minutes and 19 seconds of video, which captured his response, his arrival, tactics, the OIS and post OIS activity. Officer 3 turned off his BWV camera when he was directed to do so by Sergeant.

Other Department Video
None.

Outside Video
On December 18, 2021, investigators canvassed the apartment building for security cameras located at [redacted] Cameras were located that provided a view of the exterior of the entry door of the apartment building. There was approximately 20 minutes of video downloaded. The video captured Victim seated on the stairs, the officers' arrival, tactics and the OIS. The video was documented and stored under TID No. 774022.

On December 19, 2021, Investigators recovered security camera video from [redacted] There were two exterior cameras, which provide a view of the intersection of [redacted], and an east facing view toward the apartment building located at [redacted] There was approximately 54 minutes of video downloaded. The video captures images of Victim walking north on [redacted] and east on [redacted] the officers' arrival and post OIS tactics. The video was documented and stored under TID No. 774023.

Social Media
Personnel assigned to FID Cyber Unit monitored the news and social media platforms from the date of the incident until the submission of this investigation. No additional evidence, information or witnesses were identified.

Photographs
Technical Investigation Division Photographer III, Henry Wang, Serial No. N5698, photographed the scene. The photographs associated with this incident are documented under control numbers, 0804019, 0804020, 0804045 and 0801018.

NOTIFICATIONS

On December 18, 2021, at approximately 1739 hours, Sergeant notified the Department Operations Center (DOC) that a Categorical UOF occurred. The details of the subsequent notifications were included in this report (Addendum No. 17).

PERSONNEL AT SCENE

Force Investigation Division Detective Brown arrived on scene at approximately 1900 hours. Crime Scene Logs documenting additional personnel at the location are contained within the FID Case Book and are available for review.

COMMUNICATIONS

Copies of the CD computer-generated Incident Recall Report associated with this occurrence, Incident No. 21121800002616, the corresponding 911 calls for service and the audio recordings of Newton Division Area base frequency are stored in the FID Case Book. (Addendum No. 18).

The digitally recorded interviews of the involved and percipient officers, along with the civilian witnesses, are stored in the Training Evaluation and Management System (TEAMS II) database.

JUSTICE SYSTEM INTEGRITY DIVISION

This case met the criteria for presentation to the Los Angeles County District Attorney Office, Justice System Integrity Division and will be presented shortly after completion of this administrative report.

INVESTIGATORS' NOTES

1. [redacted] resides at [redacted] and she is [redacted] Victim [redacted] refused to speak with investigators and did not provide any further details. [redacted] account of the events that occurred on December 18, 2021, which led up to the OIS was recorded on the Communications Division 911 call, Incident No. 20121800002616.

2. Investigators' located and recovered security camera video footage from [redacted] (TID No. 774022) and [redacted] (TID No. 77403). Investigators' review of the available security camera video footage did not reveal any images of Victim approaching or attacking anyone in the area.

3. Investigators utilized a sound graph analysis of the officers BWV, to obtain the timing and sequence of the shots that were fired. The less lethal and lethal shots were fired in a 1.5 second time frame. On Officer 1's BWV, he fired the 40mm LLL at time stamp 1710:23 hours. The sound graph analysis determined that Officer Zavala fired his 1st round .382 seconds after Officer 1 fired the 40mm LLL. Officer Zavala fired his 2nd round .381 seconds later and his 3rd round .514 seconds after the 2nd round. All three of Officer Zavala's rounds were fired in a 1.277 seconds time frame. The sound graph analysis determined that Officer Quintanilla fired one round .322 seconds after Officer Zavala's last round was fired.

4. Investigators' review of BWV noted that immediately after the OIS, [redacted] exited the yard of their residence at [redacted] and began moving toward Victim Among the [redacted] were [redacted] along with two additional male Hispanic adults and another female Hispanic adult. Investigators interviewed [redacted] and [redacted] on December 18, 2021. [redacted] refused to provide an interview and the additional males and female refused to identify themselves to investigators. Investigators utilized department resources to query information of the current residents of [redacted] and located the names of [redacted], [redacted], [redacted], date of birth unknown, [redacted], date of birth unknown, [redacted] and [redacted], date of birth unknown.

5. Investigators' review of Officer Zavala's equipment noted that he was carrying a Glock manufactured 17 round magazine with an attached +2 base plate that increased the magazine capacity to 19 rounds. The Police Science and Training Bureau In-Service Training, Training Division, Notice 12.1.2, under the General Handgun Specification, Section, No.13, states that the 17+2 magazines are not authorized for wear on a uniform duty equipment belt. On January 26, 2022, Newton Area Command was notified that Officer Zavala's magazine was not authorized for uniformed carry (Addendum No. 19).

[redacted]

ANTHONY LJUBETIC, Lieutenant
Officer-in-Charge, Investigative Section C
Force Investigation Division

APPROVED:

[redacted]

LAURA M. CURTIN, Captain
Assistant Commanding Officer
Force Investigation Division

DATE

INTRADEPARTMENTAL CORRESPONDENCE

RECEIVED
POLICE COMMISSION
2022 OCT 10 AM 11:00

October 5, 2022
3.2

TO: The Honorable Board of Police Commissioners

FROM: Chief of Police

SUBJECT: OFFICER-INVOLVED SHOOTING, FID NO. 064-21

Honorable Members:

The following is my review, analysis, and findings for an Officer-Involved Shooting (OIS), Force Investigation Division (FID) No. 064-21. On September 12, 2022, this case was presented to the Use of Force Review Board (UOFRB). In this case, the recommended findings were not unanimous, with a minority opinion rendered regarding the Tactics findings for Sergeant [redacted], Serial No. [redacted] Newton Area, Gang Enforcement Detail.

I have carefully weighed each opinion, considered the case in its entirety, and adopted the recommendations of the UOFRB Minority for the Tactics findings for this incident. I hereby submit my findings per Police Commission policy.

SUMMARY[1]

On December 18, 2021, at 1654 hours, Reporting Party 1 called Communications Division (CD) and reported that her brother, Victim [redacted], was suicidal and had walked out of their house, located at Home Address [redacted], armed with a knife.[2] At approximately 1656 hours, an "Ambulance Attempt Suicide" radio call was generated for Newton Patrol Division. According to RP 1, when Victim [redacted] walked away from their residence, he removed the knife from his pocket and held it in his hand. According to witness Reporting Party 2, his son had begun to drink beer and smoke drugs when he turned 18 years old.[3] Reporting Party 2 further stated that his son was a "very hyper boy" and that when drank, he was in an "altered state of mind" because of the beer and the drugs.[4]

Officers Officer 1 Serial No. [redacted], and Officer 2 Serial No. [redacted] Newton Patrol Division, and Sergeant [redacted] Serial No. [redacted] Newton Area Gang Enforcement Detail (GED), responded Code Three to the aforementioned radio call. Officers J. Zavala, Serial No. 40197, and J. Quintanilla, Serial No. 42454, Newton Area GED, responded Code Two to the radio call.

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[1] The summary and the investigation completed by FID for this incident have been provided to the Board of Police Commissioners.
[2] For clarity, RP 1 and Victim [redacted] will be referred to by their first names.
[3] For clarity, Reporting Party 2 will be referred to as Reporting Party 2
[4] A blood analysis identified the presence of Benzodiazepines, Cannabinoids, and Ethanol in Victim [redacted] blood.

At approximately 1654 hours, Witness 1 called CD and reported that Victim had a large knife. According to Witness 1, he was walking near Street 2 and Street 1 when he saw Victim looking at him and walking toward him while holding a knife. Witness 1 stated that Victim looked angry and he was swinging the knife in the air, which caused him to be scared. At approximately 1656 hours, on the CD 911 call recording, RP 1 was heard telling the RTO that Victim tried to hit someone and was going to attack a person with the knife. At 1657 hours, CD broadcast, "additional on your attempt suicide, Home Address the subject is now chasing people with the knife in front of Home Address."

As Sergeant drove on Street 2 a male and a female flagged him down and pointed to Victim. As Sergeant exited his police vehicle, Victim was sitting on the exterior stairs of the apartment building located at Incident Location holding a knife in his right hand with the blade pressed against his neck.[5] Sergeant attempted to communicate with Victim and gain his compliance with negative results. Sergeant subsequently unholstered his service pistol. At 1702:05 hours, Officers Zavala and Quintanilla arrived at the scene taking cover behind their police vehicle's doors and unholstered their service pistols.

While Officer Quintanilla was giving Victim commands to drop the knife, Officer Zavala requested a backup on a "415 man with a knife." Officer Zavala also requested that a Rescue Ambulance (RA) respond to and stage at Street 2 and Street 1.

At 1702:22 hours, Officers 1 and 2 arrived on the scene. Sergeant directed them to retrieve their 40mm Less Lethal-Launcher (LLL). Officer 1 retrieved the 40mm LLL and took a position of cover behind the driver's side door of Sergeant 's police vehicle. According to Sergeant s Body Worn Video (BWV), at 1702:24 hours, Victim held the knife in front of himself at shoulder level, repeatedly rotating the blade back and forth, from left to right. Sergeant directed Officer 2 to take cover behind the passenger side door of his Sergeant s) police vehicle. Sergeant holstered his service pistol and assigned the role of lethal cover to Officers Quintanilla and Zavala, advising them of Officer 1 's role as the less-lethal officer.

After a Code Four was broadcast for an unrelated backup in Newton Division, Sergeant advised CD that he was Code Six on the 415 man with a knife call and requested additional units to respond for traffic control. According to Officer Zavala's BWV, at 1702:59 hours, Officer Zavala told Officer Quintanilla that he was going to talk to Victim in Spanish. Officer Zavala then took over communications from Officer Quintanilla. At 1703:02 hours, Victim placed the knife's blade against his left palm and again began making a cutting motion. Victim then placed the blade against the side of his throat; multiple officers yelled, "Don't do it!"[6] Sergeant directed Officer 1 to deploy the 40mm LLL. Sergeant abruptly told Officer 1 to "wait, hold on, hold on," as Officer 3 Serial No. , Rampart Patrol Division,

[5] Victim was armed with a meat cleaver type knife with a 6 ½-inch blade and a 5 ¼-inch black plastic handle.
[6] The Coroner's report did not identify any injuries to Victim hands or throat consistent with an edged weapon.

arrived in his police vehicle. Sergeant directed Officer 3 to join Officer 2 and assigned them to be an arrest team.

Victim stood up holding the knife to his throat and gestured the sign of the crucifix across his chest with his left hand. Sergeant directed Officer 1 to fire the 40mm LLL and announced, "Forty stand by!" At 1704:06 hours, Officer 1 discharged one 40mm round at Victim from approximately 30 feet. The 40mm round struck Victim in the abdomen area but did not appear to affect him. Victim walked down the steps while holding the knife to his throat and took a seat at the bottom step.

At 1704:35 hours, Sergeant retrieved a ballistic shield from his police vehicle and assigned it to Officer 3 if they needed to approach Victim. Sergeant yelled to Officers Quintanilla and Zavala, "You still got lethal coverage right here." Sergeant walked back to the driver's door of his vehicle and stood next to Officer 1. For the next several minutes, Officers Zavala, Quintanilla, and Sergeant alternated communicating with Victim. At 1705:36 hours, officers can be heard warning that someone was coming out of the building, as a person attempted to walk out of the entry door of the apartment building. Sergeant yelled the command, "Hey stay right there, do not come out." Additional officers can be heard warning the person to stay inside and move away from the windows.

During the incident, Officers E. Meraz, Serial No. 41215, and Officer 4, Serial No. [redacted], Newton Area GED, arrived on the scene. Officer Meraz deployed the shotgun and positioned himself as a lethal cover officer alongside Officer 1. Officer 4 deployed the Beanbag Shotgun and was ultimately directed by Sergeant to move to the west side of the containment with Officer Zavala to provide less-lethal cover at that position. Sergeant and Officer Zavala continued to alternate giving commands to Victim. Sergeant used the police vehicle's Public Address (PA) system to communicate. Sergeant directed Officer 3 to reposition his (Officer 3) police vehicle to the southeast corner of Street 2 [redacted] and Street 1 to block pedestrian traffic.

Sergeant directed Officer 2 to reposition his (Officer 2's) police vehicle between his (Sergeant's) and Officer Zavala's police vehicles. At 1709:44 hours, Officer 2 returned to his police vehicle and Sergeant continued to use the PA system to communicate with Victim. As Officer 2 parked his police vehicle between Sergeant [redacted] and Officer Zavala's police vehicles, Victim stood up holding the knife in front of himself at head level. Victim looked toward his family members gathered in their front yard approximately 35 feet east of his location in front of the apartment building. Sergeant announced, "Get ready!" as he simultaneously ran around the back of his police vehicle toward Officer 1's position and announced, "Forty, forty up."

At 1710:17 hours, Victim was sitting on the bottom step with the knife positioned between his legs and his head down. Suddenly, Victim used his left hand to knock his hat off his head and stood up holding the knife in front of himself at head level. At 1710:19 hours, Victim took four steps forward in a northerly direction toward Officer 1, then turned to his left in a westerly direction. At that moment, Officer 1 announced, "Forty, standby" as Sergeant

directed him to fire the 40mm LLL. Officer 1 fired one 40mm round from approximately 22 feet impacting the lower right side of Victim s torso. Approximately .382 seconds later, Officer Zavala discharged his first of three rounds from his service pistol from approximately 25 feet, striking Victim [7] Approximately .322 seconds after Officer Zavala discharged his third round, Officer Quintanilla discharged one round from his service pistol at Victim from approximately 28 feet. Victim fell to the ground, onto his back, and the knife fell from his hand coming to rest on the sidewalk.

Sergeant broadcast a "shots fired, officer needs help" call and began organizing an arrest team assigning Officers O-2 and Quintanilla as the "hands-on" officers. Officers approached Victim handcuffed him, and placed him in a recovery position. Officer Quintanilla then directed Officer 2 to retrieve a medical kit from his police vehicle. While Officer 2 was searching for the medical kit, Los Angeles Fire Department (LAFD) RA No. 1, staffed by Firefighter/Paramedics (FF/PM) C. Shubsda and M. Farris, arrived on the scene. They began treatment and ultimately transported Victim to Los Angeles County University of Southern California Medical Center (LAC+USCMC).

Sergeant separated Officers Quintanilla and Zavala and directed them to sit in separate police vehicles until the arrival of additional supervisors. Due to an ongoing tactical situation involving a hostile crowd, Sergeant directed Officers Quintanilla and Zavala to keep their BWV cameras activated. According to Officer 1 a male Hispanic spat on his face and uniform, as he attempted to block the family's approach. After the tactical incident became manageable, Sergeant G. Gaxiola, Serial No. 35056, Newton Area Gang Enforcement Detail, initiated the monitoring of Sergeant Burke. Sergeant V. Cruz, Serial No. 38632, Newton Patrol Division assisted in monitoring Officers Quintanilla and Zavala. Sergeant P. Scallon, Serial No. 35240, 77th Street Patrol Division, monitored Officers 1 and 2 and O-3

FINDINGS

Tactics – Tactical Debrief, Officers Zavala, Quintanilla, and O-1. Administrative Disapproval, Sergeant .

Drawing/Exhibiting – In Policy, No Further Action, Sergeant Officers Zavala, Quintanilla, and O-2.

Less-Lethal Use of Force – In Policy, No Further Action, Officer 1

Lethal Use of Force – Out of Policy, Administrative Disapproval, Officers Zavala and Quintanilla.

[7] Per FID, Officer Zavala discharged his second round .381 seconds after his first round and his third round .514 seconds after his second round.

ANALYSIS[8]

Detention

Officers responded to a radio call of "attempt suicide" involving Victim The comments of the call indicated that Victim was armed with a knife. While responding to the scene, officers were advised that Victim was chasing people with the knife. Arriving at the scene, Sergeant located Victim sitting on the front steps of Incident Location a multi-unit apartment building. Victim was armed with a meat cleaver type knife. Sergeant and responding officers attempted to communicate with Victim to gain his compliance; however, he refused to drop the knife. At various points during the encounter, Victim placed the knife against his neck and palm, ostensibly self-mutilating. Based on the totality of the circumstances, officers had reasonable suspicion to detain Victim

Tactics

Department policy relative to a Tactical Debrief is: "The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance."

Department policy relative to Administrative Disapproval is: "A finding, supported by a preponderance of the evidence that the tactics employed during a CUOF incident unjustifiably and substantially deviated from approved Department tactical training" (Los Angeles Police Department Manual, Volume 3, Section 792.05).

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Tactical De-Escalation[9]

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

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[8] The analysis reflects my recommendations as supported by the preponderance of the evidence established by the investigation.

[9] Los Angeles Police Department, Use of Force Tactics Directive No. 16, Tactical De-Escalation Techniques, October 2016.

*Tactical De-Escalation Techniques: **P**lanning, **A**ssessment: **T**ime; **R**edeployment and/or Containment; **O**ther Resources; and, **L**ines of Communication.*

Planning – Officers Zavala, Quintanilla, and Sergeant were assigned to the Newton Gang Enforcement Detail. According to Sergeant earlier that day during roll call, he discussed tactics regarding men with knives with the officers assigned to GED. Sergeant further stated that he and the officers assigned to GED regularly discuss tactics and how to handle different scenarios. Officers Zavala and Quintanilla have worked on and off as partners in GED for approximately one and half years and advised they have had tactical discussions before and during their shifts. Before the OIS, Sergeant developed and communicated a plan to contain and communicate with Victim in an attempt to de-escalate the situation and take him into custody. Sergeant designated two containment teams on each side of Victim consisting of lethal and less-lethal roles, in addition to an arrest team, in case the situation required them to approach Victim At one point, Sergeant retrieved and assigned a ballistic shield to an arrest team member.

Assessment – Sergeant was aware that the edged-weapon protocol required a sergeant to respond to the ambulance attempt suicide radio. As he was the only supervisor available in the field, Sergeant assessed the need to respond. Hearing the updated information that Victim was chasing people with a knife, Sergeant knew the situation was "serious." Arriving at the scene, Sergeant and Officers Zavala and Quintanilla continually assessed the situation as Victim failed to comply with their orders to drop the knife. Sergeant and Officers Zavala and Quintanilla coordinated efforts to speak to Victim In case there was a language barrier, officers also spoke to him in Spanish. Sergeant obtained Victim s name from his family and used it to build rapport. Sergeant also used the PA system of his police vehicle to enhance communication. Sergeant assessed his resources and requested additional units to respond to control vehicle and pedestrian traffic. Sergeant assessed Victim s actions of gesturing the sign of the crucifix and opined he could attempt "suicide by cop." During the incident, Officer 1 assessed Victim s actions and determined he was using the knife to harm himself. Wanting to stop the threat to himself, Officer 1 fired a round from the 40mm LLL.

After the OIS, Sergeant assessed that Victim was on the ground in a semi-conscious state and that the knife was no longer in his possession. Observing that a group of people was gathering who may try to approach Victim Sergeant formed a contact/arrest team and apprehended him.

Time – Sergeant and his officers maintained their distance as they attempted to communicate with Victim Using the police vehicles as cover while maintaining distance allowed Sergeant and the officers time to communicate with Victim to de-escalate the incident and gain his compliance.

Redeployment and/or Containment – Sergeant positioned the police vehicles to contain Victim in front of the apartment building and requested additional units for traffic control. As additional officers arrived, he ensured a containment team was positioned on each side of

Victim and that each team had a lethal and less-lethal officer assigned. Sergeant later directed Officer 3 to reposition his police vehicle to the southeast corner to block pedestrian and vehicle traffic. Furthermore, Sergeant directed Officer 2 to reposition his police vehicle between his and Officer Zavala's police vehicle to provide better containment of the scene.

Other Resources – Sergeant assessed the need for less-lethal options and directed the deployment of a 40mm LLL and a Beanbag Shotgun officer. Sergeant assessed his resources and requested additional units to respond to control vehicle and pedestrian traffic. He retrieved a ballistic shield from his police vehicle and assigned it to an arrest team member. Officer Zavala requested an RA unit to respond and to stage near the radio call location before the OIS.

Lines of Communication – Sergeant was the first unit to arrive and repeatedly asked Victim to drop the knife. Shortly after arriving at the scene, Officer Zavala requested backup units for a man with a knife, providing his location and Victim's description. Sergeant assessed his resources and requested additional units to respond to control vehicle and pedestrian traffic. After Victim failed to comply, Officers Zavala, Quintanilla, and Sergeant alternated communicating with him in English and Spanish, using a PA system to enhance communication and Victim's first name to build rapport. Before and after the OIS, Sergeant communicated his plan and their assignments to the officers at the scene.

During the review of the incident, the following Debriefing Topics were noted:

Debriefing Point No. 1 Code Six

When a unit is conducting a field investigation and no assistance is anticipated, a "Code Six," followed by the location, shall be broadcast. A unit shall not go "Code Six" until it arrives at the scene of a call (Los Angeles Police Department Manual, Volume 4, Section 120.40).

Due to an unrelated backup request in the division, Sergeant did not advise CD that he was Code Six when he arrived at the scene. Sergeant broadcast his Code Six status immediately after the unrelated backup request was declared a Code Four, indicating that no further assistance was needed.

The UOFRB evaluated Sergeant's decision to delay broadcasting his Code Six status. The Board noted that as Sergeant was responding to the ambulance attempt suicide radio call, the unrelated backup request was broadcast by officers who were Code Six on armed robbery suspects. Sergeant was aware that multiple units were responding to the backup request and did not want to "tie up the air." To keep the frequency clear for those officers, Sergeant did not advise CD that he had arrived at the scene until the officers broadcast a Code Four.

The UOFRB Majority noted that Sergeant advised CD that he was responding to the ambulance attempt suicide radio call. The Majority also noted that Sergeant was aware

that two other units were responding with him to the call and that Officers Zavala and Quintanilla arrived at the scene within 30 seconds of his arrival. The Board further noted that within seven seconds of their arrival, Officers Zavala and Quintanilla broadcast a request for backup units which included their location.[10] Immediately after the unrelated backup request was declared a Code Four (approximately one minute and forty seconds after Officers Zavala and Quintanilla's broadcast) Sergeant advised CD that he was at the scene.

The Majority noted that the Code Six policy's intent is to advise CD of an officer's location so that other units will be able to locate them if assistance is needed. Based on the totality of the circumstances, the Majority opined that had Sergeant needed assistance, other units would have located him. Also, due to the nature of the unrelated backup request, the Majority opined that it was reasonable for Sergeant to delay his Code Six broadcast to keep the frequency clear for officers dealing with armed robbery suspects. Therefore, the Majority determined that the tactics employed by Sergeant were a substantial deviation, with justification, from Department-approved tactical training.

The UOFRB Minority was critical of Sergeant 's decision to delay going Code Six. The minority noted that because Sergeant advised CD he was responding to the call, it would have appeared on his Mobile Data Computer (MDC). As such, the Minority opined that he could have shown himself at the scene and kept the frequency clear for officers on the unrelated backup by using his MDC. The Minority also noted that upon arrival, Sergeant was confronted by a suspect armed with a knife; however, he did not request backup units despite the situation meeting the criteria. The Minority opined that by delaying the backup request, Sergeant further exposed himself to unnecessary risk.

The Minority opined that placing himself Code Six upon arrival, and before engaging an armed suspect was crucial to Sergeant 's safety, and in not doing so, he exposed himself to unnecessary risk. Had Sergeant required assistance or help it could have been substantially delayed due to CD being unaware of his current location. Therefore, the Minority determined that the tactics employed by Sergeant were a substantial deviation, without justification, from Department-approved tactical training.

Based on the totality of the circumstances, the UOFRB Majority determined, and I concur, that the tactics employed by Sergeant were a substantial deviation, with justification, from Department-approved tactical training. To enhance future performance, I will direct this to be a topic of discussion during the tactical debrief.

During the review of this incident, the following Additional Debriefing Topics were noted:

[10] As it pertains to Officers Zavala and Quintanilla, the UOFRB determined that this broadcast satisfied the Code Six policy's intent.

Additional Tactical Debrief Topics

Crime Scene Preservation – Approaching Victim to apprehend him, Officer Zavala slid the knife away from him. Alternatively, Officers could have moved Victim away from the knife.[11] To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Less-Lethal Use of Force Warning – Officer 1 did not provide a verbal use of force warning and may have mistaken a preemptive command to standby as a warning. Sergeant articulated that it was a tactical decision not to provide a verbal use of force warning; he believed that Victim would flee and escalate the situation if one were given. Alternatively, Sergeant or Officer 1 could have provided a use of force warning before deploying the first 40mm round. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Profanity – Officer Quintanilla yelled at an officer to get out of the "fucking car" to address a citizen that refused to leave the area near the suspect. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Personal Protective Equipment (Gloves) – Officers Quintanilla and O-2 were not wearing protective gloves while apprehending and searching Victim.[12] Alternatively, they could have donned protective gloves before approaching him. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

Beanbag Shotgun Manipulations – Officer 4 advised that he disengaged the safety of his Beanbag Shotgun at different times during the tactical portion of the incident; however, it was unclear if this occurred save the one instance where his sights were aligned on his target and he intended to shoot. Officer 4 assessed that the suspect was no longer a threat and decided not to discharge an impact round. As firearms safety is always a worthy discussion, I will direct that this be a topic during the Tactical Debrief.

Non-Medical Face Coverings – Officers Zavala, Quintanilla, O-1 and Sergeant were not wearing non-medical face coverings at the scene, as directed by me in May 2020. To enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief. Additional personnel at the scene were not wearing non-medical face coverings and will be addressed at the divisional level.

Command and Control

Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create

[11] At the time of this incident, Victim was 4 feet 9 inches tall and weighed approximately 98 pounds.
[12] As Officer 2 was not identified as substantially involved, any issue will be addressed at the divisional level.

conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.

Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk. Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (LAPD, Training Bulletin, Volume XLVII Issue 4, July 2018).

Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Supervisor's Field Operations Guide, Volume 2, LAPD Emergency Operations Guide).

Based on the Department's edged-weapons protocol and the fact that he was the only Newton Division supervisor in the field, Sergeant responded to the ambulance attempt suicide radio call. For the same reason, he continued his response when the unrelated backup was broadcast. According to Sergeant he believed that Victim may be a danger to the community and the public based on the updated information which indicated that he was chasing people with the knife. Sergeant was the first unit and the first supervisor to arrive at the scene. He established contact with Victim and attempted to persuade him to drop the knife. Once additional resources arrived, Sergeant established command and control by assigning lethal and less-lethal roles, an officer with a ballistic shield, and an arrest team. He made updated broadcasts and requested units to assist with vehicular and pedestrian traffic. Throughout the incident, Sergeant ensured that commands were given to Victim to get him to drop the knife. To enhance communication with Victim Sergeant used a police vehicle's PA system. After the OIS, he formed a contact/arrest team and apprehended Victim He implemented crime scene management, established skirmish lines, coordinated traffic control, declared himself as the Incident Commander (IC), and requested additional supervisors to the scene. Sergeant initiated the separation and monitoring protocols of all involved personnel and ensured their continued monitoring by additional responding supervisors.

Sergeants Gaxiola and Cruz responded to the incident after the OIS and were briefed by Sergeant Sergeant Gaxiola took over the management of the tactical incident by monitoring the skirmish line. After the tactical incident became stable, Sergeant Gaxiola initiated the monitoring of Sergeant Sergeant Cruz assumed monitoring of Officers Quintanilla and Zavala and obtained Officer Quintanilla's Public Safety Statement (PSS). Sergeant A. Castellanos, Serial No. 40202, Central Patrol Division, responded to the incident, assumed

monitoring of Officer Zavala, and obtained his PSS. Sergeant Scallon monitored Officers O-1 O-2 and O-3 Sergeant J. Lee, Serial No. 38328, 77th Street Patrol Division, monitored Officers O-4 and Meraz. The overall actions of Sergeants Gaxiola, Cruz, Castellanos, Scallon, and Lee were consistent with Department training and my expectations of supervisors during a critical incident.

As it pertains to Sergeant the UOFRB Minority was critical of his overall command and control. The Minority noted that while he gave orders in a manner that may have indirectly implied he was the IC, he did not declare himself as such. The Minority also noted that Sergeant involved himself in the efforts to communicate with Victim. As Sergeant was the only supervisor at the scene, the minority opined that he should have delegated this role to a subordinate, allowing Sergeant to maintain oversight of the incident and ensure everyone was aware of the potential plan of action. The Minority also opined that Sergeant should have directed an officer to retrieve the ballistic shield instead of doing it himself.

The Minority noted that Sergeant did not request assistance from other supervisors and did not use available resources, such as the Mental Evaluation Unit or the Crisis Negotiation Team. Additionally, the Minority opined that he confused officers by taking on the role of negotiator and formulating a deficient plan to take the suspect into custody. Although Sergeant s direction to use the 40 mm LLL may have been reasonable, the minority opined his plan was deficient because he did not communicate it or his intent to the officers, nor did he direct them to place themselves in a position that would have created a sufficient amount of distance and cover.

The Minority was also critical of Sergeant s decision not to provide a less-lethal warning. The Minority noted that Sergeant stated he did not recall if he issued a use of force warning; however, he also articulated a plan to deploy less-lethal munitions and use the element of surprise to take the suspect into custody. The Minority also noted that Sergeant stated he had time on his side, but opined that his actions of using the element of surprise contradicted this statement. The Minority also opined that yelling "40-millimeter standby" confused Officer 1 as to whether a use of force warning had been given. The UOFRB minority determined that the tactics employed by Sergeant were a substantial deviation, without justification, from Department-approved tactical training.

The UOFRB Majority noted that Sergeant took the initiative to respond to the ambulance attempt suicide call when he recognized the need for a supervisor. Arriving at the scene, Sergeant attempted to de-escalate the situation and convince Victim to drop the knife. As additional units arrived, Sergeant implemented command and control by designating roles and developing a tactical plan using the available resources. While he did not declare himself as the IC before the OIS, he was the only supervisor at the scene and there was no confusion as to his being in command of the incident. Recognizing the need for additional resources, Sergeant obtained a ballistic shield from the trunk of his police vehicle and requested units for traffic control. The Majority opined that Sergeant continuously assessed the situation and made necessary adjustments. Sergeant also ensured that his officers maintained their distance and used cover while attempting to obtain Victim s surrender.

As the only supervisor at the scene, Sergeant was forced to simultaneously perform multiple tasks. While he could have delegated some of his tasks, such as acquiring the ballistic shield, and he could have refrained from communicating with Victim once additional units arrived, the Majority opined that Sergeant was able to oversee and direct the officers at the scene without compromising his supervisory oversight.

As it pertains to Sergeant 's direction to Officer 1 to discharge his first impact round, the Majority noted that Victim had stood up while holding the knife to his throat and made the sign of the crucifix leading Sergeant to believe he may attempt suicide by cop or run toward his family. The Majority also noted that Sergeant was concerned Victim may harm civilians. Per Sergeant , there were crowds of people on Street 2 , west and east of the apartment building, as well as an individual who almost exited the building behind Victim . According to Sergeant , the comments of the radio call had indicated that Victim was chasing people down the street and Sergeant believed "one-hundred percent" that Victim was a threat to the community. Sergeant hoped that officers could use the 40mm LLL to bring the situation to an end. The Board also noted that before directing Officer 1 to discharge the 40mm LLL, he announced "Forty stand by!" to alert officers that less lethal was being used and to prevent the contagious use of lethal force. Sergeant then directed Officer 1 to discharge the 40mm LLL, stating, "Hit 'em!" Based on his articulation, the Majority opined that Sergeant reasonably believed that Victim posed an immediate threat to the safety of others.

Sergeant recalled,

> *"That's the point where I directed Officer 1 to discharge the 40 at him. Reason why I did that was due to the fact that my concern was that at this point he may possibly take off running and go and start, you know, attacking civilians. I was hoping it would end with the one shot to the 40.*[13]
>
> *Again, based off the comments of the call, he's already chased people down the street with a knife. I believed that he was going to attempt to do something like that again. I wanted to stop it before it happened. My concern was for the community out there. I didn't want this guy to start hacking at -- hacking away at people.*[14]
>
> *It hit him. It didn't seem like it phased him. He walked down a few more stairs and then he sat. And at that point I was -- I was good with that, because I think, I believed that that made him change his mind from going to run. He hit it. He felt it. Now he sat down, and I think, you know, it gave us some time for him to, you know, maybe in his mind evaluate what was going on. So, I believed that was successful in that aspect, because he didn't take off running, trying to hurt anybody.*[15]

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[13] Sergeant 's transcript, Page 12, Lines 2-8.
[14] Sergeant 's transcript, Page 29, Lines 11-17.
[15] Sergeant 's transcript, Pages 29-30, Lines 21-6.

Regarding Sergeant s decision to forgo the use of force warning, the Majority noted that per Tactics Directive No. 17.1, a use of force warning is not required if a tactical plan requires the element of surprise to stabilize a situation. While the Majority would have preferred that Sergeant had ensured a warning was provided before directing Officer 1 to discharge the 40mm LLL, they understood he intended to use the element of surprise to prevent Victim from running toward and potentially harming others. Additionally, based on his transcribed statement, the Majority opined there was no conflict in Sergeant 's explanation for forgoing the use of force warning and that his statement regarding time being on his side pertained to not prematurely approaching Victim.

Sergeant recalled,

> *DETECTIVE GOLAN: And I think we can hear it in your body-worn video, but did you provide or did anybody else provide a warning prior to use of force?*
> Sergeant *I believe I said, "40 stand by. 40 stand by," to our officers. I don't know. I don't know if I gave him a warning. I don't believe I did. At that point I believe the situation was -- it was too dangerous with that. I didn't want to -- I didn't want to give him that warning to let him know that we were going to hit him, because that might have had him take off running. So I didn't want -- I didn't want to do that. But I did notify our guys that we were going to fire the 40.*[16]

In reviewing this case, I noted that Sergeant elected to perform several tasks he should have assigned to the officers at the scene, specifically communicating with Victim and retrieving the ballistic shield. As stated above, command and control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. During an incident of this nature, a critical component of command and control is the delegation of duties. If a supervisor feels an officer is having difficulty performing a specific task, he or she should rotate another officer in, not assume the task themselves. While I commend Sergeant for his initiative, I would have preferred he had delegated more of the tasks that he chose to perform. Had he done so, he would have been afforded the ability to focus solely on maintaining supervisory oversight.

For these reasons, I find that the tactics employed by Sergeant were a substantial deviation, without justification, from Department-approved tactical training. To enhance future performance, I will direct this to be a topic of discussion during the tactical debrief.

Tactical Debrief

In conducting an objective assessment of this case, the UOFRB Minority determined, and I concur, that Sergeant 's actions were a substantial deviation, without justification, from Department-approved tactical training. The UOFRB also determined, and I concur, that the actions of Officers Zavala, Quintanilla, and O-1 were not a deviation from Department-approved tactical training.

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[16] Sergeant s transcript, Page 30, Lines 7-19.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for involved personnel to discuss individual actions that took place during this incident.

Although it was determined that Officer 4 would not receive formal findings, the UOFRB determined, and I concur, that he would benefit from attending the Tactical Debrief.

Therefore, to enhance future performance, I will direct Officers Zavala, Quintanilla, O-1 O-4 and Sergeant to attend a Tactical Debrief and that the identified topics be discussed.

General Training Update (GTU)

Officers Zavala, Quintanilla, O-1 and Sergeant attended a GTU on December 28, 2021. All required topics were covered.

Drawing/Exhibiting

Department policy relative to drawing and exhibiting a firearm is: "Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm in conformance with this policy on the use of firearms."

During a special meeting on September 29, 1977, the Board of Police Commissioners adopted the following as a valid interpretation of this Section: "Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm" (Los Angeles Police Department Manual, Volume No. 1, Section 556.80).

Sergeant

As Sergeant exited his police vehicle, Victim was sitting on the exterior stairs of the apartment building holding a knife in his right hand with the blade pressed against his neck. Sergeant told Victim, "Just drop that, you're going to be good! Drop the knife all right, hey bro, just drop the knife!" Victim did not appear to respond to or acknowledge Sergeant Believing that the situation could escalate to the use of deadly force, Sergeant unholstered his service pistol. Sergeant holstered his service pistol when he was comfortable with the number of officers that had arrived at the scene.

Due to the fact based on the comments of the radio call, based on my observations of him -- seeing him with a meat cleaver, large butcher knife, I believed that the situation may escalate to the use of deadly force. I drew my firearm and to protect myself in the event that he may try to charge at me.[17]

DETECTIVE GOLAN: And why did you decide to holster when you did?
Sergeant *I was comfortable with the resources that arrived with the officers and at that point it's my duty -- you know, now I got to start -- you know, I got to command and control it, you know?*[18]

Officer Quintanilla

According to Officer Quintanilla, he received information that Victim was armed with a knife and chasing people. Believing the situation could escalate to the use of deadly force, Officer Quintanilla unholstered his service pistol upon his arrival.

When I came out the vehicle, I took my firearm out because based on the tactical situation and just by the radio call saying that he had a butcher knife and he was chasing people in an attempt to hurt them. I believe that, you know, it could escalate to the point where deadly force may be justified, so I drew my firearm out.[19]

Officer Zavala

According to Officer Zavala, arriving at the scene, he observed Victim armed with a knife and pedestrians nearby. Sergeant assigned Officer Zavala as the lethal officer role. Believing the situation could escalate to the use of deadly force, Officer Zavala unholstered his service pistol.

At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified.[20]

Based on the tactical situation, I had reason to believe that it may escalate to the point where deadly force may be justified.[21]

The UOFRB assessed Officers Zavala, Quintanilla, and Sergeant 's drawing and exhibiting of their service pistols. The Board noted that they responded to an ambulance attempt suicide radio call. While they were responding, CD broadcast that the suspect was chasing people with a knife. Arriving at the scene, Officers Zavala, Quintanilla, and Sergeant observed Victim sitting on the front steps of an apartment building armed with a meat cleaver style knife, which he refused to drop. Additionally, Officers Zavala and Quintanilla were designated

[17] Sergeant 's transcript, Page 9, Lines 7-12.
[18] Sergeant 's transcript, Page 26, Lines 12-19.
[19] Officer Quintanilla's transcript, Pages 9-10, Lines 21 2.
[20] Officer Zavala's transcript, Page 12, Lines 11-14.
[21] Officer Zavala's transcript, Page 20, Lines 5-7.

as lethal cover officers. As such, the Board opined that it was reasonable for Officers Zavala and Quintanilla, and Sergeant to believe that they may have to use lethal force.

Based on the totality of the circumstances the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Zavala and Quintanilla, and Sergeant while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, I find Officers Zavala and Quintanilla, and Sergeant s Drawing/Exhibiting to be In-Policy, No Further Action.

Policy on the Use of Force[22]

Use of De-Escalation Techniques

It is the policy of this Department that, whenever feasible, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

Verbal Warnings

Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is aware of those facts.

Proportionality

Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

Use of Force–Non-Deadly

It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:

- *Defend themselves;*
- *Defend others;*
- *Effect an arrest or detention;*
- *Prevent escape; or,*

[22] Office of the Chief of Police (OCOP), Special Order No. 23, "Policy on the Use of Force – Revised," and LAPD Manual, Volume 1, Section 556.10.

- *Overcome resistance.*

Factors Used to Determine Objective Reasonableness

Pursuant to the opinion issued by the United States Supreme Court in Graham v. Connor, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- *The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;*
- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus subjects;*
- *The environmental factors and/or other exigent circumstances; and,*
- *Whether a person is a member of a vulnerable population.*

Rendering Aid

After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, subjects of a use of force and fellow officers:

- *To the extent of the officer's training and experience in first aid/CPR/AED; and,*
- *To the level of equipment available to an officer at the time assistance is needed.*

Requirement to Intercede

An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer

under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

Less-Lethal Use of Force

An officer may use the 40mm LLL as a reasonable force option to control a suspect when the suspect poses an immediate threat to the safety of the officer or others.[23]

Officer 1 - 40mm LLL, two rounds

First Round – One eXact iMpact Sponge Round from approximately 30 feet.

Victim stood up, holding the knife to his throat. Victim then gestured the sign of the crucifix across his chest with his left hand.[24] Sergeant directed Officer 1 to fire the 40mm LLL. Officer 1 believed Victim was attempting or was going to attempt to cut himself. In response, Officer 1 discharged one 40mm LLL round at Victim

Officer 1 recalled,

So I go up and -- to Sergeant *s vehicle. He tells me to stay at the driver side door. At this point I can see the subject. He's got a knife to his neck. He's motioning that he's cutting his neck with the knife. At one point he puts the knife on his hand and looks like he's cutting his hand open. He stands up at one point and I'm aiming at his navel area with the 40-millimeter, and* Sergeant *advises me to hit him with the 40-millimeter. I do so, because I'm trying to get him to drop the knife and it's unsafe for us to approach him at this time.*[25]

So I was behind the driver side door of Sergeant *s shop, approximately 20 to 25 feet away from the subject, and he stood up and he still had the knife in his hands. That's when I fired at his navel area in hopes to get him to drop the knife, so he stops cutting himself or potentially cutting himself.*[26]

He didn't make any, like pain gestures, like grabbing his navel area. He just sat back down. He continued to put the knife back up to his neck.[27]

Second Round – One eXact iMpact Sponge Round from approximately 22 feet.

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[23] LAPD Tactics Directive No. 17.1, October 2021, 40mm Less-Lethal Launcher.
[24] See Page 9 of the FID report.
[25] Officer 1 's transcript, Page 8, Lines 18-22.
[26] Officer 1 's transcript, Page 21, Lines 7-13.
[27] Officer 1 's transcript, Page 22, Lines 19-20.

According to Officer Zavala's BWV, at 1710:17 hours, Victim was sitting on the bottom step with the knife positioned down between his legs as his head is lowered down toward the ground. Suddenly, Victim used his left hand to knock his hat off his head and stood up holding the knife up in front of himself, above his shoulder at head level.[28] According to Officer Meraz' BWV, at 1710:19 hours, Victim took four steps forward in a northerly direction toward Officer 1, and then he turned to his left in a westerly direction.[29] According to Officer 1 he believed Victim was walking toward his partners and feared that he was going to attack "us." In response, Officer 1 discharged one 40mm sponge round at Victim.

Officer 1 recalled,

DETECTIVE GOLAN: Okay. So when did you decide to use the 40 a second time?
Officer 1 *When he started -- began approaching officers.*
DETECTIVE GOLAN: As he's walking down the stairs?
Officer 1 *Yes, sir.*
DETECTIVE GOLAN: Okay. So, again, approximately how far away from him were you?
Officer 1 *Still 20 to 25 feet, sir.*
DETECTIVE GOLAN: Okay. And what were you aiming at?
Officer 1 *His navel area.*[30]

DETECTIVE GOLAN: ...So when the subject is walking down the stairs holding that knife and you decide to deploy the 40-millimeter for the second time, tell us what was going on in your head. What were you thinking?
Officer 1 *I was thinking -- I mean, once he made the praying gesture, I was thinking that he was going to try to do suicide by cop and he was going to try to attack us with the knife and that's when I fired the 40.*[31]

DETECTIVE GOLAN: Just based on where you were and where he was, you said 20 to 25 feet, he has a knife, he's walking toward you, how did you feel about it at that time?
DETECTIVE YOON: Can I clarify something?
DETECTIVE GOLAN: Yeah, go for it.
DETECTIVE YOON: Was he walking towards you or was he walking towards another set of officers?
Officer 1 *I think it was the other officers. It was the other officers, the ones that were to my right.*
DETECTIVE YOON: And were they closer to him?
Officer 1 *Yes. They were closer to him.*

DETECTIVE YOON: Okay. And I'm not putting words in your mouth. What were you thinking? What were you in fear of?

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[28] See Page 15 of the FID report.
[29] See Page 16 of the FID report.
[30] Officer 1's transcript, Page 26, Lines 1-13.
[31] Officer 1's transcript, Pages 27-28, Lines 17-1.

Officer 1 *Him attacking my partners.*[32]

The UOFRB assessed Officer 1's use of less-lethal force. As it pertains to his first round, the Board noted that per Tactics Directive 17.1, officers who encounter an armed self-mutilating or suicidal individual shall not use a 40mm LLL against that person, unless the officers reasonably believe the use of the 40mm LLL would not place the officers in a position which could escalate the situation to the use of lethal force. Per the directive, if officers choose to use a 40mm LLL in these situations, they should utilize distance and cover to avoid placing themselves in a vulnerable position. The Board noted that Officer 1 observed Victim holding the knife against his neck and his palm. Based on Victim's actions, Officer 1 opined that he was attempting or was going to attempt to cut himself with the knife. To prevent Victim from self-mutilating, Officer 1 discharged one round from his 40mm LLL, striking Victim While the impact round did not seem to cause Victim any pain, the Board noted that he sat on the steps allowing officers several more minutes to attempt to de-escalate the situation. As indicated above, the UOFRB Majority opined that all of the officers had sufficient cover and distance when Officer 1 discharged his first impact round. Based on the totality, the Board opined that Officer 1's first use of the 40mm LLL conformed to Department policy.

Regarding Officer 1's second round, the Board noted that Victim had knocked the hat off his head, quickly stood holding the knife in the air, and looked toward his family members gathered in their front yard. According to the BWV footage, Victim took four steps toward Officer 1 and then turned to his left. At that moment, Officer 1 announced, "Forty, standby" as Sergeant announced "Forty, forty up!"[33] In response, Officer 1 fired a second round from the 40mm LLL at Victim to prevent him from attacking officers. According to Officer 1, he believed that Victim was going to attempt suicide by cop and he was going to try to attack officers with the knife. Based on Victim's actions, the UOFRB opined that it was reasonable for Officer 1 to believe he posed an immediate threat to officers' safety when he discharged his second impact round.

In terms of the less-lethal warning, the Board noted that Officer 1 was not sure if one was given; however, he was aware that Sergeant had given the "40 stand by" command. Based on the totality of the circumstances, the Board opined that Officer 1 was confused as to whether a use of force warning had been given and may have mistaken the "40 stand by" command as a warning. The Board also opined that this issue could be addressed during the tactical debrief and that his use of less-lethal force was within policy.

Officer 1 recalled,

DETECTIVE GOLAN: Do you know if any use of force warning was given?
Officer 1 *I'm not sure.*[34]

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[32] Officer 1's transcript, Page 28, Lines 21-24.
[33] Per the FID report, Sergeant directed Officer 1 to fire the 40mm LLL (second round). Based on Sergeant's BWV footage and statement to FID, the Board determined that he did not direct Officer 1's second discharge.
[34] Officer 1's transcript, Pages 20-21, Lines 25-2.

I did not give the 40 stand by, because Sergeant *gave it for me.*[35]

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officer 1 would reasonably believe that the use of less-lethal force was proportional and objectively reasonable.

Therefore, I find Officer 1's Use of Less-Lethal Force, all rounds, to be In Policy, No Further Action.

Lethal Use of Force

It is the policy of this Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- *To defend against an imminent threat of death or serious bodily injury to the officer or to another person; or,*
- *To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.*

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. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent reasonable under the circumstances.

Note: *Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.*[36]

The Department's Evaluation of Deadly Force

The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in Graham v. Connor.

Officer Zavala –Glock Model 17, 9mm, three rounds in a southeasterly direction from approximately 25 feet.

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[35] Officer 1's transcript, Page 8, Lines 24-25.
[36] Office of the Chief of Police (OCOP), Special Order No. 23, "Policy on the Use of Force – Revised," and LAPD Manual, Volume 1, Section 556.10.

Background – According to Officer Zavala, at the time of the OIS, his background consisted of the front steps of Incident Location. According to Officer Zavala, while there were pedestrians in the area, there was "nobody" in the background when he discharged his service pistol.

According to Officer Zavala's BWV, at 1710:17 hours, Victim was sitting on the bottom step with the knife positioned down between his legs as his head is lowered down toward the ground. Suddenly, Victim used his left hand to knock his hat off his head and stood up holding the knife up in front of himself, above his shoulder at head level.[37] According to Officer Meraz' BWV, at 1710:19 hours, Victim took four steps forward in a northerly direction toward Officer 1, and then he turned to his left in a westerly direction.[38] In fear for his partner's life, his life, and nearby pedestrians, Officer Zavala discharged three rounds at Victim to stop the threat of serious bodily injury or death.

Officer Zavala recalled,

> *The suspect gets up very rapidly with the -- with the large butcher knife in his right hand. He takes a deep breath, like getting courage, looks at me, looks at my fellow officers. At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified. The suspect then starts advancing towards the officers and turns his body towards myself and my partner. And in fear -- I was afraid, sir. I thought this guy was going to come at me with this butcher knife. He already cut his hand. He cut his throat -- he attempted to cut his throat. He chased pedestrians and civilians around the neighborhood with this large butcher knife. And to protect myself and my partner's life and the citizens nearby from serious bodily injury, imminent threat, I fired approximately two, three rounds to stop the threat, sir.*[39]
>
> *So the second time he rapidly got up, sir, holding the knife in front of him. He took approximately five, six steps towards the office -- towards the officers and myself, sir, turning his torso towards me in a threatening manner and that's when we fired to stop the threat, sir.*[40]
>
> *Oh, sir, I was afraid that the suspect was going to stab me, sir. I was afraid of my life. I was afraid of my partner's life and the other officers that were to the left of me. Not only that, sir, I was afraid of the pedestrians that were nearby.*[41]

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[37] See Page 15 of the FID report.
[38] See Page 16 of the FID report.
[39] Officer Zavala's transcript, Pages 12-13, Lines 8-1.
[40] Officer Zavala's transcript, Page 26, Lines 19-24.
[41] Officer Zavala's transcript, Page 27, Lines 2-7.

His demeanor, his cutting his hand, attempting to cut his throat, standing up, took a deep breath, tensed up, and boom, took these five, six steps towards us. I was afraid of my life, sir.[42]

So when I fired two, three shots, that's when I assess. He was already on the ground.[43]

Sir, I believe it was necessary to stop this deadly threat, so that's why I fired approximately two to three rounds, sir.[44]

Officer Quintanilla – Smith & Wesson Model M&P, 9mm, one round in a southeasterly direction from approximately 28 feet.

Background – According to Officer Quintanilla, at the time of the OIS, his background consisted of the front steps of Incident Location According to Officer Quintanilla, the apartment was elevated from street level, and Margarito was standing on the sidewalk. Officer Quintanilla indicated there was no one directly in his background when he discharged his service pistol.

According to Officer Quintanilla's BWV, Victim stood up and walked in a northerly direction. Members of Victim s family are heard in the background repeatedly yelling "Don't do it!" Officer Quintanilla yelled the commands "Don't walk over here!" as Victim held the knife up above his shoulder at head level. Victim turned to his left, facing Officer Quintanilla when the sound of the 40mm LLL is heard being fired, followed by the sound of Officer Zavala firing three rounds.[45] Officer Quintanilla stated that once Victim reached the sidewalk and turned toward him and his partner, it was necessary to use deadly force. Officer Quintanilla was scared Victim would use the knife against himself, his partners, or a civilian in the area. Officer Quintanilla stated that once Victim turned toward him and made an "advance motion," he discharged his firearm at Victim[46]

Officer Quintanilla recalled,

So when he came down, we kept giving him commands and once he hit the sidewalk, I mean, I was scared and he ended up walking towards us -- towards the officers and myself and that's when I -- I had to use deadly force. It was necessary for me to use it, because I felt that he was going to -- at the time I felt that he was going to either cut me with the knife, cut my partner, or there was -- there was a civilian right there just right next to him, maybe like a few feet away from him on the sidewalk. And I felt that if he would have got to the citizen, he

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[42] Officer Zavala's transcript, Page 27, Lines 10-13.
[43] Officer Zavala's transcript, Pages 28-29, Lines 24-1.
[44] Officer Zavala's transcript, Page 27, Lines 16-18.
[45] See Page 19 of the FID report.
[46] During his FID interview, Officer Quintanilla told investigators that he fired two shots. Investigators' review of BWV and the post OIS magazine count determined that Officer Quintanilla fired a single shot.

probably -- probably would have hurt him too. So I felt that at the time that I had to do it. You know, it was necessary for me to use deadly force on him. [47]

At the time, you know, again, I was just scared the whole time. You know, I really felt that he was going to -- he was going to hurt me.[48]

Once he comes down the sidewalk, he faces towards my partner and I direction and he advances at us. He makes an advance motion at us and I deploy my firearm.[49]

I deployed it because I had -- you know, it was -- I had to use -- I had to stop him. I had to stop the threat. He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death. And also there was still civilians just to the right of me, just a few feet away from me. So he could have caused serious bodily injury or death to them if I didn't do that. I had to do it.[50]

We used a 40, which is very effective in most cases, and that didn't work. And it was just necessary for me to do it. I had to do it. If not, one of us probably would have been killed today.[51]

Real time the suspect was facing us and advancing forward with the butcher knife on his hand, and that's when I engaged him to just stop him from -- from killing myself or my partners or people around there.[52]

DETECTIVE BROWN: Okay. And when you fired, can you give us a little more detail on sequence of your fire? Did you -- how many times did you fire? Was there a pause or an assessment?
POLICE OFFICER QUINTANILLA: At the time I thought I fired two rounds.
DETECTIVE BROWN: Okay.
POLICE OFFICER QUINTANILLA: And when he went down, I stopped shooting. I stopped. You know, the threat was down, so I stopped and I assessed and that's when -- that's when Sergeant *came and we went and did the arrest circle -- the arrest approach. when he went down, I stopped shooting. I stopped.*[53]

The UOFRB assessed Officers Zavala's and Quintanilla's use of lethal force. As it pertains to Officer Zavala, the Board was critical of the perceived threat posed by Victim According to Officer Zavala, Victim had advanced toward the officers and then turned toward him and his partner. Based on Victim s actions, Officer Zavalla believed he was going to approach him (Officer Zavala) with the knife. Officer Zavalla feared for his life, his partner's life, and the lives

[47] Officer Quintanilla's transcript, Page 13, Lines 11-25.
[48] Officer Quintanilla's transcript, Page 15, Lines 5-8.
[49] Officer Quintanilla's transcript, Page 29, Lines 22-25.
[50] Officer Quintanilla's transcript, Page 30, Lines 2-10.
[51] Officer Quintanilla's transcript, Page 32, Lines 19-23.
[52] Officer Quintanilla's transcript, Page 47, Lines 13-17.
[53] Officer Quintanilla's transcript, Page 31, Lines 6-17.

of the citizens nearby. While the Board considered Officer Zavala's perception, they noted that the investigation did not support his belief of the imminent deadly threat posed by Victim. Although Officer Zavala may have feared for his life, his partner's life, and the lives of the citizens, the Board opined that his fear was predicated on the likelihood of future harm, not an imminent deadly threat. Based on the BWV footage, the Board opined that Victim did not have the apparent intent to harm Officer Zavala when the OIS occurred. The Board also opined that he did not have the apparent intent or the opportunity to harm the citizens as officers were controlling pedestrian traffic. Based on the totality of the circumstances, the Board opined that Officer Zavala's use of lethal force, all three rounds, was not objectively reasonable, proportional, or necessary.

Regarding Officer Quintanilla, the Board was again critical of the perceived threat posed by Victim and opined that the investigation did not support his assertion of an imminent deadly threat. Although Officer Quintanilla may have feared for his life, his partner's life, and the lives of the citizens, they believed his fear was also predicated on the likelihood of future harm, not an imminent deadly threat. Based on the BWV footage, the Board opined that Victim did not have the apparent intent to harm Officer Quintanilla when the OIS occurred. While the Board considered Officer Quintanilla's statements regarding the imminent threat Victim posed to his family and pedestrians, the Board opined that he did not have the apparent intent or the opportunity to harm them as officers were controlling pedestrian traffic and Victim 's family was east of his location. Based on the totality of the circumstances, the Board opined that Officer Quintanilla's use of lethal force was not objectively reasonable, proportional, or necessary.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Zavala and Quintanilla would not reasonably believe that the use of lethal force was proportional, objectively reasonable, or necessary.

Therefore, I find Officer Zavala and Quintanilla's Use of Lethal Force, all rounds, to be Out of Policy, Administrative Disapproval.

Medical Treatment/Rendering Aid – At approximately 1711:15 hours, the arrest team approached Victim and took him into custody. At approximately 1711:33 hours, officers handcuffed Victim , placed him on his right side, and checked him for injuries; Sergeant broadcast a Code Four and requested the response of the RA unit. At approximately 1712:15 hours, Officer Quintanilla directed Officer 2 to retrieve his medical kit from the trunk of his vehicle. As Officer 2 attempted to locate the medical kit in the trunk, FF/PM C. Shubsda and M. Farris, arrived at the scene. Officer Quintanilla advised paramedics that Victim had gunshot wounds, directing their attention to his chest. Victim was treated at the scene and transported to LAC+USCMC where he was treated by Doctor B. Knipp for gunshot wounds to the neck, chest, and torso. At 1809 hours, Victim succumbed to his injuries and was pronounced deceased.

Requirement to Intercede

Based on my review of this incident, I determined that the incident unfolded quickly and in a manner that did not afford an officer time to intercede.

Additional/Equipment[54]

Communications Division Protocols – According to the FID investigation, RP 1 advised Radio Telephone Operator (RTO) L. Gates, Serial No. N2995, CD, that Victim "tried to hit someone and was going to attack a person with the knife." Witness 1 had also called CD and reported that Victim was looking and walking toward him while holding a knife. Witness 1 stated that Victim looked angry and he was swinging the knife in the air, which caused him to be scared. In response, CD broadcast an update that Victim was "chasing people" with the knife. The Office of Support Services and CD determined there was no deviation from policy or procedure and I concur.

Body Worn Video				
Sworn Employee	Issue	Inspection Date Range	Inspection Results	Disposition
Officer Zavala	Late Activation	11/19/22 – 12/18/22	8 of 8, 100%	Notice to Correct
Officer Quintanilla	Late Activation	11/19/22 – 12/18/22	7 of 8, 88%	Notice to Correct
Officer 3	Late Activation	8/14/22 - 9/13/22	7 of 8, 88%	Notice to Correct

Digital In-Car Video System		
Sworn Employee	Issue	Disposition
Officer Zavala	Late Activation	Notice to Correct
Officer Quintanilla	Late Activation	Notice to Correct

Required Equipment

Officers O-3 Quintanilla, Zavala, O-1 O-2 and Sergeant did not have a baton on their persons during the incident. Officers O-3 Zavala, and Quintanilla did not have their Hobble Restraint Devices on their persons. Officer 3 was not equipped with a TASER. As these issues were addressed through Formal Training with Office of Operations (OO) and Operations Central Bureau (OCB) concurrence, I deem no further action necessary.

Loading Standards – Officer Zavala was carrying a Glock manufactured 17-round magazine with an attached base plate that increased the magazine capacity to 19 rounds. As this issue was

[54] In determining the disposition for the deviation from Department policy, a review of the severity of the discrepancy in concert with prior discrepancies was taken into consideration.

addressed through a Notice to Correct Deficiencies with OO and OCB concurrence, I deem no further action necessary.

Crime Scene Preservation – After the OIS, Officer Quintanilla picked up Victim's hat from the stairs and the expended sponge from the sidewalk. Sergeant directed Officer Quintanilla to leave the items where they were. As this issue was addressed through Formal Training with OO and OCB concurrence, I deem no further action necessary.

Audio/Video Recordings

Digital In-Car Video System (DICVS) – There were three DICVS videos related to this incident. The DICVS videos captured the officers' response to the scene and post OIS activity. The DICVS of Officers Zavala and Quintanilla's vehicle was not activated during the UOF and did not capture audio or videos of the OIS. Officer Quintanilla activated the DICVS after the OIS, which captured post OIS activity.

Body Worn Video (BWV) – There were 10 BWV recordings related to this incident. Each video was reviewed in its entirety by FID investigators.

- Sergeant's BWV captures his Code Three response, arrival at the scene, drawing and exhibiting, tactical planning, tactics, the OIS, and post OIS activity.
- Officer Zavala's BWV captured the officers' arrival, contact with Victim, drawing and exhibiting, tactics, the OIS, and post OIS activity.
- Officer Quintanilla's BWV captured the officers' arrival, contact with Victim drawing and exhibiting, the OIS and post OIS activity, and handcuffing.
- Officer 1's BWV captured the officers' Code Three response, his arrival at the scene, the contact with Victim, drawing and exhibiting, the OIS, and post OIS activity.
- Officer 2's BWV captured the officers' Code Three response, his arrival at the scene, the contact with Victim drawing and exhibiting, the OIS, and post OIS activity.
- Officer 4's BWV captured the officers' Code Three response, the arrival at the scene, the contact with Victim drawing and exhibiting, the OIS, and post OIS activity.
- Officer Meraz' BWV captured the officers' Code Three response, the arrival at the scene, the contact with Victim drawing and exhibiting, the OIS, and post OIS activity.
- Officer 3's BWV captured his response, his arrival, tactics, the OIS, and post OIS activity.

Social Media – Personnel assigned to FID's Cyber Unit monitored social media sites from the date of the incident until the submission of this investigation. No additional evidence, information, or witnesses were identified via social media.

Other Department Video – None.

Outside Video – Force Investigation Division investigators canvassed Incident Location for security cameras. Cameras were located that provided a view of the exterior of the entry door of the apartment building. The video captured Victim seated on the stairs, the officers' arrival, tactics, and the OIS. Force Investigation Division investigators also recovered

security camera video from Location 1. There were two exterior cameras, which provide a view of the intersection of Street 2 and Street 1, and an east-facing view toward Incident Location. The video captures images of Victim walking north on Street 1 and east on Street 2, the officers' arrival, and post OIS tactics.

Respectfully,

MICHEL R. MOORE
Chief of Police

LETTER OF TRANSMITTAL
CF NO. 22-003418
COMMANDING OFFICER'S ADJUDICATION

The completed complaint investigation was received on November 8, 2022.

ADJUDICATION

Complainant: Department Los Angeles, Ca.

The Complaint Investigation, CF No. 22-003418, resulted in two allegations of misconduct against two Department employees:

Police Officer II Jose Zavala — Newton Area
Serial No. 40197

Police Officer II Julio Quintanilla — Newton Area
Serial No. 42454

The allegations are listed below with recommendation for classification and supporting rationale.

ALLEGATION 1. The Department alleges on December 18, 2021, Officer Zavala, while on-duty, utilized Lethal Force, that reached a finding of, "Out of Policy, Administrative Disapproval."

ALLEGATION 2. The Department alleges on December 18, 2021, Officer Quintanilla, while on-duty, utilized Lethal Force, that reached a finding of, "Out of Policy, Administrative Disapproval."

CLASSIFICATION

It is recommended that Allegation 1 and 2 be classified as **SUSTAINED**.

RATIONALE

Officer Zavala and his partner Officer Quintanilla responded to a radio call of an, "Ambulance Attempt Suicide," the subject was armed with a knife. Officer Zavala and Officer Quintanilla along with other Newton personnel arrived at scene and contacted the subject who was sitting on the steps in front of the location, armed with a knife. Officers tactically deployed behind their vehicles and attempted to communicate with the subject. Officer 1 Serial No. 43071 was designated at as the less-lethal officer, equipped with the 40mm Less Lethal Launcher and Officer Zavala and Officer Quintanilla were assigned as the Designated Covering Officers by Sergeant Serial No. 36665, Newton Area Gang Enforcement Detail. Sergeant Sergeant was the Incident Commander (I/C) at scene.

After lines of communication had failed with the subject and based on the subject's actions, Officer one 40mm LL round was fired, striking the subject. Approximately .382 seconds later, Officer Zavala discharged the first of three rounds from his service pistol, approximately 25 feet away, striking the subject. Approximately .322 seconds after Officer Zavala discharged his third round, Officer Quintanilla discharged one round from his service pistol at the subject, from approximately 28 feet.

On October 5, 2022, the Chief of Police (COP) adopted the findings from the Use of Force Review Board (UOFRB), which included the use of lethal force being, "Out of Policy, Administrative Disapproval," for both Officer Zavala and Officer Quintanilla.

On November 1, 2022, the Honorable Board of Police Commissioners adjudicated the OIS, Force Investigation Division (FID) No. 064-21, and adopted the findings of the COP for both Officer Zavala and Officer Quintanilla. The use of Lethal Force was found to be Out of Policy, Administrative Disapproval.

Based on the evidence, statements, and findings related to this investigation, it is recommended that Allegation 1 and 2 be classified as **SUSTAINED**.

DIGITAL IN-CAR VIDEO (DICV) / BODY WORN VIDEO (BWV) / AND OTHER VIDEO AUDIO RECORDINGS

BWV and DICV were used to assist in the adjudication of this investigation.

ADMINISTRATIVE INSIGHT FOR OFFICER ZAVALA

Employee Development Plan

Captain Alex Baez, Serial No. 26623, Commanding Officer, Newton Area, conducted an employee interview with Officer Zavala. Officer Zavala is currently assigned to Newton Area Detectives and is on Administrative Restriction, non-field duties. As part of his development plan, he will continue to work Newton Area Detectives. This will help him develop valuable knowledge involving investigation skills that he will be able to use throughout his career. It is also recommended that he be placed on Risk Management Executive Committee (RMEC).

Penalty

Officer Zavala stated that he believed that it was necessary to fire three rounds at the subject to stop the threat, due to the subject advancing towards him with the knife. He stated that he was in fear for his life, his partner's life and the citizens in the area. The Board considered Officer Zavala's perception, however they believed that the findings did not support his belief of the imminent deadly threat posed by the subject.

After a complete review of Officer Zavala's work history and based on the findings of this investigation, it is recommended that Officer Zavala receive a penalty of **SUSPENSION-22 DAYS.**

Work History Analysis

Sergeant Joseph Scida, Serial No. 36457, Newton Complaint Unit, reviewed Officer Zavala's TEAMS II report. He has been with the Department since May 26, 2009 and has been assigned to Newton Area since January 21, 2018. He has no complaints with similar allegations. He has three sustained complaints.

CF No. 20-000084. Date of incident January 9, 2022. Citizen reported an officer used profanity during a UOF. Dept. alleged Officer Zavala failed to report misconduct- Sustained/Official reprimand.

CF No. 18-001911. Date of incident: October 19, 2017. Traffic collision. Sustained/Official Reprimand.

CF No. 15-001078. Date of incident: April 15, 2015. Unauthorized force and tactics became involved in UOF when suspect punched and bit him. Application of force deemed Out of Policy/15-day suspension.

He has been involved in (25) Non-Categorical Use of Force incidents. One incident was deemed Out of Policy and was addressed through CF 15-001078.

He has been involved in one prior Categorical Uses of Force, Case No. 2011139/FIDNo. 042-12, which had a finding of In-Policy.

He has been involved in (21) vehicle pursuits. Two were deemed Out of Policy.

- DR No. 18-1308647. Role: Driver
- DR No. 17-1923775. Role: Driver.

Officer Zavala has been involved in one preventable traffic collision

Work Permit Review

None.

Relief from Duty Considerations

None.

Actions Taken

Officer Zavala was removed from field duties and placed on Administrative Restrictions after the OIS. He is currently assigned to Newton Area Detectives.

ADMINISTRATIVE INSIGHT FOR OFFICER QUINTANILLA

Employee Development Plan

Captain Alex Baez, Serial No. 26623, Commanding Officer, Newton Area, conducted an employee interview with Officer Quintanilla. Officer Quintanilla is currently assigned to Newton Area Detectives and is on Administrative Restriction, non-field duties. As part of his development plan, he will continue to work Newton Area Detectives. This will help him develop valuable knowledge involving investigation skills that he will be able to use throughout his career.

Penalty

Officer Quintanilla stated that he believed that it was necessary to fire one round at the subject to stop the threat, due to the subject advancing towards him with the knife. He stated that he was afraid the subject would, cut him with the knife, cut his partner, or cut a civilian. The Board considered Officer Quintanilla's perception, however they believed that the findings did not support his belief of the imminent deadly threat posed by the subject.

After a complete review of Officer Quintanilla's work history and based on the findings of this investigation, it is recommended that Officer Zavala receive a penalty of **SUSPENSION-2 DAYS.**

Work History Analysis

Sergeant Joseph Scida, Serial No. 36457, Newton Area Complaint Unit, conducted a review of Officer Quintanilla's TEAMS II report. Officer Quintanilla has been with the Department since February 22, 2016 and has been assigned to Newton Area since October 1, 2017. Officer Quintanilla has one sustained complaint.

CF No. 21-002558. Date of Incident: July 6, 2021. Out of Policy Pursuit. Sustained-Admonishment.

He has been involved in (13) Non-Categorical Uses of Force. All of which were classified as, "In Policy."

He has been involved in seven vehicle pursuits. Six were classified as, "In Policy."

He has been involved in two preventable traffic collisions.

- DR No. 19-1311641 and DR NO. 17-0314261

Work Permit Review

None.

Relief from Duty Considerations

None.

Actions Taken

Officer Quintanilla was removed from field duties and placed on Administrative Restrictions after the OIS. He is currently assigned to Newton Area Detectives.

This letter of transmittal was written by:

JOSEPH SCIDA, Sergeant I
Newton Complaint Unit
Newton Area

Date: 11·15·22.

APPROVED BY:

ALEX BAEZ, Captain
Commanding Officer
Newton Area

Date: 11/15/22

LETTER OF TRANSMITTAL
CF NO. 22-003757
COMMANDING OFFICER'S ADJUDICATION

The completed complaint investigation was received on February 3, 2023.

ADJUDICATION

Public Complaint: Relevant Party 1 Los Angeles, Ca.

The Complaint Investigation, CF No. 22-003757, resulted in four allegations of misconduct against three named Department employees:

Police Officer II Jose Zavala Serial No. 40197	Newton Area
Police Officer II Julio Quintanilla Serial No. 42454	Newton Area
Sergeant Serial No.36665	Newton Area

The allegations are listed below with recommendations for classification and supporting rationale.

ALLEGATION 1. Complainants Relevant Party 1 Relevant Party 2, Relevant Party 3 **and** Relevant Party 4 **alleged on December 18, 2021, Officer Zavala, while on-duty, utilized excessive force when he discharged his firearm at** Victim

ALLEGATION 2. Complainants Relevant Party 1 Relevant Party 2 Relevant Party 3 **and** Relevant Party 4 **alleged on December 18, 2021, Officer Quintanilla, while on-duty, utilized excessive force when he discharged his firearm at** Victim

CLASSIFICATION

It is recommended that Allegations 1 and 2 be classified as **UNFOUNDED**.

RATIONALE

Officer Zavala and his partner, Officer Quintanilla responded to an, "Ambulance Attempt Suicide," radio call. Upon arrival, Officers Zavala, Quintanilla, and Sergeant formulated a tactical plan to take the decedent into custody peacefully. This included getting additional resources to secure the location, communication with the subject, and less-lethal options. During the incident, the decedent failed to comply with Sergeant 's commands to drop the knife. The decedent eventually stood up and according to Officer Zavala and Quintanilla, they believed that the decedent started to advance towards them, and in fear fired their service weapon.

The OIS was investigated and the application of lethal force by Officer Zavala and Quintanilla were found to be, "Out of Policy/Administrative Disapproval." Although the findings found the

application of force to be objectively unreasonable, there was no evidence discovered during the investigation to support the Complainants allegations of excessive force.

Based on the preponderance of evidence, it is recommended that Allegations 1 and 2 be classified as **UNFOUNDED**.

ALLEGATION 3. Complainants Relevant Party 1 Relevant Party 2 Relevant Party 3 and Relevant Party 4 alleged on December 18, 2021, Sergeant while on-duty, failed to provide mental health care for Victim

ALLEGATION 4. Complainants Relevant Party 1 Relevant Party 2 Relevant Party 3 and Relevant Party 4 alleged on December 18, 2021, Sergeant while on-duty, failed to use tactics to deescalate a Categorical Use of Force, Officer Involved Shooting.

CLASSIFICATION

It is recommended that Allegations 3 and 4 be classified as **UNFOUNDED**.

RATIONALE

Sergeant was the only supervisor at scene and was the Incident Commander. During the incident, Sergeant attempted to establish communication with the decedent. Based on the comments of the call, Sergeant believed that the situation was fluid and he wanted to prevent the decedent from chasing anyone while armed with a knife. Due to no other supervisor present at scene, Sergeant believed that preventing the decedent from possibly hurting anyone took a priority over contacting the Mental Evaluation Unit (MEU) and directed the less-lethal officer to deploy the 40mm LLL. Sergeant took initiative and attempted to use communication and less-lethal as a means of de-escalation.

Based on the preponderance of evidence, it is recommended that Allegations 3 and 4 be classified as **UNFOUNDED**.

DIGITAL IN-CAR VIDEO (DICV) / BODY WORN VIDEO (BWV) / AND OTHER VIDEO AUDIO RECORDINGS

BWV and DICV were used to assist in the adjudication of this investigation.

ADMINISTRATIVE INSIGHT FOR OFFICER ZAVALA

Employee Development Plan

None

Penalty

None

Work History Analysis

Sergeant I Joseph Scida, Serial No. 36457, Newton Complaint Unit, reviewed Officer Zavala's TEAMS II report. There are no risk management concerns.

Work Permit Review

None.

Relief from Duty Considerations

None.

Actions Taken

None.

ADMINISTRATIVE INSIGHT FOR OFFICER QUINTANILLA

Employee Development Plan

None.

Penalty

None.

Work History Analysis

Sergeant I Joseph Scida, Serial No. 36457, Newton Complaint Unit, reviewed Officer Quintanilla's TEAMS II report. There are no risk management concerns.

Work Permit Review

None.

Relief from Duty Considerations

None.

Actions Taken

None.

ADMINISTRATIVE INSIGHT FOR Sergeant

Employee Development Plan

None.

Penalty

None.

Work History Analysis

Sergeant I Joseph Scida, Serial No. 36457, Newton Complaint Unit, reviewed Sergeant s TEAMS II report. There are no risk management concerns.

Work Permit Review

None.

Relief from Duty Considerations

None.

Actions Taken

None.

This letter of transmittal was submitted by:

JOSEPH SCIDA, Sergeant I
Newton Complaint Unit
Newton Area

Date: 3.15.23

APPROVED BY:

JEFFREY BRATCHER, Captain III
Commanding Officer
Newton Area

Date: 3/16/23

PETTY F. SANTOS
INTERIM CITY CLERK

VACANT
EXECUTIVE OFFICER

City of Los Angeles

CALIFORNIA

KAREN BASS
MAYOR

OFFICE OF THE
CITY CLERK

Council and Public Services Division
200 N. SPRING STREET, ROOM 395
LOS ANGELES, CA 90012
GENERAL INFORMATION - (213) 978-1133
FAX: (213) 978-1040

PATRICE Y. LATTIMORE
DIVISION MANAGER
CLERK.LACITY.GOV

OFFICIAL ACTION OF THE LOS ANGELES CITY COUNCIL

Council File No.: 24-1508

Council Meeting Date: March 18, 2025

Agenda Item No.: 34

Agenda Description: The City Council shall recess to Closed Session, pursuant to Government Code Section No. 54956.9(d)(1), to confer with its legal counsel relative to the case entitled Victim [redacted], et al. v. City of Los Angeles, et al., United States District Court Case No. 2:22-cv-07534-FLA-MAAx.

Council Action: MOTION (YAROSLAVSKY – BLUMENFIELD) - ADOPTED IN OPEN SESSION

Council Vote:

ABSENT	Blumenfield	YES	Harris-Dawson	YES	Hernandez
YES	Hutt	YES	Jurado	ABSENT	Lee
YES	McOsker	YES	Nazarian	YES	Padilla
YES	Park	YES	Price Jr.	YES	Raman
ABSENT	Rodriguez	YES	Soto-Martínez	YES	Yaroslavsky

PETTY F. SANTOS
INTERIM CITY CLERK

Pursuant to Charter/Los Angeles Administrative Code Section(s): 341

FILE SENT TO MAYOR	03-19-2025
LAST DAY FOR MAYOR TO ACT	04-01-2025

3/29/2025

DATE SIGNED

Adopted Report(s)Title
Motion (Yaroslavsky - Blumenfield) dated 3-4-25

AGENDA

LOS ANGELES CITY COUNCIL

Tuesday, March 18, 2025

10:00 AM
JOHN FERRARO COUNCIL CHAMBER
ROOM 340, CITY HALL
200 NORTH SPRING STREET, LOS ANGELES, CA 90012

Submit written comment at
LACouncilComment.com

President
MARQUEECE HARRIS-DAWSON, Eighth District

President Pro Tempore
BOB BLUMENFIELD, Third District

Assistant President Pro Tempore
NITHYA RAMAN, Fourth District

EUNISSES HERNANDEZ, First District
ADRIN NAZARIAN, Second District
KATY YAROSLAVSKY, Fifth District
IMELDA PADILLA, Sixth District
MONICA RODRIGUEZ, Seventh District
CURREN D. PRICE, JR., Ninth District
HEATHER HUTT, Tenth District
TRACI PARK, Eleventh District
JOHN S. LEE, Twelfth District
HUGO SOTO-MARTÍNEZ, Thirteenth District
YSABEL JURADO, Fourteenth District
TIM McOSKER, Fifteenth District

PUBLIC COMMENT AND LIVE BROADCAST

The Council meetings will be broadcast live on Cable Television Channel 35, on the internet at https://clerk.lacity.gov/calendar, and on YouTube. The live audio of the hearing will be available via telephone at: (213) 621-CITY (Metro), (818) 904-9450 (Valley), (310) 471-CITY (Westside), and (310) 547-CITY (San Pedro Area). If the live video or audio is unavailable via one of these channels, members of the public should try another channel.

Written public comment may be submitted at LACouncilComment.com.

Requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act can be made by contacting the City Clerk's Office at (213) 978-1133. For Telecommunication Relay Services for the hearing impaired, please see the information below.

Telecommunication Relay Services

Telephone communication is one of the most important forms of communication in society today. Due to advancements in technology, telephone devices have evolved with new services and capabilities. Individuals who are deaf and hard of hearing, and individuals with a speech disability are following these trends and are rapidly migrating to more advanced telecommunications methods, both for peer-to-peer and third-party telecommunications relay service (TRS) communications. Telecommunications Relay Service is a telephone service that allows persons with hearing or speech disabilities to place and receive telephone calls. TRS is available in all 50 states, the District of Columbia, Puerto Rico and the U.S. territories for local and/or long distance calls. TRS providers - generally telephone companies - are compensated for the costs of providing TRS from either a state or a federal fund. There is no cost to the TRS user.

What forms of TRS are available? There are several forms of TRS, depending on the particular needs of the user and the equipment available: TRS includes: Text to Voice TIY-Based TRS; Speech-to-Speech Relay Service; Shared Non-English Language Relay Service; Captioned Telephone Relay Service; Internet Protocol Relay Service; and Video Relay Service. Please visit this site for detail descriptions, https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.

Don't hang up! Some people hang up on TRS calls because they think the CA is a telemarketer. If you hear, "Hello. This is the relay service .. . " when you pick up the phone, please don't hang up! You are about to talk, through a TRS provider, to a person who is deaf, hard-of-hearing, or has a speech disability.

For more information about FCC programs to promote access to telecommunications services for people with disabilities, visit the FCC's Disability Rights Office website.

SE OFRECE UN SERVICIO DE TRADUCCION AL ESPANOL EN TODAS LAS REUNIONES DEL CONSEJO MUNICIPAL

Spanish language interpretation is available at all Council and Committee meetings. Interpretation services in additional languages are available upon request, at no cost. Please submit your request to clerk.interpretation@lacity.org as soon as possible to allow time for scheduling. You will receive a confirmation reply if an interpreter is available.

BASIC CITY COUNCIL MEETING RULES

AGENDAS - The City Council meets Tuesday, Wednesday and Friday at 10:00 A.M. The agendas for City Council meetings contain a brief general description of those items to be considered at the meetings. Council Agendas are available in the Office of the City Clerk, Council and Public Services Division, Room 395, City Hall, 200 North Spring Street, Los Angeles, CA 90012, and on the City's website at lacity.gov or lacouncilcalendar.com.

Ten (10) members of the Council constitute a quorum for the transaction of business. The Council may consider an item not listed on the agenda only if it is determined by a two-thirds (10) vote that the need for action arose after the posting of an Agenda. Some items on the agenda may be approved without any discussion, however, any item may be called "special" by a Councilmember. If an item is called "special" it will be "held" until the remainder of the items on the Council agenda have been acted on by the Council. An item may also be called "special" if a member of the public has requested to speak on the item and a public hearing was not previously held.

The City Clerk will announce the items to be considered by the Council, however items will be grouped. For example, all items for which required public hearings have not previously been held are listed in one section on the printed agenda. The Council President will ask if any Councilmember or member or the public wishes to speak on one or more of these items. If anyone wishes to speak on an item, it will be called "special". The remaining items in this section will be voted on by Council with one roll call vote.

PUBLIC INPUT AT CITY COUNCIL MEETINGS - An opportunity for the public to address the Council on agenda items for which public hearings have not been held will be provided at the time the item is considered or during the Multiple Agenda Item Comment period. Members of the public who wish to speak on items shall be allowed to speak for up to one minute per item up to a total of three minutes per meeting. The Council has determined that a cumulative total of 20 minutes is a reasonable minimum amount of time for the Multiple Agenda Item segment of each regular meeting.

The Council will also provide an opportunity for the public to speak on public interest items. Each speaker shall be limited to one minute of general public comment each regular meeting for a cumulative total of ten (10) minutes. The Council shall not discuss or take action relative to any general public comment.

If you wish to provide documents to the full Council for consideration on an item, please present the Sergeant-At-Arms with 35 copies. Otherwise, your materials will simply be added to the official record.

NOTICE TO PAID REPRESENTATIVES - If you are compensated to monitor, attend, or speak at this meeting, City law may require you to register as a lobbyist and report your activity. See Los Angeles Municipal Code 48.01 et seq. More information is available at ethics.lacity.org/lobbying. For assistance, please contact the Ethics Commission at (213) 978-1960 or ethics.commission@lacity.org.

COUNCIL DISCUSSION AND TIME LIMITS - Councilmembers requesting to address the Council will be recognized by the Council President in the order requested. For any item, the Chairperson of the Committee, or the maker of the original motion, or the member calling a matter "special" shall have up to six (6) minutes to discuss the item. All other Councilmembers may speak up to three (3) minutes each on the matter. After all members desiring to speak on a question have had an opportunity to be heard once, the time for each Member desiring to speak again shall be limited to a maximum of three (3) minutes.

A motion calling the "previous question" may be introduced by any member during a Council debate. If adopted, this motion will terminate debate on a matter and the Chair will instruct the Clerk to call the roll on the matter.

VOTING AND DISPOSITION OF ITEMS - Most items require a majority vote of the entire membership of the Council (8 members). Items which have not been discussed in a Council Committee and have been placed directly on the agenda will require 10 votes to consider. Once considered, these items will normally require eight (8) affirmative votes to be adopted. Ordinances require a unanimous vote (at least 12 members must be present) in order to be adopted on first consideration. If an ordinance does not receive the necessary unanimous vote, it is laid over one calendar week. The votes required for approval on second consideration vary and depend upon the type of ordinance, but a typical ordinance requires eight (8) affirmative votes upon second consideration.

When debate on an item is completed, the Chair will instruct the Clerk to "call the roll". Every member present must vote for or against each item; abstentions are not permitted. The Clerk will announce the votes on each item. Any member of Council may move to "reconsider" any vote on any item on the agenda, except to adjourn, suspend the Rules, or where an intervening event has deprived the Council of jurisdiction, providing that said member originally voted on the prevailing side of the item. The motion to "reconsider" shall only be in order once during the meeting, and once during the next regular meeting. The member requesting reconsideration shall identify for all members present the agenda number, Council file number and subject matter previously voted upon. A motion to reconsider is not debatable and shall require an affirmative vote of eight (8) members of the Council.

When the Council has failed by sufficient votes to approve or reject an item, and has not lost jurisdiction over the matter, or has not caused it to be continued beyond the next regular meeting, the item is continued to the next regular meeting for the purpose of allowing the Council to again vote on the matter.

The City Council rules provide that all items adopted by the Council will not be presented to the Mayor, or other designated officer by the City Clerk until the adjournment of the regular Council meeting following the date of the Council action. A motion to send an item "forthwith" if adopted by ten (10) votes, suspends these rules and requires the City Clerk to forward the matter to the Mayor, or other officer, without delay.

RULE 16 MOTIONS - Council Rule No. 16, in part, allows a member to send an item directly to the Council without it having to go to a Council Committee first, by giving the City Clerk a motion (seconded by an additional member) during a Council session to be placed on the next regular available Council agenda.

(BOARD) relative to a non-monetary donation valued at $45,000 to help fund the Los Angeles Women Police Officers and Associates (LAWPOA) 29th Annual Symposium 2025.

Recommendation for Council action:

ACCEPT a non-monetary donation valued at $45,000, from the Los Angeles Police Foundation, to help fund the LAWPOA 29th Annual Symposium 2025; and THANK the donor for this generous donation.

Fiscal Impact Statement: None submitted by the Board. Neither the City Administrative Officer nor the Chief Legislative Analyst has completed a financial analysis of this report.

Community Impact Statement: None submitted

(Public Safety Committee waived consideration of the above matter)

Items Called Special

Motions for Posting and Referral

Council Members' Requests for Excuse from Attendance at Council Meetings

Closed Session

(32) **24-1393**

The City Council shall recess to Closed Session, pursuant to Government Code Section No. 54956.9(d)(1), to confer with its legal counsel relative to the case entitled Adam Hollands v. City of Los Angeles, et al., Los Angeles Superior Court Case No. BC684154. (This matter arises from alleged disability discrimination and failure to accommodate and engage in the interactive process that occurred between 2007 to 2017 within the Los Angeles Police Department, and retaliation for reporting the allegations to management.)

(Budget and Finance Committee considered this matter on March 4, 2025.)

(33) **24-0903**

The City Council shall recess to Closed Session, pursuant to Government Code Section No. 54956.9(d)(1), to confer with its legal counsel relative to the case entitled Stephanie Hernandez v. City of Los Angeles, et al., Los Angeles Superior Court Case No. 23STCV02640. (This matter arises from an incident involving a member of the Los Angeles Fire Department that occurred on May 22, 2021.)

(Budget and Finance Committee considered this matter in Closed Session on March 4, 2025.)

(34) **24-1508**

The City Council shall recess to Closed Session, pursuant to Government Code Section No. 54956.9(d)(1), to confer with its legal counsel relative to the case entitled Victim [redacted], et al. v. City of Los Angeles, et al., United States District Court Case No. 2:22-cv-07534-FLA-MAAx. (This matter arises from an officer-involved shooting which occurred on December 18, 2021, in the Los Angeles Police Department Newton Division of the City of Los Angeles.)

(Budget and Finance Committee considered this matter on March 4, 2025.)

(35) **25-0133**

The City Council shall recess to Closed Session, pursuant to Government Code Section No. 54956.9(d)(1), to confer with its legal counsel relative to the case entitled Andrea R. Naaktgeboren v. City of Los Angeles, et al., Los Angeles Superior Court Case No. 23STCV20386. (This matter arises from a vehicle versus vehicle collision that occurred on January 24, 2023, at the intersection of 1st Street and South Beaudry Avenue, in Los Angeles, California.)

(Budget and Finance Committee considered this matter on March 4, 2025.)

(36) **25-0131**

The City Council shall recess to Closed Session, pursuant to Government Code Section No. 54956.9(d)(1), to confer with its legal counsel relative to the case entitled Dartanyan Wallace v. City of Los Angeles, et al., Los Angeles Superior Court Case No. 23STCV10324. (This matter arises from a June 2, 2022, automobile accident near the intersection of Cassil Place

and Sunset Boulevard, in the City of Los Angeles.

(Budget and Finance Committee considered this matter on March 4, 2025.)

Adjourning Motions

Council Adjournment

EXHAUSTION OF ADMINISTRATIVE REMEDIES - If you challenge a City action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at or prior to, the public hearing. Any written correspondence delivered to the City Clerk before the City Council's final action on a matter will become a part of the administrative record.

CODE OF CIVIL PROCEDURE SECTION 1094.5 - If a Council action is subject to judicial challenge pursuant to Code of Civil Procedure Section 1094.5, be advised that the time to file a lawsuit challenging a final action by the City Council is limited by Code of Civil Procedure Section 1094.6 which provides that the lawsuit must be filed no later than the 90th day following the date on which the Council's action becomes final.

Materials relative to items on this agenda can be obtained from the Office of the City Clerk's Council File Management System, at lacouncilfile.com by entering the Council File number listed immediately following the item number (e.g., 00-0000).

ITEM NO. 34

3/18/25 Council – Regular Meeting Agenda
Closed Session

MOTION

I HEREBY MOVE that the Council ADOPT the following recommendations in order to effect settlement in the case entitled Victim [redacted], et al. v. City of Los Angeles, et al., United States District Court Case No. 2:22-cv-07534-FLA-MAAx. (This matter arises from an officer-involved shooting which occurred on December 18, 2021, in the Los Angeles Police Department Newton Division of the City of Los Angeles.), **SUBJECT TO THE APPROVAL OF THE MAYOR**:

1. AUTHORIZE the City Attorney's Office to expend up to **$8,000,000** in settlement of the above-entitled matter.

2. AUTHORIZE the Controller to transfer **$8,000,000** from the Liability Claims Fund No. 100/59, Account No. 009798, Miscellaneous Liability Payouts, to Fund No. 100/59, Account No. 009792, Police Liability Payouts.

3. AUTHORIZE the City Attorney to draw a demand from Fund No. 100/59, Account No. 009792, Police Liability Payouts, as follows: Law Offices of Dale K. Galipo, Client Trust Account in the amount of **$8,000,000.**

4. AUTHORIZE the City Attorney, or designee, to make necessary technical adjustments, subject to the approval of the City Administrative Officer; and, AUTHORIZE the Controller to implement the instructions.

This matter was recommended for approval by the Budget and Finance Committee (Yaroslavsky – Blumenfield – Hutt – Hernandez: "Yes; McOsker "Absent") at its meeting held on March 4, 2025, in Closed Session as permitted by Government Code Section 54956.9(d)(1).

PRESENTED BY_____
KATY YAROSLAVSKY
Councilmember, 5th District

SECONDED BY _____
BOB BLUMENFIELD
Councilmember, 3rd District

MM 3-4-25
CF 24-1508

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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

[redacted], Plaintiff 1, Plaintiff 2, Plaintiff 3, Plaintiff 4, [redacted],

PLAINTIFFS,

v.

CITY OF LOS ANGELES, JOSE ZAVALA, JULIO QUINTANILLA, AND DOES 1 THROUGH 10, INCLUSIVE

DEFENDANTS.

CASE NO: 2:22-cv-7534

COMPLAINT FOR DAMAGES:

1. Fourth Amendment – Excessive Force (42 U.S.C. § 1983)
2. Fourth Amendment – Denial of Medical Care (42 U.S.C. § 1983)
3. Fourteenth Amendment--Substantive Due Process-Interference with Familial Relationships (42 U.S.C. § 1983)
4. Substantive Due Process Deliberate Indifference to Serious Medical Needs (42 U.S.C. § 1983)
5. Municipal Liability – Ratification (42 U.S.C. § 1983)
6. Municipal Liability – Failure to Train (42 U.S.C. § 1983)

7. Municipal Liability – Unconstitutional Custom, Practice, or Policy (42 U.S.C. § 1983)
8. Negligence (Wrongful Death)
9. Battery (Wrongful Death/Survival)
10. Negligent Infliction of Emotional Distress, Bystander
11. Violation of Bane Act (Cal. Civil Code § 52.1)

[DEMAND FOR JURY TRIAL]

COMPLAINT FOR DAMAGES

PLAINTIFFS [redacted], [redacted] **and** [redacted], [redacted], in each case individually and as to [redacted], as a successor-in-interest to the DECEDENT, [redacted] (collectively, "PLAINTIFFS"), for their Complaint against the **CITY OF LOS ANGELES, JOSE ZAVALA, JULIO QUINTANILLA,** and **DOES 1 THROUGH 10**, inclusive, (collectively, "DEFENDANTS") hereby allege as follows:

JURISDICTION AND VENUE

1. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3)-(4) because PLAINTIFFS assert claims arising under the laws of the United States including 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments of the United States Constitution.

2. This Court has supplemental jurisdiction over PLAINTIFFS' claims arising under state law pursuant to 28 U.S.C. § 1367(a), because those claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

3. Venue is proper in this Court under 28 U.S.C. § 1391(b) because DEFENDANTS reside in the Central District of California, and all incidents, events, and occurrences giving rise to this action occurred in the Central District.

INTRODUCTION

4. This civil rights and state tort action seeks compensatory damages from DEFENDANTS for violating various rights under the United States Constitution, the Federal Tort Claims Act, and state law in connection with the fatal deputy-involved shooting of PLAINTIFFS', son, and brother, [redacted], on December 18, 2021. PLAINTIFFS allege that [redacted]'s death was a result of the excessive use of deadly force of DEFENDANTS DOES 1-10; and was also a result of DEFENDANTS' failure to provide reasonable medical care to DECEDENT despite DECEDENT's serious mental health condition; and was a result of DEFENDANTS' deliberate indifference to DECEDENT'S serious mental health needs and medical emergency.

5. The policies and customs behind shootings of civilians such as [redacted], and failure to provide reasonable medical care, are fundamentally unconstitutional and have violated the civil rights of residents of the CITY, such as Plaintiffs and DECEDENT. Accordingly, PLAINTIFFS herein seek by means of this civil rights action to hold accountable those responsible for the death of [redacted], and to challenge the unconstitutional policies and practices of the CITY and all DEFEDANTS.

PARTIES

6. At all relevant times, [redacted] ("DECEDENT") was an individual residing in the CITY of LOS ANGELES, California.

7. At all relevant times, [redacted]. ("[redacted]"), was and is an individual residing in the CITY of LOS ANGELES, State of California. [redacted] is the father of DECEDENT. [redacted] sues both in his individual capacity for wrongful death damages as the father of DECEDENT and in a representative capacity as DECEDENT's successor-in-interest pursuant to California Code

of Civil Procedure § 377.60. Plaintiff 1 seeks wrongful death damages under federal and state law.

8. At all relevant times, Plaintiff 2 was and is an individual residing in the CITY of LOS ANGELES, State of California. Plaintiff 2 is the biological sister of DECEDENT.

9. At all relevant times, Plaintiff 3 was and is an individual residing in the CITY of LOS ANGELES, State of California. Plaintiff 3 is the biological brother of DECEDENT.

10. At all relevant times, Plaintiff 4, was and is an individual residing in the CITY of LOS ANGELES, State of California. Plaintiff 4 is the biological sister of DECEDENT.

11. The **CITY OF LOS ANGELES** ("CITY") is, a municipal corporation existing under the laws of the State of California. CITY is a chartered subdivision of the State of California with the capacity to be sued. CITY is responsible for the actions, omissions, policies, procedures, practices, and customs of its various agents and agencies, including the Los Angeles Police Department and its agents and employees.

12. Defendant City of Los Angeles Police **OFFICER JOSE ZAVALA,** is a residents of Los Angeles County, and at all times mentioned herein was acting under color of law, to wit, under the color of the statutes, ordinances, regulations, policies, and customs, of the Los Angeles Police Department, and under the color of the statutes, regulations, and laws of the state of California. Defendant Officer Jose Zavala was acting within his capacity as employee, agent, representative, and servant of the Defendant CITY.

13. Defendant City of Los Angeles Police **OFFICER JULIO QUINTANILLA,** is a residents of Los Angeles County, and at all times mentioned herein was acting under color of law, to wit, under the color of the statutes, ordinances, regulations, policies, and customs, of the Los Angeles Police Department, and under the color of the statutes,

regulations, and laws of the state of California. Defendant Officer Jose Zavala was acting within his capacity as employee, agent, representative, and servant of the Defendant CITY.

14. DEFENDANTS, **DOES 1-5 ("DOE OFFICERS")** are police officers employed by the LAPD. DOE OFFICERS were acting under color of law and within the course and scope of their employment as officers for the LAPD. DOE OFFICERS were acting with the complete authority and ratification of their principal, Defendant CITY.

15. Defendants DOES 6-8 are supervisory officers for the LAPD who were acting under color of law and within the course and scope of their employment as police officers for the LAPD. DOES 6-8 were acting with the complete authority and ratification of their principal, Defendant CITY.

16. Defendants DOES 9-10 are managerial, supervisorial, and policymaking employees of CITY, who were acting under color of law and within the course and scope of their duties as managerial, supervisorial, and policymaking employees of CITY. DOES 9-10 were acting with the complete authority and ratification of their principal, Defendant CITY.

17. On information and belief, Defendants DOES 1-10 were residents of the City of Los Angeles.

18. In doing the acts and failing and omitting to act as hereinafter described, Defendants DOE OFFICERS were acting on the implied and actual permission and consent of Defendants CITY and DOES 6-10.

19. In doing the acts and failing and omitting to act as hereinafter described, Defendants DOES 1-10 were acting on the implied and actual permission and consent of the CITY.

20. The true names and capacities, whether individual, corporate, association or otherwise of Defendants DOES 1-10, inclusive, are unknown to Plaintiffs, who as a result sues these Defendants by such fictitious names. Plaintiffs will seek leave to amend this complaint to allege the true names and capacities of these Defendants when they have been

ascertained. Each of the fictitiously-named Defendants is responsible in some manner for the conduct or liabilities alleged herein

21. The true names and capacities, whether individual, corporate, association or otherwise of DEFENDANTS DOES 1-10, inclusive, are unknown to PLAINTIFFS, who otherwise sues these DEFENDANTS by such fictitious names. PLAINTIFFS will seek leave to amend their complaint to show the true names and capacity of these DEFENDANTS when they have been ascertained. Each of the fictitiously named DEFENDANTS is responsible in some manner for the conduct or liabilities alleged herein.

22. At all times mentioned herein, each and every DEFENDANT was the agent of each and every other DEFENDANT. All of the acts complained of herein by PLAINTIFF against DEFENDANTS were done and performed by said DEFENDANTS by and through their authorized agents, servants, and/or employees, all of whom at all relevant times herein were acting within the course, purpose, and scope of said agency, service, and/or employment CITY. Moreover, DEFENDANTS and their agents ratified all of the acts complained of herein.

23. Defendants DOES 1-10 are sued in their individual capacities.

24. On or about April 7, 2022, PLAINTIFFS filed comprehensive and timely claims for damages with the CITY pursuant to applicable sections of the California Government Code.

25. On or about April 26, 2022, the CITY rejected PLAINTIFFS' claim for damages pursuant to Government Code § 913 and § 915.4. PLAINTIFFS have therefore exhausted all administrative remedies.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

26. PLAINTIFFS repeat and re-allege each and every allegation in paragraphs 1 through 25 of this Complaint with the same force and effect as if fully set forth herein.

27. This incident occurred on Tuesday, December 18, 2021, around 7:00 p.m. at the family home where DECEDENT resided, located at Home Address in Los Angeles, California.

28. In response to the 911 call, from PLAINTIFF Plaintiff 2 stating her brother was "going to commit suicide", DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 arrived at Home Address in Los Angeles, California at approximately 7:00 p.m. officers pointed a spotlight at DECEDENT from their patrol vehicle and yelled at him to drop the knife. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 parked their patrol vehicles facing the Home Address location and were a safe distance away from DECEDENT at the time they made contact with him and started shouting at him.

29. After about two minutes of officers shouting at DECEDENT and escalating the situation, DECEDENT stood up and then officers fired a less-than-lethal round at DECEDENT. DEFENDANTS JOSE ZAVALA and JULIO QUINTANILLA, as well as DOE OFFICERS continued shouting at DECEDENT with their weapons drawn at him while DECEDENT sat silently at the bottom step of the staircase on the porch. DECEDENT stood up again and started to turn around when he was simultaneously struck by less-lethal and then multiple rounds from Defendants ZAVALA and QUINTANILLA's firearms, as well as from DOE OFFICERS.

30. In spite of the fact that DECEDENT's sister had called 911 because DECEDENT was having a mental health crisis, DEFENDANTS ZAVALA, QUINTANILLA, and DOES 1-5 did not investigate whether DECEDENT was in fact having suicidal ideations, or whether DECEDENT was having a mental crisis. Worse, DEFENDANTS ZAVALA, QUINTANILLA, and DOES 1-5 did not notify the Crisis Response Support Section ("CRSS"), Mental Evaluation Unit ("MEU") or Systemwide Mental Assessment Response Team ("SMART"). DEFENDANTS ZAVALA, QUINTANILLA, and DOES 1-5 did not properly assess the situation regarding

DECEDENT's mental state; did not notify supervisors of the situation; did not employ tactics to de-escalate the situation; did not give DECEDENT sufficient time to comprehend the presence of Los Angeles Police Officers at the family home; did not develop a tactical plan regarding DECEDENT's suicidal ideation; did not speak to DECEDENT in a sensitive and non-threatening manner; and did not give DECEDENT the opportunity to cooperate with the instructions of Los Angeles Police Department Officers.

31. DECEDENT never threatened any of the DEFENDANTS ZAVALA, QUINTANILLA, and DOES 1-5; DECEDENT made no aggressive movements toward any of the DEFENDANTS ZAVALA, QUINTANILLA, and DOES 1-5; DECEDENT did not lunge toward any of the DEFENDANTS; DECEDENT did not move toward any of the DEFENDANTS; DECEDENT did not step forward toward any of the DEFENDANTS; DECEDENT did not attempt to harm any member of the community and was not at risk of harming anyone. DECEDENT did not make any furtive gestures that would suggest to the DEFENDANTS that DECEDENT was attempting, or intending to inflict harm on any of the DEFENDANTS, DOES 1-5 or any member of the community.

32. Despite the foregoing facts, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOE OFFICERS fired their guns at DECEDENT multiple times, and DECEDENT was struck with multiple bullets and was killed by DEFENDANTS. All DEFENDANTS participated in the use of deadly force against DECEDENT by either directly using force against DECEDENT, ordering another DEFENDANT to use force against DECEDENT, or by failing to intervene in the unjustified use of deadly force. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOES 1-5 failed to order any other DEFENDANT not to use deadly force against the DECEDENT, and failed to intervene to stop the use of force against DECEDENT.

33. MICHEL R. MOORE ("CHIEF MOORE") was and is a duly elected Chief of the LOS ANGELES POLICE DEPARTMENT and authorized to speak on behalf of Defendant CITY. CHIEF MOORE admitted that the mental health team should have been

sent to the scene where DECEDENT was shot and killed by Defendants. Specifically he stated, "[Those resources] should have been dispatched because [DECEDENT] had an edged weapon and those protocols should have dispatched such a resource."

34. As a result of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 negligence and excessive use of deadly force, DECEDENT died. The use of force against DECEDENT was excessive and objectively unreasonable under the circumstances, particularly because DEFENDANTS were aware that DECEDENT was suffering from a mental illness, was going through a potential mental health crisis, and because DECEDENT had not harmed anyone and did not pose a threat to any person. DEFENDANTS were aware that he had not committed a crime, and that he was in need of medical assistance, and did not pose an immediate threat of death or serious bodily injury to anyone at any time immediately prior to or during the use of force. Further, DEFENDANTS determined that DECEDENT did not pose an immediate threat of death or serious bodily injury to anyone at any time immediately prior to the use of deadly force.

35. PLAINTIFF Plaintiff 1 is DECEDENT's successor-in-interest as defined in Section 377.11 of the California Code of Civil Procedure and succeeds to DECEDENT's interest in this action.

FIRST CLAIM FOR RELIEF

Fourth Amendment – Excessive Force (42 U.S.C. § 1983)

By PLAINTIFF Plaintiff 1 Against Defendants JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5

36. PLAINTIFF repeats and re-alleges each and every allegation contained in paragraphs 1 through 35 of this complaint with the same force and effect as if fully set forth herein.

37. The Fourth Amendment to the United States Constitution, and applied to state actors by the Fourteenth Amendment, provides citizens the right to be secure in their person against unreasonable searches and seizures, including the use of excessive deadly force.

38. The excessive and unreasonable use of deadly force against DECEDENT deprived him of his right to be secure against unreasonable searches and seizures as guaranteed by the Fourth Amendment to the United States Constitution and made applicable to state actors by the Fourteenth Amendment. Because of the unlawful excessive and unreasonable force purposefully utilized against DECEDENT, he suffered serious injuries resulting in death.

39. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOES 1-5 did not investigate whether DECEDENT was in fact having suicidal ideations, or whether DECEDENT was having a mental crises. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOES 1-5 did not notify the Crisis Response Support Section ("CRSS"), Mental Evaluation Unit ("MEU") or the Systemwide Mental Assessment Response Team ("SMART"). DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOES 1-5 did not properly assess the situation regarding DECEDENT's mental state; did not notify supervisors of the situation; did not employ tactics to de-escalate the situation; did not give DECEDENT sufficient time to comprehend the presence of Los Angeles Police Officers at the family home; did not develop a tactical plan regarding DECEDENT's suicidal ideation; did not speak to DECEDENT in a sensitive and non-threatening manner; and did not give DECEDENT the opportunity to cooperate with the instructions of Los Angeles Police Officers.

40. DECEDENT never threatened any of the DEFENDANTS; DECEDENT made no aggressive movements toward any of the DEFENDANTS nor did he threaten the safety and well-being of any member of the community; DECEDENT never lunged toward any of the DEFENDANTS nor did he move toward any of the DEFENDANTS. DECEDENT did not make any furtive gestures that would suggest to the DEFENDANTS that DECEDENT was attempting, or intending to inflict harm on any of the DEFENDANTS or any other person.

41. DEFENDANTS ZAVALA, QUINTANILLA AND DOE DEFENDANTS 1-5 did not employ tactics to de-escalate the scenario, failed to give DECEDENT time and space to understand the officers' presence, failed to give DECEDENT time and space to accept their presence, failed to approach and speak to DECEDENT in a non-threatening manner, and failed to give DECEDENT the opportunity to consent to and cooperate with Los Angeles Police Department Officers instructions.

42. DECEDENT lived at the family home and was not an immediate threat to anyone at the time the DEFENDANTS shot and killed DECEDENT. As can be seen on the video released by the LAPD, at no time prior to DEFENDANTS ZAVALA, QUINTANILLA and DOES 1-5 discharging their weapons, no Police Officer was facing an imminent threat of serious physical injury; or that no Police Officer was incapable of neutralizing and/or effectuating the seizure of DECEDENT using any of a variety of readily available less-than-lethal means or strategies. The force used by DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DEFENDANTS DOES 1-5 was unnecessary, excessive, and unreasonable under the totality of the circumstances.

43. The conduct of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DEFENDANTS DOES 1-5, was willful, wanton, malicious, and done with a deliberate indifference for the rights and safety of DECEDENT and therefore warrants the award of exemplary and punitive damages against DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DEFENDANTS DOES 1-5. All the DEFENDANTS, under 42 U.S.C. § 1983, are liable to the Plaintiff for compensatory, including general and special, damages.

44. As a result of their excessive use of deadly force which caused constitutional injuries to Plaintiff, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOE DEFENDANTS 1-5 are liable for DECEDENT's injuries, either because they were integral participants in the wrongful use of excessive deadly force, or because they failed to intervene to prevent these constitutional violations.

45. Plaintiff bring this claim as successor-in-interest to the DECEDENT and seeks wrongful death damages for the violation of Plaintiff's and DECEDENT's rights. Plaintiff also seeks attorneys' fees pursuant to 42 U.S.C. § 1988(b).

SECOND CLAIM FOR RELIEF

Fourth Amendment – Denial of Medical Care (42 U.S.C. § 1983)

Plaintiff Plaintiff 1 **Against the DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOE DEFENDANTS 1-5**

46. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 45 of this complaint with the same force and effect as if fully set forth herein.

47. The Fourth Amendment to the United States Constitution, as applied to state actors by the Fourteenth Amendment, provides the right of all persons to reasonable medical care during the course of a seizure and/or when in the custody of Los Angeles Police Department Officers. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, failed to provide reasonable medical care to DECEDENT despite DECEDENT'S serious mental health condition; and DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 manifested deliberate indifference to DECEDENT'S serious mental health condition of suicidal ideations and mental illness.

48. DEFENDANTS ZAVALA, QUINTANILLA, and DOES 1-5 did not provide reasonable medical care for DECEDENT even after DEFENDANTS were informed by Plaintiff Plaintiff 2 that DECEDENT was having suicidal ideations, and that DECEDENT was having a mental crisis.

49. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DEFENDANTS 1-5 used excessive deadly force against DECEDENT thereby causing his death.

50. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOE DEFENDANTS 1-5 knew that DECEDENT was suffering from suicidal ideation, and

DEFENDANTS increased the danger by failing to provide mental health professionals for DECEDENT despite the fact that Plaintiff 2 had informed dispatch, who then informed DEFENDANTS ZAVALA, QUINTANILLA and DOES 1-5 about DECEDENT's suicidal ideation and failed to respond to the requests for assistance for DECEDENT, who was having a severe mental crises, and was mentally ill. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 knew that failure to provide timely medical treatment for DECEDENT could result in further significant injury or the unnecessary and wanton infliction of pain, but disregarded that serious medical need, and refused to permit medical care givers to access and care for DECEDENT at the scene prior to and after the incident.

51. In so doing the aforementioned acts before, during and after the use of force, the conduct of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5 were willful, wanton, malicious, and done with deliberate indifference for the rights and safety of DECEDENT and therefore warrants the imposition of exemplary and punitive damages as to the individual DEFENDANTS.

52. As a result of their misconduct, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5 are liable for DECEDENT's injuries, either because they were integral participants in the use of force, or because they failed to intervene to prevent these violations. DEFENDANTS, under 42 U.S.C. § 1983, are liable to the Plaintiff for compensatory, including general and special, damages.

53. PLAINTIFF brings this claim as successor-in-interest to the DECEDENT, and seeks wrongful death damages for the violation of DECEDENT's rights. PLAINTIFF also seeks attorney's fees pursuant to 42 U.S.C. § 1988(b).

THIRD CLAIM FOR RELIEF

Fourteenth Amendment--Substantive and Procedural Due Process----Interference with Familial Relationships (42 U.S.C. § 1983)

By Plaintiff Plaintiff 1 against DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOE DEFENDANTS 1-10

54. PLAINTIFF incorporates by reference each and every allegation in paragraphs 1 through 53 as if fully set forth herein.

55. PLAINTIFF had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive him of life, liberty, or property in such a manner as to shock the conscience, including but not limited to unwarranted state interference in the familial relationship with his son.

56. The actions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, including the unjustified shooting of DECEDENT, along with other conduct of constitutional violations, shock the conscience, in that they acted with deliberate indifference to the constitutional rights of the DECEDENT and PLAINTIFF, and with purpose to harm unrelated to any legitimate law enforcement objective.

57. On December 18, 2021, DECEDENT was shot and killed by DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, who shot DECEDENT multiple times causing his death.

58. DEFENDANTS violated the PLAINTIFF'S rights under the Fourth Amendment when DECEDENT was shot and killed; and violated the PLAINTIFF'S rights under the Fourteenth Amendment to substantive and procedural due process because DEFENDANTS caused an unwarranted state interference in the PLAINTIFF'S familial relationship with DECEDENT.

59. Despite the foregoing facts, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 shot at DECEDENT multiple times, and DECEDENT was struck and was killed by DEFENDANTS. All DEFENDANTS participated in the use of force against DECEDENT by either directly using deadly force against DECEDENT, or ordering another DEFENDANT to use deadly force against DECEDENT. DEFENDANTS failed to order any other DEFENDANT not to use deadly force against the DECEDENT, failed to intervene to stop the use of deadly force against DECEDENT.

60. Plaintiff 1, had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive his of life, liberty, or property in such a manner as to shock the conscience, including but not limited to unwarranted state interference in Plaintiff 1's familial relationship with his son, DECEDENT.

61. The aforementioned acts and omissions of DEFENDANTS shock the conscience, in that the DEFENDANTS acted with deliberate indifference to the constitutional rights of DECEDENT and PLAINTIFF, and with purpose to harm unrelated to any legitimate law enforcement objective.

62. DEFENDANTS also thus violated the substantive and procedural due process right of DECEDENT to be free from state actions that deprive life, liberty, or property in such a manner as to shock the conscience, including actions that constitute violations of Constitutional rights.

63. As a direct and proximate cause of the acts of DEFENDANTS, PLAINTIFF has suffered emotional distress. PLAINTIFF has also been deprived of the life-long love, companionship, comfort, support, guidance society, care, and moral support of DECEDENT, and will continue to be so deprived for the remainder of his natural life.

64. The conduct of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 was willful, wanton, malicious, and done with deliberate indifference for the rights and safety of DECEDENT and PLAINTIFF and therefore warrants the imposition of

exemplary and punitive damages as to DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5.

65. PLAINTIFF Plaintiff 1 seeks wrongful death damages under this claim in his individual capacity, and as successor-in-interest, for the violations of civil rights, including the interference with his familial relationship with DECEDENT. PLAINTIFF also seeks attorney's fees pursuant to 42 U.S.C. § 1988(b).

FOURTH CLAIM FOR RELIEF

Substantive and Procedural Due Process, Deliberate Indifference to Serious Medical Needs (42 U.S.C. § 1983)

By Plaintiff Plaintiff 1 Against DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOE DEFENDANTS 1-10

66. PLAINTIFF incorporates by reference each and every allegation in paragraphs 1 through 65 as if fully set forth herein.

67. PLAINTIFF had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive him of life, liberty, or property in such a manner as to shock the conscience.

68. The actions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, including the unjustified shooting of DECEDENT, along with other conduct of constitutional violations, shock the conscience, in that they acted with deliberate indifference to the constitutional rights of the DECEDENT and PLAINTIFF, and with purpose to harm unrelated to any legitimate law enforcement objective.

69. On December 18, 2021, DECEDENT was shot and killed by DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, who shot DECEDENT multiple times causing his death. At all times herein mentioned DECEDENT was denied reasonable medical care for his immediate mental and medical needs, by the acts and omissions of DEFENDANTS.

70. DEFENDANTS violated the PLAINTIFF'S rights under the Fourth Amendment when DECEDENT was shot and killed; and violated the PLAINTIFF'S rights under the Fourteenth Amendment to substantive and procedural due process because DEFENDANTS put DECEDENT in a position of danger by their actions, including by failing to provide medical care to DECEDENT despite DECEDENT's objectively serious mental health crisis. DEFENDANTS manifested deliberate indifference to DECEDENT'S mental health condition; and to the constitutional rights of PLAINTIFF; and by acts and omissions of DEFENDANTS who failed to provide proper care for a mentally ill man going through a crisis.

71. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 knew that DECEDENT was suffering from a mental health crisis, and DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 increased the danger by failing to provide mental health professionals for DECEDENT despite the fact that Plaintiff 2 [redacted] had informed ***all*** DEFENDANTS about DECEDENT's suicidal ideation; and failed to respond to Plaintiffs' requests for medical assistance for DECEDENT, who was having a severe mental crises, and was mentally ill. DEFENDANTS knew that failure to provide timely medical treatment for DECEDENT could result in further significant injury or the unnecessary and wanton infliction of pain, but disregarded that serious medical need, and also refused to permit medical care givers to access and care for DECEDENT at the scene prior to and after the incident.

72. Despite the foregoing facts, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 shot at DECEDENT multiple times, and DECEDENT was struck and was killed by DEFENDANTS. All DEFENDANTS participated in the use of force against DECEDENT by either directly using deadly force against DECEDENT, or ordering another DEFENDANT to use deadly force against DECEDENT. DEFENDANTS failed to order any other DEFENDANT not to use deadly force against the DECEDENT,

failed to intervene to stop the use of deadly force against DECEDENT, and failed to provide medical treatment.

73. DECEDENT had a cognizable interest under the Substantive Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive him of life, liberty, or property in such a manner as to shock the conscience, including actions that constitute deliberate indifference to serious medical needs, health, and safety, and from state actions that constitute violations of PLAINTIFF'S and DECEDENT'S constitutional right to prompt and adequate medical care. DEFENDANTS violated DECEDENT's constitutional right to prompt and adequate medical care by denying DECEDENT access to medical care and mental health professionals. DEFENDANTS put DECEDENT in a position of danger by their actions, including by impeding access to medical care. DEFENDANTS knew that DECEDENT was suffering from suicidal ideation and increased the danger by failing to respond properly and by escalating the situation in the language and manner in which they spoke to DECEDENT.

74. Plaintiff 1, had a cognizable interest under the Due Process Clause of the Fourteenth Amendment of the United States Constitution to be free from state actions that deprive his of life, liberty, or property in such a manner as to shock the conscience.

75. DEFENDANTS also thus violated the substantive and procedural due process right of DECEDENT to be free from state actions that deprive life, liberty, or property in such a manner as to shock the conscience, including actions that constitute deliberate indifference to serious medical needs, health, and safety, and actions that constitute violations of Constitutional rights to prompt and adequate medical care.

76. As a direct and proximate cause of the acts of DEFENDANTS, PLAINTIFF has suffered emotional distress. PLAINTIFF has also been deprived of the life-long love, companionship, comfort, support, guidance society, care, and moral support of DECEDENT, and will continue to be so deprived for the remainder of his natural life.

77. The conduct of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 was willful, wanton, malicious, and done with deliberate indifference for the rights and safety of DECEDENT and PLAINTIFF and therefore warrants the imposition of exemplary and punitive damages as to DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5.

78. PLAINTIFF Plaintiff 1 seeks wrongful death damages under this claim in his individual capacity, and as successor-in-interest, for the violations of civil rights. PLAINTIFF also seeks attorney's fees pursuant to 42 U.S.C. § 1988(b).

FIFTH CLAIM FOR RELIEF

Municipal Liability – Ratification (42 U.S.C. § 1983)

Against Defendant CITY and DOES 6-10

79. PLAINTIFF incorporates by reference each and every allegation in paragraphs 1 through 78 as if fully set forth herein.

80. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 acted under color of law.

81. The acts and omissions DEFENDANTS deprived DECEDENT and PLAINTIFF of their constitutional rights under the United States Constitution.

82. Upon information and belief, DEFENDANT DOES 6-10 are final policymakers and/or supervisory officers, acting under color of law, and who had final policymaking authority concerning the acts of JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-10, and have ***ratified***, and have specifically ***approved***, the acts and omissions of JOSE ZAVALA, JULIO QUINTANILLA and DOE 1-5, and the basis for the acts and omissions. Defendant CITY of LOS ANGELES, and DEFENDANT DOES 6-10, final policymakers, have ***ratified***, and have specifically ***approved***, the acts and omissions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5.

83. Defendant CITY and DOES 6-10, final policymakers and supervisory officers, have determined that the acts and omissions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA AND DOES 1-5 were "within policy" of the LOS ANGELES POLICE DEPARTMENT Policy Manual.

84. Because DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, were not disciplined, reprimanded, retrained, suspended, have not suffered any administrative consequences, have not suffered any adverse employment consequences, or otherwise penalized in any way in connection with DECEDENT's death, the Defendant CITY of LOS ANGELES, and DOES 6-10, final policymakers, have ***ratified***, and have specifically ***approved***, of the acts and omissions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5.

85. Defendant CITY of LOS ANGELES, and DEFENDANT DOES 6-10 manifested deliberate indifference with regard to the excessive use of deadly force, and the denial of medical care for DECEDENT, and deliberate indifference to DECEDENT's serious medical needs. PLAINTIFF has suffered the loss of the love, companionship, affection, comfort, care, society, training, guidance, and moral support of DECEDENT.

86. Defendants CITY of LOS ANGELES and DOES 6-10, are each liable to PLAINTIFF for compensatory damages under 42 U.S.C. § 1983.

87. PLAINTIFF seeks wrongful death damages for the violation of PLAINTIFF and DECEDENT's rights under this claim. PLAINTIFF also seeks attorney's fees under this claim pursuant to 42 U.S.C. § 1988(b).

SIXTH CLAIM FOR RELIEF

Municipal Liability – Failure to Train (42 U.S.C. § 1983)

Plaintiff Plaintiff 1 **Against the CITY**

88. PLAINTIFF incorporates by reference each and every allegation in paragraphs 1 through 87 as if fully set forth herein.

89. At all times herein mentioned, Defendants JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 acted under color of law and the acts and omissions of Defendants JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 deprived DECEDENT and PLAINTIFF of their Constitutional rights under the United States Constitution. The training policies of Defendant CITY and Defendant DOES 6-10 were not adequate to properly train Police Department Officers to handle the usual and recurring situations in their interactions with residents, including responding to calls involving mentally ill people, responding to calls and interacting with people who display symptoms of mental illness. The training policies of Defendant CITY were not adequate to properly train Police Department Officers with regard to the use of deadly force, the permissible use of deadly weapons, and protecting the rights of persons to medical care during in the course of detaining individuals.

90. The unjustified and excessive use of deadly force against DECEDENT by JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 was a result of the negligent training by Defendant CITY who failed to train Police Department Officers, such as DOES-10 as to ***proper police tactics***, proper use of force, proper use of deadly force, and proper police tactics in the use of force with respect to mentally ill individuals. Defendant CITY were responsible for the training of Police Department Officers to ensure that the actions, procedures, and practices of JOSE ZAVALA, JULIO QUINTANILLA AND DOES 1-5 complied with Peace Officer Standards and Training (POST) training standards regarding proper police tactics, proper use of force, and proper use of deadly force.

91. Defendant CITY negligently failed to train CITY Los Angeles Police Officers, such as JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, to comply with POST training standards regarding proper police tactics, proper use of force, proper use of deadly force, and proper police tactics when dealing with mentally ill individuals. POST was established by the California Legislature in 1959 to set minimum training standards for California Los Angeles Police Officers. The training policies of Defendant CITY were not

adequate to train its Los Angeles Police Officers to handle the usual and recurring situations with residents and pretrial detainees that JOSE ZAVALA, JULIO QUINTANILLA and DOES 1 through 5 have contact with.

92. The training policies of Defendant CITY were deficient in the following:

(a) Defendant CITY failed to properly train Los Angeles CITY Los Angeles Police Officers, such as JOSE ZAVALA, JULIO QUINTANILLA and DOES 1 through 5, to ***de-escalate*** interactions with residents or mentally ill individuals, so that Los Angeles Police Officers do not ***escalate*** their interactions with residents, or with mentally ill individuals, and do not overreact and resort to use of deadly force when the use of force was not necessary. Instead, JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 escalated their interactions with DECEDENT who was mentally ill and had suicidal ideation.

(b) Defendant CITY failed to properly train Los Angeles CITY Los Angeles Police Officers, such as JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, to not permit fear to reach the point of becoming ***unreasonable fear***, and not objectively reasonable, which would result in the use of deadly force by DOES 1-5 and would cause the death of residents, or mentally ill persons such as DECEDENT.

(c) Defendant CITY failed to properly train Los Angeles CITY Los Angeles Police Officers, such as JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, to properly and ***adequately assess*** the need to use force against persons such as DECEDENT, who have a mental illness.

(d) Defendant CITY failed to properly train CITY Los Angeles Police Officers, such as JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, in proper police tactics, such as ***situational awareness***, so that Los Angeles Police Officers, such as DOES 1-5, do not utilize negligent tactics, which is what JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 did in this case. Because of this lack of proper training by Defendant JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5 did not use proper police tactics in the handling of their contact and interaction with DECEDENT. JOSE ZAVALA, JULIO

QUINTANILLA and DOES 1-10 used ***defective*** police tactics, including the lack of a ***situational awareness*** by JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5. These training failures by Defendant CITY, and ***defective*** tactics by JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5, resulted in the death of DECEDENT.

(e) Defendant CITY failed to properly train CITY of LOS ANGELES Los Angeles Police Officers, such as JOSE ZAVALA, JULIO QUINTANILLA and DOES 1 through 5, the importance of ***effective communication*** between officers prior to using any type of force.

(f) Because of the lack of proper training by CITY of Officers JOSE ZAVALA, JULIO QUINTANILLA and DOES 1 through 5, did not use effective communication prior to and during the use of force against DECEDENT. This ***ineffective*** communication of information by JOSE ZAVALA, JULIO QUINTANILLA and DOES 1 through 5, prior to and during the incident, resulted in the death of DECEDENT, causing constitutional injuries to DECEDENT and PLAINTIFF.

93. The failure of Defendant CITY to provide proper training to its Police Officers caused the deprivation of PLAINTIFF'S rights by Defendants JOSE ZAVALA, JULIO QUINTANILLA and DOES 1-5. Defendant CITY's failure to train is so closely related to the deprivation of the PLAINTIFF'S rights as to be the moving force that caused the ultimate injuries to PLAINTIFF.

94. The training policies of the CITY were not adequate to train its deputy Sheriff's to handle the usual and recurring situations with which they must deal with, including mentally ill persons, such as DECEDENT herein. Defendant CITY was deliberately indifferent to the obvious consequences of its failure to properly train its

Police officers.

95. The failure of the CITY to provide adequate training to its officers caused the deprivation of PLAINTIFF'S rights by JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5; the CITY'S failure to train is so closely related to the deprivation of

DECEDENT and PLAINTIFF'S rights as to be the moving force that caused the ultimate constitutional injuries to PLAINTIFF.

96. The Defendant CITY failed to train JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5 properly and adequately. Moreover, the CITY failed to properly train its CRSS's, MEU's, SMART and Police Department Officers with respect to the use of excessive force, communication, and improper seizure, and also with respect to handling situations with the mentally ill

97. By reason of the aforementioned acts and omissions of all the Defendants, and Defendant CITY, PLAINTIFF has suffered loss of the love, companionship, affection, comfort, care, society, training, guidance, and moral support of DECEDENT. The aforementioned acts and omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life, and death.

98. Accordingly, Defendants CITY JOSE ZAVALA, JULIO QUINTANILLA and DOES 1 through 5, each are liable to the PLAINTIFFS for compensatory damages under 42 U.S.C. § 1983. PLAINTIFF bring these claims as DECEDENT's successors-in-interest as defined in Section 377.11 of the California Code of Civil Procedure and seek survival damages for the violation of DECEDENT's rights. PLAINTIFFS also seek reasonable attorneys' fees pursuant to 28 U.S.C. § 1988, costs, and interest.

SEVENTH CLAIM FOR RELIEF

Municipal Liability – Unconstitutional Policy, Practice, or Custom

(42 U.S.C. § 1983)

By Plaintiff 1 **Against the CITY of LOS ANGELES and DOES 6-10**

99. PLAINTIFF incorporates by reference each and every allegation contained in paragraphs 1 through 98 as if fully set forth herein.

100. The acts of JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5 that deprived DECEDENT and PLAINTIFF of their constitutional rights under the Fourth and Fourteenth Amendments as set forth above and were done

pursuant to a widespread and longstanding practice or custom of Defendant CITY which condones, ratifies, and acquiesces in the excessive use of deadly force by Los Angeles Police Officers. DOE DEFENDANTS 1-5 caused the deprivation of the Plaintiff's constitutional rights, and Decedent's constitutional rights, pursuant to this longstanding practice or custom of Defendant CITY. The CITY's widespread and longstanding practice or custom is so closely related to the deprivation of the Plaintiff's rights as to be the moving force that caused the Decedent's death.

101. Pursuant to the CITY's widespread and longstanding practice or custom, which condones, ratifies, and acquiesces in the excessive use of deadly force by Los Angeles Police Officers, JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5, were not disciplined, reprimanded, retrained, or suspended, have not suffered any administrative consequences, and have not suffered any adverse employment consequences, or were otherwise penalized in any way in connection with DECEDENT's death.

102. Defendants CITY and DOES 6 through 10, together with other CITY final policymakers and supervisors, maintained, *inter alia*, the following unconstitutional customs, practices, and policies:

(a) The use of excessive force, including excessive deadly force, by CITY Los Angeles Police Officers, when there is no need for deadly force, or where there is no imminent threat to Los Angeles Police Officers.

(b) The CITY's failure to provide adequate training regarding the use of force, and the use of deadly force.

(c) The CITY's employing and retaining as Los Angeles Police Officers and individuals such as Officers JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5, whom the CITY at all times herein knew or reasonably should have known, had dangerous propensities for abusing their authority and for using excessive deadly force.

(d) The CITY's inadequately supervising, training, controlling, assigning, and disciplining CITY OF LOS ANGELES officers, including JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5, whom the CITY knew or in the exercise of reasonable care should have known had the aforementioned propensities and character traits.

(e) The CITY's maintaining grossly inadequate procedures for reporting, supervising, investigating, reviewing, disciplining and controlling misconduct by CITY Officers.

(f) The CITY's failures to adequately discipline CITY Los Angeles Police Officers, including JOSE ZAVALA, JULIO QUINTANILLA and DOE DEFENDANTS 1-5, for the above-referenced categories of misconduct, including "slap on the wrist" discipline that is so slight as to be out of proportion to the magnitude of the misconduct, and other inadequate discipline that is tantamount to encouraging misconduct.

(g) The CITY's custom and practice of concluding that acts of excessive use of force are "within policy" including use of deadly force instances that were later determined in court to be unconstitutional, and/or excessive use of force.

(h) Even where a CITY officer use of force is determined in court to be unconstitutional, and/or excessive use of force, the CITY has refused to discipline, terminate, or retrain the Officers involved.

(i) The CITY's custom and practice of accommodating, or facilitating a "code of silence," pursuant to which Los Angeles Police Officers do not report other Officers' errors, misconduct, or crimes. Pursuant to this code of silence, if questioned about an incident of misconduct involving another deputy, while following the code, the deputy being questioned will claim ignorance of the other deputy's wrongdoing.

(j) The CITY's maintaining a policy of inaction and an attitude of indifference towards soaring numbers of instances of use excessive force by Los Angeles Police

Officers, including by failing to discipline, retrain, investigate, terminate, and recommend officers for criminal prosecution who use excessive force against unarmed people.

(k) The CITY's custom and practice of providing inadequate training regarding handling situations with the mentally ill persons and failing to provide adequate training in compliance with Welfare and Institutions Code § 5150 and 5158.

103. Defendants CITY and DOES 6-10, together with various other CITY officials, and final policy makers, had either actual or constructive knowledge of the unconstitutional policies, practices and customs alleged in the paragraphs above. The Defendants CITY and DOES 6-10 acted with deliberate indifference to the foreseeable effects and consequences of these customs and policies with respect to the constitutional rights of DECEDENT, Plaintiff, and other individuals similarly situated.

104. The following are only a few examples of constitutional violations committed by Los Angeles Police Department Officers working for Defendant CITY. These examples demonstrate the unconstitutional customs and practices of using excessive force against unarmed civilians, ratifying that use of deadly force, and/or finding the use of deadly force to be justified or "within policy."

a) (a) In *Contreras v. City of Los Angeles*, case number 2:11-cv-01480-SVW (SHx)), the CITY argued that the use deadly force against Mr. Contreras by LAPD officers was reasonable; a unanimous jury disagreed, awarding Mr. Contreras $5,700,000 after finding that the involved officers used excessive and unreasonable force when they shot an unarmed Mr. Contreras. Police reports confirmed that Mr. Contreras was unarmed. In that case, the involved officers were not disciplined or retrained for their use of deadly force, and the CITY found that the shooting was justified and did not violate any CITY policy.

b) In *P.C., et al. v. City of Los Angeles*, case number CV 07-3413 PLA, the CITY argued that the involved LAPD officers' use of force was reasonable; a unanimous jury disagreed, awarding the plaintiffs a total of $3,215,000 after finding that the involved officers' use of force was excessive and unreasonable. In that case, the involved officers were not disciplined or retrained for their use of deadly force, and the CITY found that the shooting was justified and did not violate any CITY policy.

c) In *Cano, et al. v. City of Los Angeles*, case number 2:15-cv-00333-JAK-E, currently pending in the United States District Court for the Central District of California, the family of an unarmed man (David Martinez) who was shot and killed by LAPD Rampart officers alleges that the force used by the officers was excessive and unreasonable. Police reports confirm that Mr. Martinez was unarmed at the time of the shooting. In that case, the involved officers were not disciplined or retrained for their use of deadly force, and the CITY found that the shooting was justified and did not violate any CITY policy.

105. The aforementioned cases establish a ***pattern*** of excessive use of force by Los Angeles Police Department Officers, and the unconstitutional custom, and practice of the CITY in ***ratifying*** the excessive use of force by Los Angeles Police Department Officers, as evidenced by the number of prior cases involving the use of deadly force by Los Angeles Police Department Officers working for the Police Department.

106. The CITY's longstanding practice or custom caused the deprivation of DECEDENT and PLAINTIFF's rights by DEFENDANTS; that is, the CITY's official policy condoning excessive force against mentally ill people is so closely related to the deprivation of the DECEDENT's and PLAINTIFF'S rights in this case as to be the moving force that caused DECEDENT's death.

107. The CITY, and DOE DEFENDANTS 6-10, together with various other CITY officials with final policy making authority, had either actual or constructive knowledge of the unconstitutional policies, practices and customs alleged in the paragraphs above.

108. The CITY, and DOE DEFENDANTS 6-10, also acted with deliberate indifference to the foreseeable effects and consequences of these policies with respect to the constitutional rights of DECEDENT, PLAINTIFF, and other individuals similarly situated.

109. By perpetrating, sanctioning, and ratifying the unconstitutional violations and other wrongful acts, The CITY, and DOE DEFENDANTS 6-10 acted with deliberate indifference for the life of DECEDENT, and for DECEDENT's and PLAINTIFF'S constitutional rights. Furthermore, the policies, practices, and customs implemented, maintained, by all of the DEFENDANTS were affirmatively linked to and were the driving force for the constitutional injuries of DECEDENT and the PLAINTIFF.

110. By reason of the aforementioned acts and omissions, the Plaintiff has suffered the loss of the love, companionship, affection, comfort, care, society, training, guidance, and moral support of DECEDENT. The aforementioned acts and omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life, and death.

111. Accordingly, each DEFENDANT is liable to PLAINTIFF for compensatory damages under 42 U.S.C. § 1983.

112. PLAINTIFF bring his claim individually and as successors in interest to DECEDENT, and seek wrongful death damages under this claim. PLAINTIFF also seek attorney's fees under this claim pursuant to 42 U.S.C. § 1988(b).

EIGHTH CLAIM FOR RELIEF

Negligence – Wrongful Death

By Plaintiff 1 Against ALL DEFENDANTS

113. PLAINTIFF repeats and re-alleges each and every allegation in paragraphs 1 through 112 of this complaint with the same force and effect as if fully set forth herein.

114. Los Angeles Police Department Officers, including DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, have a duty to use reasonable care to prevent harm or injury to others. This duty includes using appropriate tactics, giving appropriate commands, giving warnings, not using unnecessary force, using less than lethal options, and only using deadly force as a last resort.

115. DEFENDANTS breached this duty of care. The actions and inactions of Defendant DOES 1 through 5 were negligent and reckless.

116. DEFENDANTS CITY and DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-10 knew that by acting as sworn officers under color of law, they were charged with ensuring the safety and well-being of Decedent. Defendants CITY and DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-10 had the duty to protect and ensure the safety of residents, such as Decedent, including but not limited to:

(a) the failure to properly and adequately assess the need to detain, arrest, restrain, and use force or deadly force against DECEDENT;

(b) the negligent tactics and handling of the situation with DECEDENT, including negligence occurring immediately prior to the use of force, and negligent tactics in handling a situation with a mentally ill person;

(c) the negligent detention, arrest, and use of force, including deadly force, against DECEDENT;

(d) the failure to provide prompt medical care to DECEDENT;

(e) the failure to properly train and supervise employees, both professional and non-professional, including DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-10;

(f) the failure to ensure that adequate numbers of employees with appropriate education and training were available to meet the needs of and protect the

rights of DECEDENT, including DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-10;

(g) the negligent handling of evidence and witnesses; and

(h) the negligent communication of information during the incident.

117. As a direct and proximate result of DEFENDANTS' conduct as alleged above, and other undiscovered negligent conduct, DECEDENT was caused to suffer severe pain and suffering and ultimately died.

118. Also as a direct and proximate result of DEFENDANTS' conduct as alleged above, PLAINTIFF suffered emotional distress and mental anguish. PLAINTIFFS also has been deprived of the life-long love, companionship, comfort, support, society, care and moral support of DECEDENT, and will continue to be so deprived for the remainder of his natural life.

119. The CITY of LOS ANGELES is vicariously liable for the wrongful acts of all the DEFENDANTS pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

120. PLAINTIFF bring this claim both individually and as successor in interest of DECEDENT, and seek wrongful death damages.

NINTH CLAIM FOR RELIEF

Battery – Wrongful Death

By Plaintiff 1 Against ALL DEFENDANTS

121. PLAINTIFF repeats and re-alleges each and every allegation in paragraphs 1 through 120 of this complaint with the same force and effect as if fully set forth herein.

122. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, while working for the LOS ANGELES POLICE DEPARTMENT, and acting within the course and scope of their employment and duties as Los Angeles Police Department Officers, intentionally shot DECEDENT, thereby using unreasonable and excessive force

against him. As a result of the actions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 DECEDENT suffered severe pain and suffering and ultimately died from his injuries. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 had no legal justification for using force against DECEDENT, and their use of force while carrying out their duties as Los Angeles Police Department Officers was an unreasonable and non-privileged use of force.

123. Each of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 integrally participated or failed to intervene in the use of force.

124. As a result of the Officers' excessive use of force, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-10 are liable for DECEDENT's injuries, either because they were integral participants in the wrongful excessive use of force, or because they failed to intervene to prevent these violations.

125. The CITY of LOS ANGELES is vicariously liable for the wrongful acts of all the DEFENDANTS pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

126. As a direct and proximate result of the acts and omissions of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 as alleged above, DECEDENT died and PLAINTIFF has suffered the loss of the love, companionship, affection, comfort, care, society, training, guidance, and moral support of DECEDENT.

127. The conduct of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 was malicious, wanton, oppressive, and accomplished with a conscious disregard for the rights of PLAINTIFF and DECEDENT, entitling PLAINTIFF, individually and as successor-in-interest to DECEDENT, to an award of damages as to all DEFENDANTS.

128. PLAINTIFF brings his claim individually and as a successor in interest to DECEDENT, and each also seeks wrongful death damages under this claim.

TENTH CLAIM FOR RELIEF

Negligent Infliction of Emotional Distress

By ALL PLAINTIFFFS Against DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, AND DOES 1-10

129. PLAINTIFFS repeat and re-allege each and every allegation in paragraphs 1 through 128 of this complaint with the same force and effect as if fully set forth herein.

130. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 negligently caused physical injury and death to DECEDENT when DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 discharged their firearms at DECEDENT, striking him with multiple bullets and killing DECEDENT. The use of deadly force by DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 was excessive and unreasonable, and DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 were negligent in discharging their firearms at DECEDENT, including pre-shooting negligent conduct, actions, omissions, including negligent police tactics.

131. [redacted] was present at the scene, which is her residence, and contemporaneously heard, when DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 fatally discharged their firearms at DECEDENT and [redacted] was aware that DECEDENT, his son, was being killed.

132. [redacted] was present at the scene, which is her residence, and contemporaneously witnessed, when DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 fatally discharged their firearms at DECEDENT and [redacted] was aware that DECEDENT, her brother, was being killed.

133. [redacted] was present at the scene, which is his residence, and contemporaneously heard when DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 fatally discharged their firearms at DECEDENT and [redacted] was aware that DECEDENT, his brother, was being killed.

134. Plaintiff 4 was present at the scene, which is her residence, and contemporaneously heard, when DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 fatally discharged their firearms at DECEDENT and Plaintiff 4 was aware that DECEDENT, her brother, was being killed.

135. As a result of being present at the scene and perceiving their brother and son, DECEDENT, being fatally shot by DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1 to 5, Plaintiff 1, Plaintiff 2, Plaintiff 3, AND Plaintiff 4 suffered serious emotional distress, including but not limited to, suffering anguish, fright, horror, nervousness, grief, anxiety, worry, shock, humiliation, and shame.

136. On information and belief, any ordinary reasonable person would be unable to cope with seeing their brother fatally shot multiple times by police officers, especially at their own residence.

137. The CITY is vicariously liable for the wrongful acts of all the DEFENDANT OFFICERS, inclusive, pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

138. PLAINTIFFS bring this claim individually and seek damages under this claim as individuals.

ELEVENTH CLAIM FOR RELIEF

Violation of Cal. Civil Code § 52.1 (the Bane Act)

By Plaintiff 1 Against All DEFENDANTS

139. PLAINTIFF repeats and re-alleges each and every allegation in paragraphs 1 through 138 of this complaint with the same force and effect as if fully set forth herein.

140. California Civil Code, Section 52.1 (the Bane Act), prohibits any person from using violent acts or threatening to commit violent acts in retaliation against another person for exercising that person's constitutional rights.

141. California Civil Code, Section 52.1 (the Bane Act), applies to this complaint with the same force and effect as fully set forth herein:

> (a) If a person or person, whether or not acting under color of law, interferes by threat, intimidation, or coercion, or attempts to interfere by threat, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals or rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state...a civil action for injunctive and other appropriate equitable relief may be brought.

142. Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of this state, has been interfered with, as described in subdivision (a), may institute and prosecute in his name and on his own behalf a civil action for damages, including but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the rights secured, including appropriate equitable and declaratory relief to eliminate a pattern or practice of conduct as described in subdivision (a).

143. The California Civil Code, Section 52.1(b) authorizes a private right of action for damages to any person whose constitutional rights are violated. Also, "a successful claim for excessive force under the Fourth Amendment provides the basis for a successful claim under § 52.1." *Chaudhry v. City of Long Beach.*, 751 F.3d 1096, 1105-06 (9th Cir. 2014); citing *Cameron v. Craig*, 713 F.3d 1012, 1022 (9th Cir. 2013) ("[T]he elements of the excessive force claim under § 52.1 are the same as under § 1983."); *Bender v. CITY of L.A.*, 217 Cal.App. 4th 968, 976 (2013) ("an unlawful [seizure]…when accompanied by unnecessary, deliberate and excessive force…is within the protection of the Bane Act").

144. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 violated DECEDENT's constitutional rights by using excessive force, whose acts of unreasonable

force were done intentionally, and with a reckless disregard for his constitutional rights and for his life. *Reese v. Cnty. of Sacramento*, 888 F.3d 1030, 1044-1045 (9th Cir. 2018)

145. Also as alleged above, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 unjustly shot DECEDENT at a time when DECEDENT posed no threat of death or serious bodily injury to any person. On information and belief, DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, while working for the CITY and acting within the course and scope of their duties, intentionally committed and attempted to commit acts of violence against DECEDENT, including by shooting him without justification or excuse, by integrally participating and failing to intervene in the above violence, and by denying necessary medical care.

146. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 violated PLAINTIFFS' rights under the Fourteenth Amendment to substantive and procedural due process when they put DECEDENT in a position of danger by their actions, including by impeding access to medical care. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 knew that DECEDENT was suffering a paranoid ideation, and was mentally ill. DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 increased the danger by failing to respond to the requests of PLAINTIFFS for medical assistance for DECEDENT, who was suffering from a mental illness when DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 killed DECEDENT.

147. When DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 unnecessarily shot the DECEDENT with multiple bullets, this caused the DECEDENT to suffer the ill effects of being shot. This act perpetrated against an unarmed and a mentally ill individual by the DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 interfered with DECEDENTS' civil rights to be free from unreasonable searches and seizures, to due process, to equal protection of the laws,

to medical care, to be free from state actions that shock the conscience, and to life, liberty, and property.

148. On information and belief, DEFENDANTS intentionally and spitefully committed the above acts to discourage DECEDENT from exercising his civil rights, to retaliate against him for invoking such rights, or to prevent him from exercising such rights, which he was fully entitled to enjoy.

149. On information and belief, DECEDENT reasonably believed and understood that the violent acts committed by DEFENDANTS were intended to discourage him from exercising the above civil rights, to retaliate against him for invoking such rights, or to prevent him from exercising such rights because of DECEDENT's Latino ancestry.

150. The conduct of DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5 was a substantial factor in causing the harm, losses, injuries, and damages of DECEDENT and PLAINTIFFS.

151. The CITY of LOS ANGELES is vicariously liable for the wrongful acts of all the DEFENDANTS, including DEFENDANTS JOSE ZAVALA, JULIO QUINTANILLA, and DOES 1-5, pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's acts would subject him or her to liability.

152. DEFENDANTS successfully interfered with the above civil rights of DECEDENT and PLAINTIFF.

153. The conduct of DEFENDANTS was a substantial factor in causing PLAINTIFF'S harms, losses, injuries, and damages.

154. The CITY is vicariously liable, under California law and the doctrine of respondeat superior, for the acts and omissions of DEFENDANTS and DOES 1-10.

155. The conduct of DEFENDANTS was a substantial factor in causing the harm, losses, injuries, and damages of PLAINTIFF. PLAINTIFF seekS wrongful death damages

under this claim in his individual capacity and as a successor-in-interest to DECEDENT. PLAINTIFF also seek costs and attorney fees under this claim pursuant to Civ. Code, § 52.1(h).

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS request entry of judgment in their favor and against All DEFENDANTS, inclusive, as follows:

A. For compensatory damages, for the wrongful shooting of DECEDENT, damages for Plaintiffs under federal and state law, in the amount to be proven at trial;

B. For interest;

C. For other general damages in an amount according the proof at trial;

D. For other non-economic damages in an amount according the proof at trial;

E. For other special damages in an amount according to proof at trial;

F. For reasonable costs of this suit;

G. Attorney's fees pursuant to 42 U.S.C. § 1988;

H. Attorney's fees and costs pursuant to California Civil Code, Section 52.1(h). (The Bane Act).

I. For such further other relief as the Court may deem just, proper, and appropriate.

Dated: October 17, 2022

CARRILLO LAW FIRM, LLP
LAW OFFICES OF DALE K. GALIPO

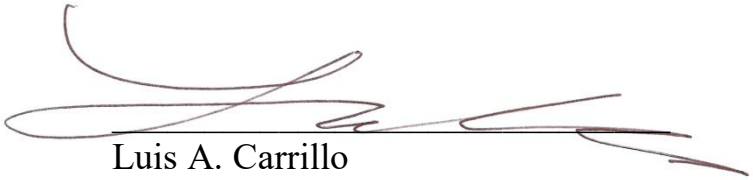
Luis A. Carrillo
Michael S. Carrillo
Attorneys for PLAINTIFFS

DEMAND FOR JURY TRIAL

The PLAINTIFFS named herein hereby demand a trial by jury.

Dated: October 17, 2022

CARRILLO LAW FIRM, LLP
LAW OFFICES OF DALE K. GALIPO



Luis A. Carrillo
Michael S. Carrillo
Attorneys for PLAINTIFFS

LOS ANGELES POLICE DEPARTMENT
Force Investigation Division

In the Matter of:	)	
Officer Involved Shooting	)	**DR No.**
Transcription of Taped Interview	)	**FID No. 064-21**
Of Police Officer Quintanilla	)	**Tape No. Quintanilla**
	)	

TRANSCRIPTION OF TAPE-RECORDED INTERVIEW OF

POLICE OFFICER JULIO QUINTANILLA

Transcribed by:
Kelly Sully
CSR No. 13501

Job Number:
TP97024

LOS ANGELES POLICE DEPARTMENT

Tape No. Quintanilla

DETECTIVE BROWN: Today is Sunday, December 19th, 2021. The time is now 0300 hours. I'm Detective Tom Brown, B-r-o-w-n, serial number 34045. I'm assigned to Force Investigation Division. I'm here at Newton Station to interview Police Officer II Julio Quintanilla.

Sir, could I have you say and spell your name and provide your serial number?

POLICE OFFICER QUINTANILLA: Officer Julio Quintanilla. First name J-u-l-i-o. Last name Q-u-i-n-t-a-n-i-l-l-a. And serial number is 42454.

DETECTIVE BROWN: And this is regarding an officer involved shooting incident that occurred in the area of [redacted] Home Address on 12/18/21 at approximately 1710 hours. This interview is being digitally recorded.

Also present are --

DETECTIVE GRABE: Detective Tim Grabe, T-i-m G-r-a-b-e, serial number 32649 from FID.

ATTORNEY WILCOX: Leslie Wilcox, W-i-l-c-o-x, on behalf of Officer Quintanilla.

ATTORNEY ELLIS: Jenna Ellis, E-l-l-i-s, attorney observer.

DETECTIVE BROWN: And, Officer Quintanilla, has everybody in the room been identified for the tape?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE BROWN: And before we begin the interview, will you provide a voluntary statement?

POLICE OFFICER QUINTANILLA: No.

DETECTIVE BROWN: Since you declined to provide a voluntary statement, I must read you the following: The entire investigation concerning this incident, including the digitally recorded interview, is classified as confidential by the Chief of Police.

Do you understand?

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE BROWN: And as a supervisor for the Los Angeles Police Department and as authorized by the Chief of Police, I want to inform you that your silence could be deemed as insubordination and could lead you to administrative discipline, which could result in your discharge or removal from office, and that any statement made under the threat of the compulsion -- or under the compulsion of the threat of such discipline cannot be used against you in any subsequent criminal proceedings.

Do you have any questions?

POLICE OFFICER QUINTANILLA: If I refuse to answer your questions, will I be subject to discipline that could be as much as discharge or removal from office?

DETECTIVE BROWN: Yes.

POLICE OFFICER QUINTANILLA: For those reasons and those reasons alone, I will give you a statement. I'm not waiving any of my constitutional rights, and I am asserting of all my rights under the Public Safety Officer Procedural Bill of Rights Act.

However, I will cooperate with the criminal investigation arising out of the incident because case law and the LAPD manual require me to do so upon pain of being charged with insubordination resulting in possible termination.

I also demand that prior to this interrogation, I be allowed to view audio -- any audio or video recordings pertaining to this incident that you do not deem to be confidential.

DETECTIVE BROWN: Okay. So noted. Now at this time I'll order you to provide a statement and answer questions in the matter. We did review your body-worn video before the beginning of this interview?

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE BROWN: Okay. And we did not review your digital in-car. Did you watch any department video, body-worn, digital in-car without FID present?

POLICE OFFICER QUINTANILLA: No.

DETECTIVE BROWN: Okay. Have you seen any news broadcasts, social media, any other type of broadcast about this incident?

POLICE OFFICER QUINTANILLA: No.

DETECTIVE BROWN: What was your start of watch yesterday?

POLICE OFFICER QUINTANILLA: 1400.

DETECTIVE BROWN: 1400?

POLICE OFFICER QUINTANILLA: That's when I started, yeah.

DETECTIVE BROWN: And approximately what time did you wake up yesterday?

POLICE OFFICER QUINTANILLA: 7:30.

DETECTIVE BROWN: 7:30 a.m.?

POLICE OFFICER QUINTANILLA: A.m.

DETECTIVE BROWN: And approximately how many hours sleep did you get?

POLICE OFFICER QUINTANILLA: Six.

DETECTIVE BROWN: Six? Okay. Is there any issues with sleep deprivation? Can you do the interview right now?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE BROWN: Okay. A little bit of background information from you. How long have you been with the department?

POLICE OFFICER QUINTANILLA: Going on six years in February.

DETECTIVE BROWN: And how long have you been assigned to Newton?

POLICE OFFICER QUINTANILLA: I've been here about four and a half years.

DETECTIVE BROWN: And your current assignment?

POLICE OFFICER QUINTANILLA: I work for the Gang Enforcement Detail.

DETECTIVE BROWN: And how long have you been assigned to the Gang Enforcement Detail?

POLICE OFFICER QUINTANILLA: Two years.

DETECTIVE BROWN: Two years? And your partner on this particular date was?

POLICE OFFICER QUINTANILLA: Officer Zavala.

DETECTIVE BROWN: Zavala. And how long -- or how often have you been partnered with Officer Zavala?

POLICE OFFICER QUINTANILLA: On and off two years. Since I've been up here on and off.

DETECTIVE BROWN: Okay. And who's your supervisor in that unit?

POLICE OFFICER QUINTANILLA: [redacted].

DETECTIVE BROWN: Okay. Did you discuss tactics with your partner or do you regularly discuss tactics?

POLICE OFFICER QUINTANILLA: Yes, sir. We discuss tactics every day. We do it as a unit in roll call and we do it once we get in the vehicle. We start talking about tactics, contact, cover, and we go over scenarios every day.

DETECTIVE BROWN: Okay. And do you guys, as partners, do you set up your tactical roles for the day?

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE BROWN: And did you have particular roles set for today?

POLICE OFFICER QUINTANILLA: He was going to be contact, the driver. I was going to be cover.

DETECTIVE BROWN: Okay. What I'd like to do at this time is just open it up to -- in a narrative form have you tell us what brought you there, what you heard and saw with as much detail as possible, what activities you engaged in, your use of force, and then we'll go back and ask some clarification questions, if need be.

POLICE OFFICER QUINTANILLA: Yes, sir. So today at start of watch right off the bat, the sergeant had

told us that watch five had banged in. So we were short already with bodies for the -- for our division and that they needed help with picking up radio calls, because the division was full of them already.

So, you know, we said good to go. We're going to go ahead and handle that in the box today. I talked to my partner about it. We went to log in and sure enough we already had a call in our stack ready to go. So my partner and I fuelled up -- fuelled up, packed our stuff in the car and we headed out to our first code two call.

After that we went to another code two call that we had. We handled that as well, no issues. I believe it was the third call that it was going to be somewhere around Broadway and 58 that we're heading when we heard this radio call come out, which was -- I believe it came out as a suicide suspect or suicide investigation, I think.

So at the time we're heading still southbound towards our radio call and at which time we hear Sergeant on the radio responding to the -- to the location. Obviously knowing that he's the only sergeant that was going to be taking care of the division for a while until the other watch came down, we decided we're going to go ahead and back him.

So we got on the radio. I let the RTO know that we're going to go and respond and back that unit up. When we're driving to that location, my partner and I are going over tactics. We're going just -- we'll go over there. And when we're driving out there, the RTO puts out that the same suspect is now running. He was chasing civilians with a butcher knife in an attempt to harm them.

So that -- at that point my partner and I started discussing tactics. Okay, you know, you're contact, cover. We're going to get there and we'll see what we have. So we arrive at scene. Right when we were arriving, we see [redacted]. He's by himself. I believe he's making contact with the suspect.

The suspect was already -- the suspect was sitting down in the stairway and we go -- we go code six there to the location. My partner right away, he requests an RA due to the suspect having a butcher knife in his hand and not knowing, you know, what was going to happen next at the time.

When I came out the vehicle, I took my firearm out because based on the tactical situation and just by the radio call saying that he had a butcher knife and he was chasing people in an attempt to hurt them. I believe that, you know, it could escalate to the

point where deadly force may be justified, so I drew my firearm out.

At that time we began to give commands to the suspect who was sitting there at the time with this big ol' butcher knife and, you know, there was civilians around the area too. So, you know, we wanted to make sure that he wouldn't go and chase other civilians, because he was -- he had already done that.

So at that time we began to -- we began to communicate with him. We began to -- we had a little plan. We start -- [redacted] started yelling out, you know, "Hey, I got less lethal here. You go over there." He assigned me as cover or lethal -- lethal officer. So right away I was like roger that.

And at that time we continued to -- we began to use our other resources, which was we requested an airship, a backup. My partner put out the backup and my partner actually put out the RA request at the time as well when we got there.

The whole time I was still on the suspect just making sure that he doesn't come towards us or goes and tries to harm anyone. I began talking to the suspect. Well, first [redacted] starts talking to him in English, giving him commands to put the knife

down, to cooperate, to comply.

I noticed that he's not really responding to it. He seemed a little -- kind of like if he was under the influence of a narcotic. So I'm like, you know what, I'll just try talking to him in Spanish. So I start talking to him in Spanish. I start kind of, you know, letting him know that we're here to help him out and that we wanted to help him. We didn't want to hurt him. And whatever it was, just to drop the knife, you know, because we're here to help him out.

So while that's going on, we're all trying to communicate. We're all giving him commands, trying to make him kind of just -- you know, trying to make this -- just de-escalating the situation. That's what we really wanted.

So after that happens, we see that the -- there's civilians walking. There's civilians walking to my right side. I'm trying to kind of -- making sure that a civilian doesn't go that way in order for the suspect to grab them and turn into a hostage situation. So I was really scared about that. So I made sure to tell the civilian to stay that way, don't come close.

We continued talking to the suspect and giving him commands, trying to just talk to him and trying to

get him some help. And at that point it was due to not kind of responding to us, he starts getting the butcher knife and he puts it in his neck as an attempt like he was going to try to cut his neck or something.

He's doing this to his hand, like trying to cut his hand, I guess. I don't know. And he does it to his neck again. So [redacted] says we're going to go ahead and use less lethal on him and he puts out a less lethal stand by -- a 40 stand by.

And that's when -- I don't know what officer did it, but a 40 gets deployed, hits the suspect. I believe it was right in his chest. It bounces off and the suspect did not flinch at all. He just -- he just took it. It was like -- it was crazy. Just at that point I realized like, yeah, he has to be under the influence of something.

Because normally, like, people that get hit with a 40 at that short distance, like it knocks them out or they walk away or something. So to me, I was like, okay, he needs to be under the influence or something. So at that time we continued giving him commands. We're trying to make him -- just help him out.

And he gets up from the top of the stairway and he starts making his way down and I keep telling him, you know, "Hey, don't. Don't do it. You know, don't

come any closer. Like drop the knife." I keep giving him commands in Spanish and English. I tell him that we're there to help him.

And so then he continues walking forward and he -- you know, I was scared, you know, because I didn't -- I didn't want to do nothing to him. I knew he needed help somehow, you know, and I know he was probably going through something or he was under something.

So, you know, I wanted him to drop the knife. I really wanted him to drop the knife. So when he came down, we kept giving him commands and once he hit the sidewalk, I mean, I was scared and he ended up walking towards us -- towards the officers and myself and that's when I -- I had to use deadly force.

It was necessary for me to use it, because I felt that he was going to -- at the time I felt that he was going to either cut me with the knife, cut my partner, or there was -- there was a civilian right there just right next to him, maybe like a few feet away from him on the sidewalk. And I felt that if he would have got to the citizen, he probably -- probably would have hurt him too. So I felt that at the time that I had to do it. You know, it was necessary for me to use deadly force on him.

And when I fired the -- my firearm at him to stop him -- to stop the threat, you know, I -- I had thought I shot him twice. I know I -- no. I pulled the trigger and I pulled it again and then he went down. And that's when -- when he was on the floor, that's when, you know, I just -- you know, I --

My whole -- you know, I just felt -- I just felt like man. I just felt like -- I don't know. My whole -- there was so much going on. It was just really, really, really weird the feeling that I felt, you know, because I wanted to help this guy. You know, I wanted to help this kid.

So right when that happened, he goes down. You know, and then [redacted] tells me, "Hey, we're going to go and take him into custody." I come around the car. He tells me right away, "Hey, you're going to be -- you're going to be hands on." So I holster my firearm and we go up to him.

We take him into custody. And right away I start -- I start telling him, you know, "We're here to help you. I'm going to help you." You know, I start trying to render aid to him. I actually asked the officer that was next to me that if he had a medical kit. He said he didn't. So I asked him to go to my shop and look for a medical kit, because I wanted to

start working on him.

And then right when that happened, I looked to my left and I saw that the RA was there. So I told an officer to please get the RA to come and start working on him, because he needed some help. At the time, you know, again, I was just scared the whole time. You know, I really felt that he was going to -- he was going to hurt me.

You know, and not only that, there was civilians there. There was civilians to the right and to the left. And the way he was acting, the way -- you know, the comments of the call, everything going -- everything just going in my head. I knew that it had to be done. You know, he had to be stopped. And after that we took him into custody. RA took him. And my partner and I got separated, yeah.

DETECTIVE BROWN: Okay. So I'm going to go back and just ask some questions and fill in some details and get a little more clarity. You used a couple terms right at the beginning of the interview. I just want to -- your perception. You said the watch before "banged in." What do you mean by that?

POLICE OFFICER QUINTANILLA: Like nobody showed up to work from that watch.

DETECTIVE BROWN: Is that a common term that mean

they called in sick or didn't show up?

POLICE OFFICER QUINTANILLA: Oh, yes. Whether it be sick or family ill stuff, yes.

DETECTIVE BROWN: Okay. And then you used a term "the box" in reference to your patrol activities. What do you mean by "the box"?

POLICE OFFICER QUINTANILLA: That we're going to handle radio calls. We weren't going to just deal with gang related issues. We were going to actually help our division by picking up radio calls and -- oh, the box meaning like our division -- taking care of our division by handling radio calls.

DETECTIVE BROWN: Okay. So your assigned area is what you mean by the box?

POLICE OFFICER QUINTANILLA: Our assigned area, sir, yes.

DETECTIVE BROWN: Okay. And then you said -- you used another term "call in the stack." For the layperson who may not know what that means, could you tell me what --

POLICE OFFICER QUINTANILLA: Oh, yeah, so right when we got -- we already -- we already had a radio call pending in our -- we were assigned to our radio call before we even logged in. So once we logged in to our system and show ourself that we're ready to

work for that day, we already had a call we had to go to and help.

DETECTIVE BROWN: And that's a term that's commonly used.

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE BROWN: A stack.

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE BROWN: So as calls come in to a unit, they stack up.

POLICE OFFICER QUINTANILLA: They stack up.

DETECTIVE BROWN: That's what you -- okay.

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE BROWN: Okay. So forgive me if you -- if I missed this, but your response when you heard the radio call, did you respond code two? Code three?

POLICE OFFICER QUINTANILLA: It was -- we showed ourselves responding, but we responded code two.

DETECTIVE BROWN: Okay. And why is that?

POLICE OFFICER QUINTANILLA: We were pretty close by and we wanted to get there safe -- safely, so we were already close by. We didn't feel the need to go lights and sirens.

DETECTIVE BROWN: Okay. And now you said you went code six. Do you recall if that was broadcast over the air? Did you do that on an MDC? How was

that done?

POLICE OFFICER QUINTANILLA: So we didn't go code six -- we didn't -- I didn't push the button to go at scene.

DETECTIVE BROWN: Okay.

POLICE OFFICER QUINTANILLA: Because at the same time that we were responding to this man with a knife call, a backup came out and the radio was tied up. So I didn't -- you know, yeah, I didn't push the button and I didn't show myself on the radio code six, but my partner did put out an RA request. So I assume that they were -- they knew that we were there already because of the request of the RA.

DETECTIVE BROWN: Okay. And I think you said that you put out a backup request or your partner did?

POLICE OFFICER QUINTANILLA: My partner -- my partner did a backup as well.

DETECTIVE BROWN: And do you know if he gave the location when he gave the backup?

POLICE OFFICER QUINTANILLA: Yes. I'm sure he did, yes.

DETECTIVE BROWN: Okay. And did additional units respond to that request and show up?

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE BROWN: Okay. Now, you talked about

that you requested an RA. What was your mindset? Why did you request that RA?

POLICE OFFICER QUINTANILLA: Based on our past experiences and our training, you know, when we deal with subjects or suspects or victims that are, you know, under the influence or have mental illness, we want to make sure that -- or a situation that may lead to deadly force or a use of force, we want to make sure that we have the help for them too right after for we could render aid to them. So that's why we put out the RA request.

DETECTIVE BROWN: Okay. Now, you described when you first arrived, the suspect was -- I believe you said seating on the -- sitting on the stairs. Can you just give a little more description of where on the stairs and what he was doing?

POLICE OFFICER QUINTANILLA: He was at the top of the -- at the beginning or the top of the stairway, closer to the door than the sidewalk of the building there. And he was -- he had the butcher knife on his right hand and he was, like, moving it around. He was putting it next to his neck. He was kind of like just, you know, looking at us and looking towards our direction with the knife and that's what he was doing.

DETECTIVE BROWN: And as far as a description,

can you describe him?

POLICE OFFICER QUINTANILLA: Male about 5'6", 150, male Hispanic, wearing a white shirt, blue jeans, I believe it was.

DETECTIVE BROWN: And you're describing this knife you saw. Did you see -- what hand did he have it in?

POLICE OFFICER QUINTANILLA: The knife was a butcher knife. It was really big. It was -- it was in his right hand when I saw him with it. The size of the knife was probably eight inches maybe and it was, like, a big ol' butcher knife. Like I mean -- yeah, a butcher knife.

ATTORNEY WILCOX: It's okay.

DETECTIVE BROWN: You were talking about the civilians that you were concerned about. Why were you concerned about those civilians?

POLICE OFFICER QUINTANILLA: I was concerned, sir, because the radio call already had said that he was chasing civilians with a butcher knife attempting to hurt them. That's exactly what the RTO said. So to me, he already was trying either to take a hostage or he was trying to hurt -- harm the citizens around there. So I was concerned.

That was my big concern that there was families

walking by. There was kids. There was -- you know, it's a regular day. You know, it's a Saturday, you know, and people are about their -- just about their day. So there's a taco stand right there on the corner. There's families that go there. My fear was that he was going to go and grab them and possibly kill them.

DETECTIVE BROWN: Now, as -- did you hear -- when you arrived, did you hear the suspect say anything or did he respond to any of your commands or --

POLICE OFFICER QUINTANILLA: I don't remember him saying anything.

DETECTIVE BROWN: Okay. Did he -- again, did he ever appear to respond or react to anything that officers were saying?

POLICE OFFICER QUINTANILLA: I felt like he was on something. Is what it seemed like that he was under the influence of some type of narcotic, because he was just on his own kind of like little world, I guess. I mean, he was just messing with that butcher knife the whole time we were there. The whole time we were giving him commands and he was just doing that.

DETECTIVE BROWN: Did he seem to --

POLICE OFFICER QUINTANILLA: (Unintelligible).

DETECTIVE BROWN: I'm sorry.

POLICE OFFICER QUINTANILLA: I guess he went like this, like, you know, when people pray.

ATTORNEY WILCOX: What are you doing with your hands?

DETECTIVE BROWN: Yeah, describe that.

POLICE OFFICER QUINTANILLA: He's doing like the holy spirit sign, like when they -- when they -- like the Catholic church, when they do, like, the holy spirit sign.

DETECTIVE BROWN: Like making the sign of the cross?

POLICE OFFICER QUINTANILLA: Like making a cross of the sign.

DETECTIVE BROWN: Okay.

POLICE OFFICER QUINTANILLA: Yeah, and that's the only thing he was doing besides messing with the butcher knife.

DETECTIVE BROWN: Did he seem to be aware that you were there?

POLICE OFFICER QUINTANILLA: Oh, yes. He was aware.

DETECTIVE BROWN: Okay. On body-worn video I heard you giving commands in English and Spanish. Did you give those commands separately -- simultaneously to your other officers giving commands or did you wait

and do it separately? Can you describe?

POLICE OFFICER QUINTANILLA: I think we did it separately. [redacted] started giving the commands in English with the PA and without the PA. And then we -- then my partner started giving him commands, but every time we spoke, if I remember correctly, we didn't talk over each other.

We wanted him -- we wanted to get the message across. We wanted to let him know that -- for him to understand us. So that's why we went in Spanish, because I even -- I let my partner know -- or I let [redacted], hey, Spanish speaker. Because we started hearing someone saying -- I started hearing someone say Junior, like calling him Junior.

So I believed at the time that his name was Junior, so I started calling him Junior. I started saying, "Junior," you know, in Spanish, "put the knife down." You know, giving him commands and letting him know that we're going to -- we're here to help him out. We didn't want to hurt him. We don't want to hurt him.

DETECTIVE BROWN: And what's your intent -- your overall intent in addressing him and talking to him and using his name? What are you trying to do?

POLICE OFFICER QUINTANILLA: I'm trying to make

him drop that knife. I'm trying to get him help. I'm trying to just make sure he gets home or get the help that he needs, whether it be, you know, going to get some medical attention or going to get some mental help, but that was my intention. My intention -- I wanted him to put that knife down.

DETECTIVE BROWN: Was that an effort to de-escalate the situation?

POLICE OFFICER QUINTANILLA: Yes. We needed -- we were trying our hardest to de-escalate the situation.

DETECTIVE BROWN: Now, in the sequence of time, you described how you unholstered. At what point when you -- upon arriving, at what point did you unholster your firearm?

POLICE OFFICER QUINTANILLA: Right when we go code -- right when we arrive at scene and I come -- I get out of the vehicle, that's when I unholster.

DETECTIVE BROWN: Okay. And when you get out of the vehicle, do you stay at the vehicle? Do you -- what do you do?

POLICE OFFICER QUINTANILLA: So I'm using the vehicle as cover and I'm standing behind my ballistic door and I'm trying to -- I'm trying to just use my vehicle as cover as best I can, not giving him ground.

We're already in front of him. We want to make sure that we still have visual on him, but maintaining cover as well.

DETECTIVE BROWN: Approximately how far from you to was the suspect?

POLICE OFFICER QUINTANILLA: I want to say about 15 feet.

DETECTIVE BROWN: Now, you described -- you talked about unholstering. How did you hold that gun and where was it positioned and what was your grip?

POLICE OFFICER QUINTANILLA: I hold it with my right hand. I'm a righty and I had my right hand firm grip -- two firm grips with two hands and I was pointing it to the suspect.

DETECTIVE BROWN: And are your sights aligned on target at that time or --

POLICE OFFICER QUINTANILLA: Yes. My sights are towards the direction of the suspect -- aligned to the suspect.

DETECTIVE BROWN: And how about your trigger finger? How are you positioning that?

POLICE OFFICER QUINTANILLA: My trigger finger is on the slide away from the trigger -- from the trigger.

DETECTIVE BROWN: And what is your background

while you're positioned like this and you're watching the suspect? What was --

POLICE OFFICER QUINTANILLA: So the background to where the suspect was and where I was pointing my firearm, there's an apartment building that was behind him. However, the apartment building is elevated. There's a stairway where he comes down from, which is below where the apartment is. So there is a -- the background, there is an apartment complex there.

DETECTIVE BROWN: Is there anybody directly behind him?

POLICE OFFICER QUINTANILLA: At first actually there was. I didn't mention this earlier. When he was out there, a gentleman comes out. I don't know. He probably didn't know what was going on. He was just going about his day. He comes out of the -- of that apartment building.

And, actually, that freaked me out because the suspect could have just turned around and grabbed him and done something. So luckily we give the gentleman commands to go back inside and close the door and he does that right away. And so, yeah, that was the only person that I saw there and he goes in there and I don't see him again.

DETECTIVE BROWN: Okay. You described that there

was less lethal deployment. Approximately how long after you arrived was the less lethal deployed?

POLICE OFFICER QUINTANILLA: I want to say within -- from the arrival, within two minutes approximately. It was pretty -- maybe more. Maybe like four minutes. I mean, we -- first we tried to talk to him. We tried to talk to him a lot. We were talking to him. We took turns talking to him before even the 40 was deployed, the less lethal.

DETECTIVE BROWN: And at the time that the less lethal was deployed, did you hear anybody give a less lethal warning or --

POLICE OFFICER QUINTANILLA: Yes. Sergeant [redacted]. I remember hearing it. "40 stand by" and then I heard the pop.

DETECTIVE BROWN: Was there any type of warning given to the suspect that he'd be -- less lethal would be used on him?

POLICE OFFICER QUINTANILLA: I don't remember hearing that.

DETECTIVE BROWN: Okay. And then when the less lethal was deployed -- I know you described a little bit. Could you -- just for clarity, where it struck him or if you saw that it struck him --

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE BROWN: -- or what his reaction was?

POLICE OFFICER QUINTANILLA: So the suspect was playing with -- not playing, but he had the butcher knife and he was holding it in his right hand. And he starts putting it -- the butcher up towards his neck and he does, like, a cutting motion. So the officer -- I can't remember his name that has the 40.

He deploys it and I see the round -- clear as day, the blue round hit him right in, like, the chest area. It bounces off and the suspect does not flinch. He doesn't do anything. He just takes it. And that was it. I remember just that one time that they threw the -- they did the less lethal.

DETECTIVE BROWN: And did the suspect stay in the same position or did he move or --

POLICE OFFICER QUINTANILLA: Shortly after -- just shortly after he starts moving, but at that time first he just -- he's just staying there. He gets hit and he just stays there.

DETECTIVE BROWN: Okay. And then when you described -- you just said -- talked about him moving again after that deployment. Where does he move to or what's he -- what's he --

POLICE OFFICER QUINTANILLA: He begins to come down the stairway and he starts coming towards

officers. He starts advancing towards us. At first it's just slowly down the stairway, but then once he gets to the sidewalk, he starts coming towards our -- towards us and with the knife in his hand, not on him anymore. He's like this, like he has it, like, pointing towards our direction.

DETECTIVE BROWN: Is he saying anything at this point?

POLICE OFFICER QUINTANILLA: He's not saying anything. Well, I can't hear anything. I can't hear him say anything.

DETECTIVE BROWN: You described that less lethal deployment. Was there another one or was there any -- was that the only one that you saw?

POLICE OFFICER QUINTANILLA: That's the only one that I --

DETECTIVE BROWN: So you only saw one?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE BROWN: Okay. You just described this movement and what he was doing. Was that the point that you deployed less -- or your lethal?

POLICE OFFICER QUINTANILLA: Yes. Once he comes down the sidewalk, he faces towards my partner and I direction and he advances at us. He makes an advance motion at us and I deploy my firearm.

DETECTIVE BROWN: So why did you deploy it?

POLICE OFFICER QUINTANILLA: I deployed it because I had -- you know, it was -- I had to use -- I had to stop him. I had to stop the threat. He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death. And also there was still civilians just to the right of me, just a few feet away from me. So he could have caused serious bodily injury or death to them if I didn't do that. I had to do it.

DETECTIVE BROWN: When you say a few feet away, are they on the sidewalk near the suspect?

POLICE OFFICER QUINTANILLA: Yes. They're on the sidewalk just east of the corner of [redacted] and [redacted]. Because I could still see them in my peripherals. I could still see the citizen right there.

DETECTIVE BROWN: And when you fired, what was your target or where were you targeting?

POLICE OFFICER QUINTANILLA: When I -- I was targeting him in his chest. And I fired -- I squeezed the trigger twice to stop him from coming towards us, because he was advancing at us and that's when the suspect goes down.

DETECTIVE BROWN: Okay. And when you fired, was

the background still the same as you described earlier or did it change?

POLICE OFFICER QUINTANILLA: Yes. The apartment complex was elevated. The suspect was already in the bottom in the sidewalk.

DETECTIVE BROWN: Okay. And when you fired, can you give us a little more detail on sequence of your fire? Did you -- how many times did you fire? Was there a pause or an assessment?

POLICE OFFICER QUINTANILLA: At the time I thought I fired two rounds.

DETECTIVE BROWN: Okay.

POLICE OFFICER QUINTANILLA: And when he went down, I stopped shooting. I stopped. You know, the threat was down, so I stopped and I assessed and that's when -- that's when [redacted] came and we went and did the arrest circle -- the arrest approach.

DETECTIVE BROWN: Okay. As -- before you -- or as you make this arrest team, are there specific jobs doled out by the sergeant or how was that organized?

POLICE OFFICER QUINTANILLA: Yes. As soon as we get there, [redacted] starts assigning -- taking command. He starts telling people -- I could hear him. I'm not looking at him, but I could hear him saying, "You got less lethal. You got less lethal.

Contact. DCO. DCO." And then I remember hearing my name saying, "You're lethal, lethal."

So I had that assignment. You know, it's a tough assignment, but you're protecting your brothers or sisters that are there. Because, you know, obviously when someone's lethal and if deadly force needs to be used to transition to that, that's going to be a tough job. So it's on me to protect not only myself, but my partners and the people around there.

DETECTIVE BROWN: I'm going to back up just a little bit because I wanted to ask this question. I forgot. When you -- at the time you fired, did you believe there was any other option that you had available to you?

POLICE OFFICER QUINTANILLA: No, sir. All the options were already -- they already had been done. We had talked to him. We tried to reason with him. I tried to do it. I mean, I tried to really put -- make him put the knife down. We used less lethal. We used a 40, which is very effective in most cases, and that didn't work. And it was just necessary for me to do it. I had to do it. If not, one of us probably would have been killed today.

DETECTIVE BROWN: And so to get back to the arrest team. Your role again, I'm sorry, was when

you --

POLICE OFFICER QUINTANILLA: Lethal. Oh, sorry. When we go back to try to get him, it was just hands on to take him into custody. The officer that was there pretty much took his handcuffs off, handcuffed him, and I just assisted by grabbing the suspect's left hand to handcuff him.

DETECTIVE BROWN: Okay.

POLICE OFFICER QUINTANILLA: And then I -- once I got there, I tried to put him in the fetal position, tried to help him out.

DETECTIVE BROWN: So you holstered before you approached?

POLICE OFFICER QUINTANILLA: Oh, yeah. Way before, sir. Right when we -- when [redacted] Sergeant tells me, "You're going to be hands on," I holstered, sir.

DETECTIVE BROWN: So it was another officer who actually cuffed and you just assisted?

POLICE OFFICER QUINTANILLA: I assisted, sir.

DETECTIVE BROWN: Do you know who cuffed?

POLICE OFFICER QUINTANILLA: I don't remember his name, sir.

DETECTIVE BROWN: Okay. Did the suspect appear to resist or fight --

POLICE OFFICER QUINTANILLA: No.

DETECTIVE BROWN: -- during the cuffing?

POLICE OFFICER QUINTANILLA: No.

DETECTIVE BROWN: Did you see the -- did yourself or did you see the other officer utilize any kind of twist locks, grip locks, or any --

POLICE OFFICER QUINTANILLA: No, sir.

DETECTIVE BROWN: After the suspect was taken into custody, did you engage with any of the citizens that were in that area?

POLICE OFFICER QUINTANILLA: No, I didn't.

DETECTIVE BROWN: Okay. Did you see any of the officers involved in any type of use of force?

POLICE OFFICER QUINTANILLA: No, sir.

DETECTIVE BROWN: Okay. And the crowd that was out there, was that -- what was the demeanor of that crowd out there?

POLICE OFFICER QUINTANILLA: At the beginning they were, like, supportive. They were -- they wanted him -- it seemed like they wanted him apprehended. They wanted him to get caught --

DETECTIVE BROWN: Okay.

POLICE OFFICER QUINTANILLA: -- or arrested or taken into custody, because they were like -- and I could hear them in the background kind of saying it in

Spanish and English. And then when we're trying to give him -- when we're giving him commands, I could even hear people saying, "Just do it. Like just do it." As in like do what we're saying, like comply with the officers' commands.

And so at the time -- at the beginning, yeah, it was -- the crowd was -- how do you say? They were supportive. And then after the -- the shooting happened, they began -- they began to be very -- extremely hostile, very 415. They started screaming, cursing. They started throwing things at officers.

DETECTIVE BROWN: After the -- after the suspect is taken into custody, are you contacted by a sergeant or separated?

POLICE OFFICER QUINTANILLA: Yes, sir. Sergeant [redacted] tells us -- because we didn't have sergeants at the time there still. He tells myself and Zavala to sit in separate vehicles. And a sergeant comes and Sergeant [redacted] assigns him to just watch us while more sergeants get there.

DETECTIVE BROWN: Okay. So eventually does a particular sergeant come and take over monitoring you and separating?

POLICE OFFICER QUINTANILLA: Yes. Sergeant [redacted] -- Sergeant Cruz.

DETECTIVE BROWN: Cruz? Okay. And did Sergeant Cruz take a public safety statement from you?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE BROWN: Before he took that statement, did he advise you to turn off your camera?

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE BROWN: And did he collect that camera from you at that time?

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE BROWN: Okay. I'm going to turn it over to you if you got anything you want to cover. I'm going to go over my notes.

DETECTIVE GRABE: Okay. So we noticed when we started watching your video that just started a little bit after you arrived at scene. Can you just explain to us why that occurred?

POLICE OFFICER QUINTANILLA: Yes, sir. I mean, the situation is so chaotic, I guess you could say, that I wanted to make sure the -- right when we pull up, I see the suspect there already with the butcher knife in his hand. I wanted to make sure to get out on time, get out and have plenty of time to actually address the suspect and just make sure, okay, now I'm good. I could back my partner up. I could back the people up. And then I went -- I activated, sir. That

was the reason.

DETECTIVE GRABE: Okay. We -- at one point during the incident you're yelling to someone about "get out of the fucking car" or something to that effect. Can you explain what's happening at that point?

POLICE OFFICER QUINTANILLA: Yes, sir. So, again, there was civilians going about their day not knowing probably what was going on with this incident. I see this gentleman that's -- that's trying to come eastbound towards -- towards where the suspect is and between -- pretty much between us -- the officers and the suspect. And obviously I didn't want that to happen. I didn't want him to get hurt.

I see an officer in his vehicle, and I tell him -- you know, because he's not getting out the car and telling him to leave. So I scream at him and I tell him, "Hey, get out the car and address this citizen and tell him to get out the way or leave the area," I believe, I told him. But I did scream that to the officer.

DETECTIVE GRABE: Okay. So -- so the expletive was directed towards an officer, not to the citizen?

POLICE OFFICER QUINTANILLA: Oh, yes, sir.

DETECTIVE GRABE: Is that correct?

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE GRABE: Okay.

POLICE OFFICER QUINTANILLA: It was to the officer.

DETECTIVE GRABE: Okay. And so -- then that brings me to another question. So this citizen that was getting close to where -- or between you and the suspect, you're saying. Can you give an estimation of the distance between that citizen and your suspect at that point?

POLICE OFFICER QUINTANILLA: Maybe like 20, 25 feet.

DETECTIVE GRABE: Okay. Can you -- had that citizen, for instance, made it to the sidewalk on the south side of -- I'm drawing a blank on the main street here.

POLICE OFFICER QUINTANILLA: Street 2.

DETECTIVE BROWN: It's Street 2.

DETECTIVE GRABE: On the south side of Street 2?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: So that citizen was all the way to the sidewalk already?

POLICE OFFICER QUINTANILLA: He was already on Street 2 -- on the sidewalk of Street 2, yes.

DETECTIVE GRABE: So he had crossed the crosswalk

and was on that sidewalk?

POLICE OFFICER QUINTANILLA: I believe he came northbound on [redacted] --

DETECTIVE GRABE: Oh, northbound and was -- okay.

POLICE OFFICER QUINTANILLA: -- and then made an eastbound turn [redacted], I believe.

DETECTIVE GRABE: Okay. And where was this officer at that was remaining in his car that wasn't getting out?

POLICE OFFICER QUINTANILLA: He was go -- he was pointed -- his vehicle was pointed southbound on [redacted] and [redacted] right on the corner.

DETECTIVE GRABE: Okay.

POLICE OFFICER QUINTANILLA: So --

DETECTIVE GRABE: Do you know who that officer is?

POLICE OFFICER QUINTANILLA: No. Never seen him.

DETECTIVE GRABE: Okay. And what would have occurred if that citizen had made that corner?

POLICE OFFICER QUINTANILLA: No, it would have been bad, sir. If that citizen wouldn't have got stopped from going in between us, he -- I believe -- I strongly believe that that suspect would have grabbed that citizen.

DETECTIVE GRABE: Okay. All right. Now, I am

going to kind of jump around here. Sorry. Things are a little bit of order, but we'll just get through these. Your -- at one point on your video, we notice that you pick up the suspect's hat. Can you explain why you did that and what was going on?

POLICE OFFICER QUINTANILLA: Yes, sir. So just so much, like, muscle memory. Every time something -- somebody gets transported with the fire department or the RA, we want to make sure that all their belongings are with him or her. So in my head so much going on, I wanted to make sure that he had his belongings going with him to the hospital.

So I picked up his hat in an attempt to make sure he gets it. But then I was told, "Oh, no. You have to leave it," and I remembered that's right to an OIS. I'm going to leave it here, so I threw it back -- I tossed it back to -- to the direction where I had picked it up.

DETECTIVE GRABE: Okay. Now, at some point from watching your body-worn video, I think you turned on your DICVS; is that correct?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: And if so, why did you do it and when? That kind of thing.

POLICE OFFICER QUINTANILLA: I turned it on, sir,

because I noticed when I walked -- when I looked towards my shop, I realized that our red light forwards wasn't on and I knew that it's very important for evidence. So I wanted to make sure it was turned on. So I tell my partner, like, "Hey, DICV is not on. I'm going to turn it on." So I go over there and I turn it on to make sure that that's on and working.

DETECTIVE GRABE: Okay. How do you usually turn on your DICVS? You specifically.

POLICE OFFICER QUINTANILLA: When I -- most important -- most of the time I'm driving, sir. So usually it's always when I go on number three when I do a traffic stop, it automatically turns on because I'm already -- my lights and -- my forward reds are already on. So it automatically turns on.

DETECTIVE GRABE: So you're basically saying that you usually turn your DICVS by turning on your forward facing red light?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: Okay. But in this case it wasn't done that way and, therefore, you didn't know that it wasn't on?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: Okay. Now, we noticed that when you were sitting back down in your car after

you'd been told to separate that you turn off the spotlight -- the forward facing spotlight that was on the driver side of your vehicle. What was the reason for doing that?

POLICE OFFICER QUINTANILLA: Again, it's like muscle memory. I'm usually the driver when I work. I love driving. So it's just a habit. When I go into a vehicle -- my vehicle after the traffic stop is done or the investigation is done, I right away turn off the light, because I don't want to blind someone. I don't want to do that to anyone. So it was just muscle memory that I did there, sir.

DETECTIVE GRABE: Okay. Now, you were talking about some civilians in the area. This was in your narrative. And you were talking about they were going this way or that way, but can you talk to us about which way -- the directionality of civilians that were in close proximity, where they were coming from, which direction they were going to? Where were these civilians specifically that may have been in danger -- put in danger by the suspect?

ATTORNEY WILCOX: So prior to the OIS?

DETECTIVE GRABE: Prior to the OIS, yes.

POLICE OFFICER QUINTANILLA: There was -- there was civilians walking northbound on [redacted] just --

just west of where the suspect was with the butcher knife. So they weren't able to see him because there was a big bush tree there. So they had no idea that he was there with that knife. There was them. There was --

To the east of the suspect, there was another house -- a residence there. There was -- there was people there too that that could have been a big potential threat to them, because the suspect was right there just close proximity -- just the neighboring -- pretty much the neighboring building next to them. We had a taco stand, again, just across the street. There's always ped traffic there as well.

So, I mean, that -- anybody could just be going back home or -- it's a main street. It's a big, busy -- Street 2 is a big main street, so there's traffic all the time there. So at any point everyone that was walking there could have got -- could have got stopped by him and maybe even got killed by him.

DETECTIVE GRABE: You -- a couple times in your interview, you talked about pulling the trigger twice and then at one time you said, "At the time I thought I fired twice." So explain to me how many times -- now that we're here right now, how many times do you feel that you fired? If it's different than twice,

explain to me why it's different than twice. Just explain to me how many times you know -- you think you fired now that we are sitting here right now.

POLICE OFFICER QUINTANILLA: So I thought I fired twice. However, after we did the count of the fire -- my firearm and the magazines, I was -- I was advised that I had -- that I was -- I had fired once. But at the time I remember firing twice at him. I remember pushing the trigger twice and then the suspect just goes down.

DETECTIVE GRABE: Okay.

POLICE OFFICER QUINTANILLA: So it was like one, pause, one.

DETECTIVE GRABE: Okay. So you've seen your video.

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: And we even showed your video in a frame by frame, so that you could better see some timing and -- do you believe -- so you and I discussed as we were watching your video in a frame by frame. We watched the slide of your handgun go back at one point.

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: Do you believe that the second shot you fired was prior to that or after that one

that we saw where your slide --

POLICE OFFICER QUINTANILLA: Prior.

DETECTIVE GRABE: So prior to that?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: Okay. And how -- how much time prior to that?

POLICE OFFICER QUINTANILLA: Less than a second.

DETECTIVE GRABE: Okay. So you think you would consider your -- the shot -- the two rounds that you felt you fired were fired in rapid succession or was there a pause between the rounds?

POLICE OFFICER QUINTANILLA: I believe a rapid -- rapid -- like a -- I don't know. We call it in the military hammer pair.

DETECTIVE GRABE: Hammer pair?

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE GRABE: Okay.

ATTORNEY WILCOX: Two consecutive shots?

POLICE OFFICER QUINTANILLA: It was like (untranslatable sound). Just like one, two.

DETECTIVE GRABE: Okay. Did you feel -- now we're going to what your perception was, what you feel you did.

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: Did you feel -- did you hear

multiple rounds? Did you feel multiple rounds? What made you think you fired twice?

POLICE OFFICER QUINTANILLA: Because I squeezed the trigger. I squeezed the trigger once and I squeezed it again and I saw him go down.

ATTORNEY WILCOX: The first part of that question was did you hear multiple rounds.

POLICE OFFICER QUINTANILLA: I didn't hear. The only -- the only thing I remember is me firing. I didn't remember hearing anything else.

DETECTIVE GRABE: So did you intend to fire twice?

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE GRABE: Okay. So on our department, we call that a controlled pair or accelerated pair.

POLICE OFFICER QUINTANILLA: (Unintelligible).

DETECTIVE GRABE: So did you intend to fire an accelerated or a controlled pair?

POLICE OFFICER QUINTANILLA: Yes. I tried to attempt to fire a controlled pair.

DETECTIVE GRABE: Okay. And was your intention then to assess after the controlled pair?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: And when you did assess, what did you observe?

POLICE OFFICER QUINTANILLA: I observed that the suspect was already down on the floor and that's when we -- we started forming an arrest team to go take him into custody.

DETECTIVE GRABE: So when we watched the video at a slowed pace, it was apparent that the suspect was on the way down or had fallen down when we saw your handgun cycle.

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: Is that what you remember in real time or is that not what your perception is of the real time?

POLICE OFFICER QUINTANILLA: No, sir. Real time the suspect was facing us and advancing forward with the butcher knife on his hand, and that's when I engaged him to just stop him from -- from killing myself or my partners or people around there.

DETECTIVE GRABE: Okay. Now, that brings me to another question I had. Now, you did say that the suspect made an advancing motion, but can you describe to us what -- what exactly was he doing?

POLICE OFFICER QUINTANILLA: He was walking towards us. He -- first he walked down the stairway already advancing, closing the distance with us and then he got to the sidewalk and he still takes the

step forward. I believe he took a step forward facing myself and my partner, and he takes a step forward. He literally goes from, like, facing this way to facing my partner and I and going towards that direction.

DETECTIVE GRABE: Okay. So what you did -- you said he's facing this way, you were looking straight across the table here.

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: And then you said "to facing this way" and you turned your body 45 degrees to the left.

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: Is that fair?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: Okay. And you're holding your right hand up about shoulder level. Would that be fair?

POLICE OFFICER QUINTANILLA: Yeah, he was like this.

DETECTIVE GRABE: Okay. So you have your -- you have your right arm bent at the elbow and your fist balled up near your shoulder. So would the knife have been in that fist?

POLICE OFFICER QUINTANILLA: Oh, yes. It was

there, sir.

DETECTIVE GRABE: Okay.

POLICE OFFICER QUINTANILLA: It was clear as day.

DETECTIVE GRABE: Okay. And so when you're turning -- you're rotating your body 45 degrees to the left, you're keeping your arm like that. Is that a fair assessment of what you're showing us?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: Okay. And so that is what you are talking about when you're saying that he is advancing -- the advanced motion towards you?

POLICE OFFICER QUINTANILLA: Yes. Because he takes the step forward.

DETECTIVE GRABE: Okay.

POLICE OFFICER QUINTANILLA: It's like -- like all one motion type.

DETECTIVE GRABE: Okay. So turning 45 degrees to the left and taking a step forward?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: Okay. Now, you also said that after request for additional units was made, additional units arrived.

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: Did those units arrive before the OIS?

POLICE OFFICER QUINTANILLA: We had put out a backup, so I'm sure officers were responding. Then the help call comes out, so I believe more officers obviously got there after the help call.

DETECTIVE GRABE: After? Okay.

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: Well, but prior to the OIS or not? Because what I'm getting at is you have said that units were requested and they did arrive. I'm trying to find out did those units arrive prior to the OIS or after the OIS?

POLICE OFFICER QUINTANILLA: Some did arrive prior to the OIS and more arrived after the OIS.

DETECTIVE GRABE: Do you believe that there were enough units at scene to handle whatever the situation was at the time of the OIS?

POLICE OFFICER QUINTANILLA: No. There was -- I mean, we're short-staffed. I mean, we didn't have the man power. There was a 415 crowd forming up and we barely had officers at the time to hold them back, because there was people trying to lynch.

DETECTIVE GRABE: This is prior to the OIS I'm talking about. Prior to the OIS, what --

POLICE OFFICER QUINTANILLA: Prior to the OIS we did have enough officers.

DETECTIVE GRABE: You did believe --

POLICE OFFICER QUINTANILLA: Yes.

DETECTIVE GRABE: -- you had enough officers --

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE GRABE: -- prior to the OIS? Okay.

POLICE OFFICER QUINTANILLA: Sorry about that. Yes.

DETECTIVE GRABE: Okay. And then so after the OIS is when you're describing that you don't think you had enough officers to handle what transpired after?

POLICE OFFICER QUINTANILLA: Correct, sir. That's correct, yes.

DETECTIVE GRABE: Okay. All right. Partner?

DETECTIVE BROWN: Yeah, just a couple things I noted here when I was going through my notes. Did you see any of the other officers fire their -- discharge their firearms?

POLICE OFFICER QUINTANILLA: No, sir.

DETECTIVE BROWN: You did not. Okay. And I don't think we covered when we covered all the stuff about your firearm. Did we cover your loading -- were you topped off?

POLICE OFFICER QUINTANILLA: I was, sir. Seventeen in the magazine and one in the chamber. Eighteen total.

DETECTIVE BROWN: And then you had a total of three magazines?

POLICE OFFICER QUINTANILLA: Yes, sir. Seventeen each.

DETECTIVE BROWN: All loaded fully?

POLICE OFFICER QUINTANILLA: Yes, sir.

DETECTIVE BROWN: Okay. Did you -- I don't think I covered this either. Do you have -- personally have any less lethal in your vehicle or on you?

POLICE OFFICER QUINTANILLA: Yes, sir. I have -- I have my Taser, sir, on my left side of the belt. I also have OC spray on my left side of the belt. And I had my baton, but it was in the vehicle -- I left it in the vehicle, sir.

DETECTIVE BROWN: And I know you described your assignment that you were given by [redacted] Sergeant, but was there a reason why you chose not to utilize your Taser or --

POLICE OFFICER QUINTANILLA: Sir, I did think about actually to use my Taser, but I knew that that wasn't going to be effective at that distance; especially him having that knife, civilians there. It wasn't going to make the effect, so I stayed with my -- with my firearm out. But I did think about using my Taser at one point.

DETECTIVE BROWN: I don't know if we covered this. I apologize. But upon -- when watching your body-worn video, we see that you're at scene when you actually hit the button. Is there a --

DETECTIVE GRABE: Yeah, we did.

DETECTIVE BROWN: We did cover that? Okay. Thank you. It's getting a little late. I apologize.

DETECTIVE GRABE: It's okay.

DETECTIVE BROWN: All right. After you shot the body-worn video and you gave your public safety statement, did you have any conversations with anyone regarding this incident?

POLICE OFFICER QUINTANILLA: No, sir.

DETECTIVE BROWN: That's all I have.

ATTORNEY WILCOX: Yeah, I think you got mine on the follow-up.

DETECTIVE BROWN: Okay.

ATTORNEY WILCOX: So I don't have anything.

DETECTIVE BROWN: Okay. We covered this with quite a bit of detail. We asked -- I think we covered all the topics we need to for review process, but is there anything you want to clarify or you feel that we didn't address and you'd like to --

POLICE OFFICER QUINTANILLA: Just one. I mean, I just want to be clear, like, I didn't want to shoot

the guy. I really wanted to help him. And when I get there next to him, I really felt the need to help him and I tried to, but obviously the fire department was there, so I really was hoping to do that. I mean, I deal with a bunch of kids like him, and my goal is to help them. So I feel like that that's what is kind of is messing with me the most.

DETECTIVE BROWN: Okay. If there's nothing else, we'll go ahead and conclude then. Okay. The time is now 359 hours -- 0359 hours and we're going off.

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Ms. Christine Ford
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CA Commission on Peace Officer Standards and Training
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Sent Via Email

February 12, 2026

Regarding: Los Angeles Police Department Shooting involving Officers Zavala and Quintanilla on December 18, 2021.

Dear Ms. Ford,

The following report contains my opinions from a review of the Los Angeles Police Department shooting case involving Officers Zavala and Quintanilla. I have studied the reports, documents, and videos listed below. This report presents my expert opinions based on the materials reviewed, my training and education, and more than three decades of law enforcement experience. If additional materials are provided, a supplemental report that adds to or refines my opinions may be necessary.

Expertise

I currently serve as the Director of Public Safety for Grand Canyon University (GCU) in Phoenix, Arizona. Before serving as the Director of Public Safety at GCU, I was the police chief in Huntington Beach and San Bernardino, California. I am a policing executive with over 35 years of comprehensive law enforcement experience. My experience includes extensive experience training and teaching new police officers, veteran officers, and command-level officers.

In addition to reviewing thousands of use-of-force cases and hundreds of police shooting cases in my policing career, I have also been retained as a subject matter expert to review police use-of-force incidents and policing practices and procedures nationwide. Attached is my curriculum vitae for a more detailed description of my related experience.

Brief Incident Summary

On December 18, 2021, at approximately 1710 hours, Los Angeles police officers responded to a call of a suicidal man with a knife call. Witnesses had reported Victim walking on the street, waiving a knife in the air and frightening families[1]. When the officers arrived, they found Victim armed with a large meat cleaver-style knife on the front porch of a residential building. The officers attempted to get Victim to drop the knife for more than eight minutes before the incident ended in an officer-involved shooting, where Victim was shot and killed[2].

Expert Opinions and Basis for Opinions

My expert opinions in this case are listed below, with the prominent opinions numbered and in bold type. The basis for the opinions follows the opinions and includes sub-opinions regarding the encounter between the suspect and the officers. The opinions expressed are based on my review of the materials listed, the citations listed throughout the report, my extensive law enforcement training, and more than three decades of policing and academic experiences in policing.

1. **The officers' attempts to contact and detain Victim were appropriate and consistent with training, practices, and the standards for police officers in California and across the country.**

2. **The officers' display of their firearms and threatened use of lethal force on Victim as they attempted to detain him was consistent with training, practices, and the standards for police officers in California and across the country.**

Basis For Opinion

A series of court decisions interpreting the U.S. Constitution governs an officer's authority to contact, detain, and arrest individuals. Officers are taught laws of arrest based on these decisions, starting with reasonable suspicion to temporarily detain a person, probable cause to arrest an individual, and the authority to use force to detain or arrest a person. Peace officers may need to detain a person to investigate involvement in criminal activity. To be lawful, a

[1] FID Report, Page 3
[2] Zavala and Quintanilla BWC

detention must be based on reasonable suspicion that unlawful activity has occurred, is taking place, or is about to occur, and that the person detained is connected to that activity[3].

In this instance, the officers were responding to radio calls of a subject threatening suicide with a knife. They also received information that Victim was chasing people down the street with a knife. Sergeant was first to arrive, followed by Officers Zavala and Quintanilla. When Sergeant arrived, he observed Victim sitting on the exterior stairs of the apartment building holding a knife in his right hand. Victim was holding the blade of the knife pressed up against his neck.

At this point, the officers had information that Victim was suicidal and that he had chased people down the street with the knife. When they arrived, they confirmed that Victim was armed with a large, meat cleaver-style knife. The response from Sergeant, Officer Zavala, and Officer Quintanilla when they arrived and exited their cars was to draw their weapons and give Victim orders to drop the knife. The officers had parked their police vehicles perpendicular to the apartment building and were using their vehicle doors as partial cover and concealment while giving commands to Victim[4]. The presence of the marked vehicles, officers in uniform, and the orders given to Victim constituted an attempt to detain Victim and prevent harm to himself or others and further investigate the reports of assaults with the knife before the officers' arrival. Based on the totality of the circumstances, the attempt to detain Victim using officer presence, verbal commands, and the display of firearms was appropriate and consistent with police officer training, standards, and practices in California and across the United States.

3. The use of 40 mm less lethal munitions to get Victim to drop the knife and comply with orders from the officers was appropriate and consistent with training, practices, and the standards for police officers in California and across the country.

Basis for Opinion

Sergeant, along with Officers Zavala and Quintanilla, were engaging with Victim when additional officers arrived. As officers arrived, Sergeant assigned them to positions (specific angles of coverage) and to specific responsibilities, such as serving as less-lethal or cover officers. Officer 1 ended up with a less lethal assignment, positioning himself with a 40 mm less lethal launcher pointed at Victim. Sergeant assigned officers Zavala and Quintanilla lethal coverage. Officers Officer 2 and Officer 3 were assigned as an arrest team. The air unit arrived, and the pilot and tactical flight officer directed responding units to perimeter and crowd control positions.

[3] CA POST Learning Domain 15, Chapter 3
[4] FID Report, BWC, Zavala, Quintanilla, Sergeant

Several officers were giving Victim commands in English and Spanish throughout the encounter. The officers yelled commands and intermittently used the public address system on Sergeant [redacted]'s police vehicle. The commands were clearly and calmly delivered and varied throughout the more than eight minutes of attempting to persuade Victim to drop the knife. The commands incorporated techniques designed to be persuasive, such as using Victim's first name and offering him services[5].

At approximately 1704 hours into the contact with Victim, at the direction of Sergeant, Officer 1 fired a 40 mm round, striking Victim in the abdominal area. Sergeant ordered the 40 mm deployed because he was concerned Victim would flee and start attacking civilians. Sergeant was hopeful the 40 mm would cause Victim to drop the knife and surrender. The round did not initially appear to have any effect. Victim brushed off the sponge round with a swipe of his hand and did not drop the knife or make any move to surrender. Victim did sit back down on the bottom step shortly after being struck with the 40 mm. Sergeant did not give a specific warning to Victim before ordering the 40 mm round to be fired because he thought the situation was too dangerous and that Victim might run if he were warned. However, Sergeant did announce "Forty stand-by" out loud to the group of officers so that there would not be any confusion with lethal rounds being fired[6].

Officer 1 fired a second 40 mm less lethal round at approximately 1710 hours. Prior to the round being fired, Sergeant again announced, "Forty stand-by." Less than one second after the 40 mm was fired, lethal rounds were also fired by Officers Zavala and Quintanilla[7].

The 40 mm less-lethal round is a sponge-like projectile 40 mm in diameter. The round is fired from a launcher specifically designed to deploy 40 mm projectiles. Officers are trained to utilize devices such as a 40 mm less lethal round when confronting a person who is "aggressive, or combative; attempting to assault the officer, another person, verbally, or displays an intention to assault another person[8]."

Provided that Victim was armed with a knife, threatening suicide, and refusing commands for several minutes to drop the knife, the 40 mm was an appropriate option whose application under the circumstances was consistent with police officer training and standards in California and across the United States.

4. **Given the totality of circumstances, the lethal force used by Officers Zavala and Quintanilla in this incident was not consistent with the requirements for use of deadly force in the California Penal Code, nor police officer training and standards in California.**

[5] FID Report pages 1- 14
[6] FID Report pages 9-11
[7] FID Report pages 9-11
[8] California PST Learning Domain 20, Chapter 3

Basis for Opinion

Police officers are taught the legal authority and considerations for using deadly force. The legal authority and standards for lethal force are based on an objective reasonableness standard based on the Constitution's Fourth Amendment, as determined by the U.S. Supreme Court. Officers are taught that they may use deadly force when it reasonably appears necessary to stop an imminent threat of death or serious bodily injury based on the totality of the circumstances presented to them at the time. The force they use must be objectively reasonable compared to the threat, resistance, and other circumstances perceived by or known to the officer when the force was used[9].

The California Penal Code further instructs officers on the definition of an imminent threat, which is required for a peace officer to use deadly force in California.

> "A threat of death or serious bodily injury is 'imminent' 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 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[10]."

In this instance, Sergeant, and Officers Zavala, Quintanilla, O-1, O-2, Meraz, Officer 4, and Officer 3 were in the immediate area and involved in the contact with Victim. Initial contact with Victim was made when Sergeant arrived, followed shortly by Officers Zavala and Quintanilla. The other officers arrived shortly thereafter as the incident continued. Sergeant supervised the scene and issued orders assigning specific tasks to the officers. Sergeant's initial organization of the officers and division of specific responsibilities was consistent with contemporary training and standards for handling such incidents.

Officers Zavala and Quintanilla were assigned as lethal coverage officers by Sergeant, meaning they were to have their firearms out and pointed at the suspect in case an imminent deadly threat was presented. Officer 1 and Officer 4 maintained positions with less lethal tools, Officer 1 with a 40mm and Officer 4 with a beanbag shotgun. Officer Meraz was assigned as lethal coverage and positioned himself next to Officer 1[11].

At approximately 1704 hours, Sergeant decided to have Officer 1 fire the 40 mm projectile as described in the previous section. The first attempted use of the 40 mm struck Victim in the abdomen but had little effect; it did appear to get Victim to sit down again, this time on the bottom step of the apartment building[12].

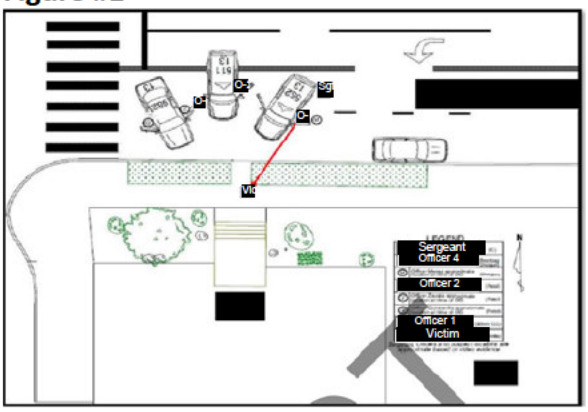
[9] CA POST Learning Domain 20, Chapter 3, 4
[10] CA Penal Code 835(a)(e)(2)
[11] FID Report
[12] Quintanilla BWC 3:35-3:42

After the first 40 mm deployment, Sergeant continued to refine the officers' containment positions as additional resources arrived. Officer 4 was moved with a less lethal (beanbag shotgun) to the west near where Officers Zavala and Quintanilla were positioned[13]. The team had established lethal and less lethal coverage to the north and slightly east, and the same to the north and slightly west of the subject, Victim. The LAPD air unit also arrived overhead and began to callout positions for traffic control

As Sergeant negotiated with Victim (over the patrol vehicle PA system), Victim stood up abruptly, knocked his hat off, and took four steps north, in the general direction of Officer 1 (less lethal, 40mm) and Officer Meraz (lethal, shotgun). Sergeant ordered another deployment of a 40 mm less lethal round at approximately 1710 hours[14].

Various BWC videos show Victim standing up, holding the knife at head level, and taking four steps toward the officers. Sergeant yelled out, "Forty forty up," and Officer 1 deployed the 40 mm one-time, striking Victim on the right side of his torso. Officer 1 fired the second 40 mm round at approximately 1710 hours. The Officer 1's position is depicted below in the diagram taken from the FID report, labeled as Figure #1[15].

Figure #1



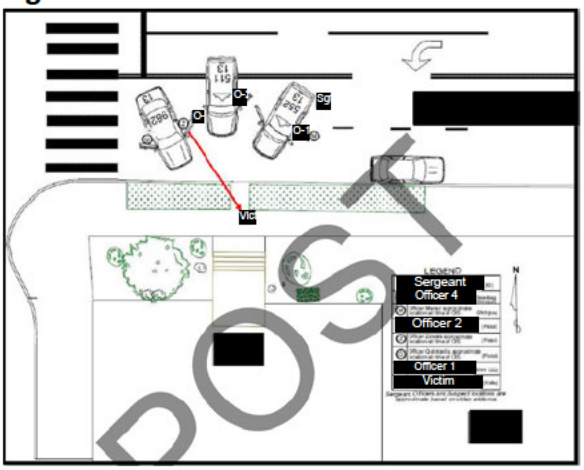
The red line in Figure #1 indicates the approximate positioning of Officer 1 on one end and the approximate position of Victim on the other end. Officer 1 was in the opening of the police vehicle's doorway, and Victim was on the sidewalk. The diagram depicts the approximate positions of Victim and Officer 1 when Officer 1 fired the 40 mm projectile (the second round at approximately. 1710). The second deployment of the 40 mm was ordered based on Sergeant 's concerns about Victim standing up and knocking his hat off, and that Victim was going to get up and run toward a witness[16].

[13] Sergeant BWC 9:52
[14] FID Report
[15] The diagrams and referenced measurements related to Figures #1, #2, and #4 along with the timing of the gunshots are all taken from the FID report, pages 15-21
[16] FID Report page, 12-16

As Officer 1 was firing the 40mm, Victim started turning his body to his left, toward Officers Zavala and Quintanilla. Near simultaneously with the firing of the 40mm, Victim turned his body to face west, and Officer Zavala fired his handgun three times. Officer Quintanilla fired his handgun one-time at Victim. The positioning, timing, reasons, and analysis for each officer firing their handguns are detailed below.

Officer Zavala fired three rounds from his handgun, starting .382 seconds after Officer 1 fired the 40 mm round. Officer Zavala was positioned at the driver's door opening of the patrol vehicle, as depicted in the diagram labeled Figure #2.

Figure #2



The red line in Figure #2 indicates the approximate positioning of Officer Zavala on one end and the approximate position of Victim on the other end. Officer Zavala is in the opening of the police vehicle's driver's side doorway, and Victim is on the sidewalk. The diagram depicts the approximate positioning of Victim and Officer Zavala when Officer Zavala fired three rounds from his handgun. The distance between Officer Zavala and Victim was approximately 25 feet.

Figure #3 is a screenshot from Officer Zavala's body-worn camera (BWC) recording of the approximate time Officer Zavala fired the first round from his handgun. The second and third rounds followed in rapid succession. From the BWC video of Officer Zavala, it appears his camera was mounted in the center of his chest, providing a view from that perspective.

Figure #3[17]



Officer Zavala's reasons for using deadly force by firing his weapon are summarized below in his words to the FID investigators.

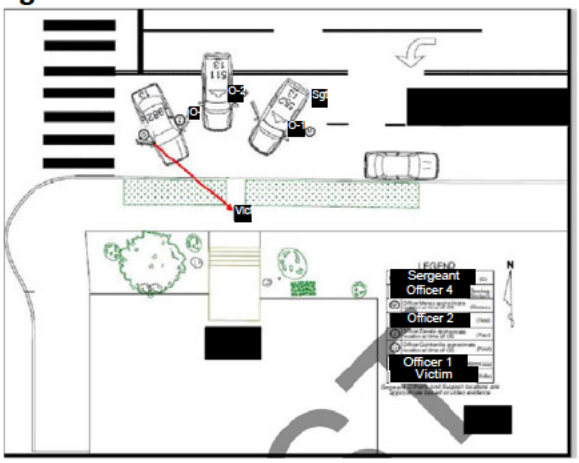
> *"The suspect gets up very rapidly with the -- with the large butcher knife in his right hand. He takes a deep breath, like getting courage, looks at me, looks at my fellow officers. At this point I already had my firearm out. Due to the tactical situation, I had reason to believe that the situation may escalate to the point where deadly force may be justified. The suspect then starts advancing towards the officers and turns his body towards myself and my partner. And in fear --I was afraid, sir. I thought this guy was going to come at me with this butcher knife. He already cut his hand. He cut his throat -- he attempted to cut his throat. He chased pedestrians and civilians around the neighborhood with this large butcher knife. And to protect myself and any partner's life and the citizens nearby from serious bodily injury, imminent threat, I fired approximately two, three rounds to stop the threat, sir."*
>
> *"So when I fired two, three shots, that's when I assess. He was already on the ground. So at the time I fired, there was the steps behind and there was that lobby in the back. So -- so it was just the steps and the lobby in the back, sir, and it was clear. Nobody was back there*[18]*.*
>
> "So the second time he rapidly got up, sir, holding the knife in front of Him. He took approximately five, six steps towards the office -- towards the officers and myself, sir, turning his torso towards me in a threatening manner and that's when we fired to stop the threat, sir[19].

[17] Screenshot from Officer Zavala's BWC recording
[18] FID Report pages 18-19, Zavala interview transcript, pages 12-13
[19] Zavala interview transcript, page 26

> "Oh, sir, I was afraid that the suspect was going to stab me, sir. I was afraid of my life. I was afraid of my partner's life and the other officers that were to the left of me. Not only that, sir, I was afraid of the pedestrians that were nearby. He already had chased several pedestrians, based on the comments of the call, with this large butcher knife. His demeanor, his cutting his hand, attempting to cut his throat, standing up, took a deep breath, tensed up, and boom, took these five, six steps towards us. I was afraid of my life, sir[20].
>
> "Yes, sir. Approximately -- I would say 10, 15, maybe 20 feet, sir. You know, maybe 10, 15 I would say, yeah[21]."
>
> "And even more resources where we were at too, sir, right? And maybe have more officers there. Have another officer with a Taser ready. You know, we needed resources there and we didn't have resources[22]."

Officer Quintanilla fired one round, approximately .322 seconds after Officer Zavala's third shot. Officer Quintanilla was positioned at the opening of the patrol vehicle's passenger door, as depicted in the diagram labeled Figure #4.

Figure #4



The red line in Figure #4 indicates the approximate positioning of Officer Quintanilla on one end and the approximate position of Victim on the other end. Officer Quintanilla is in the opening of the police vehicle's passenger side doorway, and Victim is on the sidewalk. The diagram depicts the approximate positioning of Victim and Officer Quintanilla when Officer Quintanilla fired one

[20] Zavala interview transcript, pages 26-27
[21] Zavala interview transcript, pages 43-44
[22] Zavala interview transcript, page 44

round from his handgun. The distance between Officer Quintanilla and Victim was approximately 28 feet[23].

Figure #5[24]



Officer Quintanilla's reasons for using deadly force by firing his weapon are summarized in quotes to the FID investigators below.

> *"When he came down, we kept giving him commands and once he hit the sidewalk, I mean, I was scared and he ended up walking towards us -- towards the officers and myself and that's when I -- I had to use deadly force[25].*
>
> *"I had to stop the threat. He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death. And also, there was still civilians just to the right of me, just a few feet away from me. So he could have caused serious bodily injury or death to them if I didn't do that. I had to do it[26]."*
>
> *"So the background to where the suspect was and where I was pointing my firearm, there's an apartment building that was behind him. However, the apartment building is elevated. There's a stairway where he comes down from, which is below where the apartment is…And when he went down, I stopped shooting. I stopped.[27]"*

[23] The diagrams and referenced measurements related to Figures #1, #2, and #4 along with the timing of the gunshots are all taken from the FID report, pages 15-21
[24] Screenshot from Officer Quintanilla's BWC recording
[25] FAID Report page 19
[26] FAID Report page 19
[27] FAID Report page 19

> *"So I'm using the vehicle as cover and I'm standing behind my ballistic door and I'm trying to -- I'm trying to just use my vehicle as cover as best I can, not giving him ground[28].*
>
> *"I want to say about 15 feet[29]."*
>
> *"Once he comes down the sidewalk, he faces towards my partner and I direction and he advances at us. He makes an advance motion at us and I deploy my firearm[30]."*
>
> *"I deployed it because I had -- you know, it was -- I had to use – I had to stop him. I had to stop the threat. He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death. And also there was still civilians just to the right of me, just a few feet away from me. So he could have caused serious bodily injury or death to them if I didn't do that. I had to do it[31].*
>
> *"I see this gentleman that's -- that's trying to come eastbound towards – towards where the suspect is and between -- pretty much between us -- the officers and the suspect. And obviously I didn't want that to happen. I didn't want him to get hurt. I see an officer in his vehicle, and I tell him -- you know, because he's not getting out the car and telling him to leave. So I scream at him and I tell him, "Hey, get out the car and address this citizen and tell him to get out the way or leave the area," I believe, I told him. But I did scream that to the officer[32]."*

When Officers Zavala and Quintanilla arrived, Sergeant was already on scene. Sergeant assigned them to be lethal coverage and essentially containment on the west side of the subject, Victim. Officer 4 was moved over to assist on the west side with a less lethal beanbag shotgun, and another officer was moved over with a police vehicle on the west side to control pedestrian traffic and provide containment to the west[33].

When Victim got up and started moving the first time with the knife, the 40 mm was ordered deployed by Sergeant . Victim was moving down the stairs when the 40 mm struck him, but it seemed to have little impact based on his reaction. However, Victim stopped moving farther away from the steps and sat down on the bottom step of the building.

When Victim got up to move a second time, more than six minutes after the first 40 mm, Sergeant again yelled for the 40 mm to be deployed. Victim appeared to move four steps toward officers O-1 and Meraz. Officer 1 deployed the 40mm as Victim turned toward the

[28] Quintanilla Interview with Investigators, page 24
[29] Quintanilla Interview with Investigators, page 25
[30] Quintanilla Interview with Investigators, page 29
[31] Quintanilla Interview with Investigators, page 30
[32] Quintanilla Interview with Investigators, page 37
[33] Sergeant BWC footage

west, facing Officers Zavala and Quintanilla. Officer Zavala fired first, three times, then Officer Quintanilla fired one time[34].

At the time the shots were fired, the officers were each standing behind vehicle doors equipped with ballistic protection panels. Officer Zavala was approximately 25 feet away from Victim, and Officer Quintanilla was approximately 28 feet away from Victim. Both officers indicated that they fired because they thought Victim was going to cause serious bodily injury or death. For example, Officer Zavala told investigators, "The suspect then starts advancing towards the officers and turns his body towards myself and my partner. And in fear --I was afraid, sir. I thought this guy was going to come at me with this butcher knife." Officer Quintanilla told investigators, "He was coming towards us. He was going to cause myself or my partner serious bodily injury. He was going to cause death."

While the officers' reasons for firing their weapons are reasonable fears of what could happen, they are speculative and do not amount to imminent harm as defined by the California Penal Code. Factors indicating Victim was not an imminent threat include:

- Victim, at the time he was shot, was standing, facing officers Zavala and Quintanilla, not advancing on them
- Less lethal tools were in place in two directions, including next to Officer Zavala (Officer 4 with a beanbag)[35]
- Both officers were standing behind the police vehicle doors with ballistic panels more than 28 feet away from Victim
- Sergeant ordered the less-lethal rounds to be fired moments before the officers fired their handguns
- A 40 mm less lethal round was fired a second time, less than one second before Officer Zavala fired from his handgun. There was no opportunity to see if the less lethal, ordered by the sergeant, was effective
- There were multiple officers and options available to try and stop Victim had he advanced toward Officers Zavala and Quintanilla
- There were officers closer to Victim than Officer Zavala and Quintanilla, who did not fire their handguns. Officers O-1 and Meraz were approximately 22 feet away from Victim when Officer Zavala first fired[36]. Officer 1 fired the 40 mm as directed, less than one second before Officer Zavala fired his handgun. Officer Meraz, who was providing lethal

[34] Zavala, Quintanilla, Sergeant BWC video, FID Report
[35] FID Report page, 14
[36] FID Report page, 16

coverage next to Officer 1, did not fire

- Less lethal was available immediately next to Officer Zavala (Officer 4 with a stun bag shotgun), but was not utilized.

- The organization of this small team of officers was designed to provide less-lethal options for each grouping of officers. Victim's initial movement (4 steps) just before being shot was toward Officers O-1 and Meraz; thus, the 40 mm (Officer 1) was ordered deployed by Sergeant and fired by Officer 1.

- There were at least eight officers present and organized to deal with any of the possible scenarios that Officers Zavala and Quintanilla stated they feared, and as reasons they shot Victim

- Based on the totality of the circumstances, Victim's turning toward Officers Zavala and Quintanilla does not constitute an imminent threat as defined in California law.

> "A threat of death or serious bodily injury is 'imminent' 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 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[37]."

Throughout the videos and all the materials available, I did not see, hear, or review any documented direct threats toward the officers or any other person. Victim was suicidal, a threat to himself, and posed many potential threatening scenarios based on possible actions. When Victim stood up and stepped toward the officers, the situation was changing. The officers were set up to prevent Victim's movement and to address potential threatening scenarios under the direction of Sergeant . Sergeant ordered the second 40mm less lethal deployment. When the 40mm round was ordered, Victim had started moving forward in the direction of Officers O-1 and Meraz.

By the time the 40mm was deployed, Victim was no longer moving forward toward Officers O-1 and Meraz; he was turning his body and feet toward Officers Zavala, Quintanilla, and Officer 4. When Victim was stepping toward Officer 1 and turning toward Officer Zavala, the movements were not hurried. He was not running, lunging, or aggressively advancing toward the officers. Victim's turn toward Officer Zavala was also at normal speed and did not appear to be a sudden or aggressive move.

[37] CA Penal Code 835(a)(e)(2)

Based on the material reviewed, Victim's turn toward Officer Zavala initiated the lethal response by Officers Zavala and Quintanilla. However, Victim, upon turning and facing officers Zavala and Quintanilla, did not pose an imminent threat to them. The situation had not changed dramatically; the four steps Victim took were more toward Officers O-1 and Meraz than toward Officers Zavala and Quintanilla. The lethal force was deployed before any assessment of the 40mm round ordered by Sergeant.

Based on my extensive experience in policing and review of the videos, statements, and other materials available, it is my opinion, the lethal force used against Victim was not in response to an imminent threat as required by the California Penal Code.

Conclusion

Police officers responding to a suicidal man who was also reported to have chased people with a knife can be a dangerous and complicated situation. The objective of modern training for police officers responding to these incidents is to provide tools and techniques that minimize the danger to the subject, citizens, and officers. Those tools include many of the things employed in this situation by the Los Angeles Police Department and the officers involved (small team tactics, less lethal tools – 40mm, bean bag shotguns, and TASERS, ballistic door panels, CIT-type negotiation techniques, and more).

From Sergeant's arrival through the ensuing eight-plus minutes leading up to the shooting, Sergeant and the officers were employing many of the techniques and tools designed to minimize the level of danger to all the parties involved[38]. The group of officers had a modest level of containment and many options in place if Victim were to become violent toward others. The officers had a variety of less-lethal options (OC Spray, Batons, TASERs, 40mm, Beanbag Shotgun) and were properly using other tools available (ballistic door panels, PA System, hand-held shield).

The group of officers was working through the situation under the direction of Sergeant, who had clearly defined officer roles and responsibilities and was controlling the police response. It did not appear that Victim's movements were significant enough for Officers Zavala and Quintanilla to respond with lethal force when Sergeant had ordered less lethal force to be deployed. In addition, due to the lethal force being fired so close (less than one second) to the less lethal force, there was no opportunity to evaluate the effectiveness of the less lethal force ordered by Sergeant.

[38] Sergeant BWC 4:18 – 13:09

The use of lethal force by Officers Zavala and Quintanilla appeared to be inconsistent with the tactics being directed by Sergeant in this incident. Victim's turn in direction, toward the two officers, did not significantly change the circumstances to warrant a lethal response. The use of deadly force did not appear to be in response to an imminent threat as defined by the California Penal Code.

Respectfully Submitted,

Robert Handy
Peoria, Arizona

Documents Reviewed

I have examined the following reports, documents, audio recordings, photos, and other evidence listed to render my opinions:

Number	File
1	BWC footage Officer Zavala
2	BWC footage Officer Quintanilla
3	BWC Footage Sergeant
4	FID Report F064-21
5	Chief of Police (COP) Interdepartmental Report
6	Letter of Transmission (LOT 22-003757)
7	Letter of Transmission (LOT 22-003418)
8	Quintanilla Discipline Notice
9	Zavala Discipline Notice
10	Federal civil complaint
11	Quintanilla EDI profile
12	Quintanilla LADP image
13	Zavala EDI profile
14	Zavala LAPD image
15	Zavala interview transcript
16	Quintanilla interview transcript
17	LAPD edge weapon policy
18	Graham v Connor, 490 U.S. Supreme Court 386 (1989)
19	California Penal Code 835
29	California POST Learning Domains 15, 20

Tactical Concept No. 11 July 2024

WEAPONS OTHER THAN FIREARMS

The purpose of this Tactical Concept is to provide officers with options to deal with a suspect armed with a weapon other than a firearm.

The Los Angeles Police Department is guided by the principle of reverence for human life in all investigative, enforcement, and other contacts between officers and members of the public. Unfortunately, dangerous confrontations between suspects armed with weapons other than firearms can sometimes result in serious bodily injury or death. Weapons other than firearms pose a threat to the public and officers and generally fall into two categories: edged weapons and blunt weapons. Both edged and blunt weapons are objects that can be used to strike a person and inflict serious bodily injury or death. For the purposes of this Tactical Concept, edged weapons include any object capable of cutting, slashing, or stabbing.

When dealing with suspects armed with weapons other than firearms, distance is not the only factor that should be considered. For example, barriers, if available, may inhibit a suspect from getting close enough to harm officers. Additionally, officers should consider the type of weapon and assess the suspect's ability to inflict serious bodily injury or death with that weapon. Resolving the situation safely using de-escalation techniques and proper planning should be primary objectives for officers dealing with suspects armed with weapons other than firearms. In those situations where force is used, officers should always attempt to resolve the situation with reasonable and proportional force. Officers are not required to use lethal force, even though it may be authorized, if they believe the situation can be resolved safely with other force options.

PROCEDURES

Communications Division personnel will proactively dispatch a field unit with available intermediate force options and a supervisor to all calls involving edged weapons – with the goal of pre-positioning resources so officers have multiple tactical options when arriving on scene.

Establishing Control

A situation is more likely to have a positive outcome if officers are able to establish control of the situation. The first concern is the safety of the public, which must be balanced with officer safety. Officers should attempt to obtain information about the suspect, including the type of weapon involved and anything that could help establish

rapport, from family members, witnesses, or bystanders. These measures are important to attempt to maximize the safety of everyone at scene.

Use of Force and De-escalation

Officers have several use of force options available if the suspect poses an immediate threat to the public or officers. The force used must be appropriate for the actions displayed by the suspect. If a suspect armed with a weapon other than a firearm is contained and poses no immediate threat to himself/herself, the public, or officers, officers should attempt to resolve the situation using tactical de-escalation techniques to gain voluntary compliance, or in an effort to mitigate the need to use a higher level of force while maintaining control of the situation.

Tactical De-Escalation Techniques

- Planning
- Assessment
- Time
- Redeployment and/or Containment
- Other Resources
- Lines of Communication

> **Note:** Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning: Officers should attempt to arrive at scene with a coordinated approach based upon initial information and any pre-existing knowledge of the suspect(s) or the involved parties. The dynamic nature of most incidents will require tactical plans to be flexible, and officers need to adapt their plan(s) as additional information or factors become known.

Assessment: There is no single solution and every situation will be handled differently based upon the totality of the circumstances. When feasible, officers should consider available options and discuss tactics prior to an encounter with a suspect armed with a weapon other than a firearm.

Some factors to consider during the **initial** assessment:

- The type of radio call or activity that brings the officers into the situation (e.g., emotionally charged incidents such as domestic violence, a person showing signs of impaired judgment, or a crime in progress).
- Suspect's apparent size, age, and physical condition.
- Danger signs (e.g., persons talking to themselves or unprovoked agitation).
- The individual's apparent state of mind (e.g., angry, confused, evasive, threatening).
- The availability of known cover and concealment or barriers.
- The need to increase the distance from an individual with a weapon.
- Access to places where dangerous objects could be concealed such as bags, pockets or bulky clothing.

- Observations of the individual's hands.

After the initial assessment, officers should conduct a **continuous** assessment of the situation as circumstances change and new information is received. If a suspect is failing to comply with orders, officers should attempt to determine whether a suspect's lack of compliance is a deliberate attempt to resist or escape, or an apparent inability to comprehend the situation due to environmental, physical, cognitive, or other conditions. If it appears that the suspect is unable to comprehend the situation, other tactical options may be more effective in resolving the situation safely.

Time: There is an equation that saves lives, Distance + Cover = Time. Time generally gives officers options. Time is an essential element of de-escalation as it generally allows officer the opportunity to communicate with the suspect, refine tactical plans and, if necessary, call for additional resources.

Entering the suspect's space prematurely may result in the suspect reacting, which could result in escalating the situation. Whenever possible, officers should place an object/barrier between themselves and the suspect as cover. A barrier could be a chain-link fence, wrought-iron gate, or any similar object that prevents the assailant from reaching the officer.

Due to "lag time," the urgency for officers to create distance between themselves and a suspect armed with a weapon other than a firearm cannot be overstated. Lag time is the time it takes a person to react to an action. If officers close the distance too quickly before assessing the situation, lag time could put them in danger.

If a suspect is contained and does not pose an immediate threat to officers, the public, or themselves, time is an officer's best tool. In these situations, time allows more opportunity to communicate with the suspect and calm the situation. A Systemwide Mental Evaluation Assessment Response Team (SMART) can be requested through the Mental Evaluation Unit (MEU) if officers' assessment indicates an individual is suspected of suffering from a mental illness or developmental disability. If the suspect is barricaded or suicidal, the Crisis Negotiation Team can be requested through Metropolitan Division.

Redeployment and/or Containment: Redeployment and/or containment can afford officers the added benefit of time and distance while continuing to maintain control of the situation. This includes redeployment to cover and/or concealment, such as physical barriers. The addition of time, distance and cover/concealment may give officers an opportunity to re-assess, communicate, request additional resources, or deploy other tactics to reduce the likelihood of injury to both the public and officers while also mitigating any potential ongoing threats. Redeployment, however, should not enable a subject to gain a tactical advantage, arm himself/herself, or flee and pose a greater danger to the public or officers.

Other Resources: In the case of a tense or potentially dangerous encounter, requesting additional resources can provide officers with specialized expertise,

personnel and tools to help control and contain an incident. In concert with the Department's guiding principle of reverence for human life, officers and incident commanders shall consider the use of intermediate force options whenever practical. Intermediate force options often offer the most reasonable force option to safely resolve the situation. Some intermediate force options include but are not limited to:

- 40mm Less-Lethal Launcher
- Beanbag Shotgun
- TASER
- OC Spray

Lines of Communication: Effective communication throughout the incident is vital when dealing with a suspect armed with a weapon other than a firearm. Officers must be flexible in the communication they are using, monitoring the suspect's reactions to determine if the particular line of communication appears to be working. Officers may have to give clear direct orders using command presence, then switch to acting as a crisis negotiator, and then back to using command presence as the situation evolves. If environmental conditions allow, officers should attempt to establish rapport by treating the individual with respect and using a low, soothing tone of voice. The contact officer should introduce himself/herself by name and ask what is troubling the person. Open-ended questions should be used to get the person talking, including:

- "What happened today?"
- "Why are you troubled?"
- "How can I help you?"

Talking with a person may defuse the crisis or buy time, thus increasing the opportunity for a peaceful resolution.

Listening skills are essential to identify the individual's problem and provide a possible solution. Repeat the individual's problem back to them and attempt to solve the problem by discussing solutions. Give the person hope that the problem can be solved. Using active listening skills, paraphrasing, and allowing the suspect to vent frustrations can have a positive impact on the situation.

When dealing with a person who is suspected of suffering from a mental illness and armed with a weapon other than a firearm, communication can be an officer's best tool in resolving the situation. Although communication efforts may seem to be slow and tedious, they frequently result in the de-escalation of the situation. Remember, when an armed individual is also a person with a mental illness, it is important to try to speak slowly in a calm, firm voice to attempt to create a tranquil environment.

Individuals who are suspected of suffering from a mental illness may be easily overwhelmed or distressed by too many demands. When communicating, use short sentences and give one order at a time. Officers may have to repeat orders numerous times before the person will respond. If tactics permit, give more than one option, instead of an ultimatum. It is important not to join in with the person's hallucinations.

Effective communication with the suspect can prevent the incident from escalating to a use of force, thus reducing the threat of injury to the officers and the suspect.

All or some of the following tactics may be used in the same incident as time or circumstances allow:

- Verbal warnings
- Persuasion
- Defusing
- Empathy
- Redirecting
- Advisements
- Building rapport
- Asking open ended questions
- Giving clear and direct orders

CONCLUSION

Officers often come into contact with emotionally charged suspects in situations such as domestic violence, crimes in progress, and people in crisis. With the rise of incidents involving weapons other than firearms, the equation that is most likely to produce a positive outcome is Distance + Cover = Time. Time generally gives officers options. A barrier between officers and the suspect may give them additional time to handle the incident safely. If the suspect is contained and poses no immediate threat to the officers, the public, or himself/herself, officers can use techniques in an effort to reduce the intensity of an encounter with a suspect and potentially enable them to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.

Important Reminder

Deviations from these basic concepts sometimes occur due to the fluid and rapidly evolving nature of law enforcement encounters and the environment in which they occur. Deviations may range from minor, typically procedural or technical, to those which substantially deviate from Department tactical training. Any deviations are to be explained by the involved officer(s), and the justification for substantial deviations from Department tactical training shall be articulated.

This Tactical Concepts – Tactics Training Overview replaces Training Bulletin Volume XLVI, Issue 3, Weapons Other Than Firearms, October 2017.

Field Training Services Unit
Police Training and Education

DISTRIBUTION “A”



LOS ANGELES POLICE DEPARTMENT

USE OF FORCE-TACTICS DIRECTIVE

Directive No. 1.3 August 2022

USE OF FORCE POLICY

PURPOSE

The purpose of this Directive is to provide Department personnel with a Use of Force Policy that is concise, easily understood, and consistent with prevailing law and industry best practices.

PREAMBLE TO USE OF FORCE

The use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communication, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible and reasonable to do so. When warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community, and fellow officers.

POLICY

Use of De-Escalation Techniques. It is the policy of this Department that, whenever feasible, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a suspect and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

Verbal Warnings. Where feasible, a peace officer shall, prior to the use of *any* force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is aware of those facts.

Proportionality. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

Fair and Unbiased Policing. Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct on the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

Use of Force – Non-Deadly. It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

Factors Used to Determine Reasonableness. Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used:

A) From the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and,

B) Based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention, or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the subject;
- Whether the subject was posing an immediate threat to officers or a danger to the community;
- The potential for injury to citizens, officers, or subjects;
- The risk or apparent attempt by the subject to escape;
- The conduct of the subject being confronted (as reasonably perceived by the officer at the time);

- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the subject;
- Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion, and number of officers versus subjects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

Drawing or Exhibiting Firearms. Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. Moreover, any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms.

Use of Force – Deadly. It is the policy of this Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or to another person; or,
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

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. Before discharging a firearm, officers shall consider their surroundings, background, and potential risk to bystanders to the extent reasonable under the circumstances.

> **Note:** Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

Department's Evaluation of Deadly Force. The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with California Penal Code Section 835(a) as well as the factors articulated in Graham v. Connor.

Rendering Aid. After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, subjects of a use of force, and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and,
- To the level of equipment available to an officer at the time assistance is needed.

Warning Shots. Warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers, and property damage.

Shooting At or From Moving Vehicles. Firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force.

An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistence with the policy regarding the use of deadly force. The driver of a vehicle should not draw their weapon while operating a moving vehicle; the drawing of a weapon while operating a moving vehicle is unsafe for both officers and the community. If an officer determines that it is necessary to draw their firearm while operating a vehicle, it should be to address an imminent threat and conform to the Department's policy on drawing and exhibiting firearms.

> **Note:** It is understood that the policy in regard to discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, Department members are expected to act with intelligence and exercise sound judgment, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

Requirement to Report Potential Excessive Force. An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer [as delineated in California Penal Code Section 835(a)], shall immediately report such force to a superior officer.

An officer who has a sustained excessive force complaint shall be prohibited from training other officers for a period of at least three years from the date that the complaint was sustained.

Retaliation for Reporting Potential Excessive Force or Violation of Any Law or Regulation. Retaliation for reporting potential excessive force or violation of any law or regulation by any employee of this Department is strictly prohibited, shall be reported immediately, and is considered to be serious misconduct.

Requirement to Intercede When Excessive Force is Observed. An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

> **Note:** For the purposes of this section, "intercede" includes, but is not limited to, physically stopping the excessive force (when safe and reasonable to do so) and recording the excessive force, if equipped with a body worn video (BWV) camera. Officers shall attempt to document on BWV the efforts to intervene, efforts to de-escalate the excessive use of force, and confronting the offending officer about the excessive force during the use of force. If the offending officer continues to use excessive force, the witnessing officer shall immediately report the excessive force to a superior officer.

Any officer who has received all required training on the requirement to intercede and fails to do so when excessive force is observed as described above shall be subject to discipline up to and including in the same manner as the officer who committed the excessive force.

DEFINITIONS

Deadly Force. Deadly Force is defined as that force which creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

Excessive Force. Excessive Force means a level of force that is found to have violated Section 835(a) of the California Penal Code or the requirements of any other law or statute.

Feasible. Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

Imminent. Pursuant to California Penal Code Section 835a(e)(2), "[A] threat of death or serious bodily injury is "imminent" 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 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 to likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed."

Intercede. Intercede includes, but is not limited to, physically stopping the excessive force (when safe and reasonable to do so) and recording the excessive force, if equipped with a BWV camera.

Necessary. In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternative to deadly force; and, d) whether a warning was feasible and/or given.

Objectively Reasonable. The legal standard used to determine the lawfulness of a use of force is the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). Graham states in part, "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. The test of reasonableness is not capable of precise definition or mechanical application." The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard, rather than a subjective standard.

Retaliation. Retaliation means demotion, failure to promote to a higher position when warranted by merit, denial of access to training and professional development opportunities, denial of access to resources necessary for an officer to properly perform their duties, or intimidation, harassment, or threat of injury while on or off-duty.

Serious Bodily Injury. Pursuant to California Penal Code Section 243 (f)(4) defines Serious Bodily Injury as including, but not limited to:

- Loss of consciousness;
- Concussion;

- Bone fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement.

Totality of the Circumstances. All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the subject leading up to the use of force.

Vulnerable Population. Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

Warning Shots. The intentional discharge of a firearm off target, not intended to hit a person, to warn others that deadly force is imminent.

AMENDMENTS

This Directive replaces Use of Force-Tactics Directive No. 1.2, Use of Force Policy-Revised, October 2020.

MICHEL R. MOORE
Chief of Police

DISTRIBUTION "D"

AGENDA ITEM REPORT

Title: POST2507337 - MATT WHITE (POST ID: A68-U16)
LAST EMPLOYING AGENCY: SACRAMENTO COUNTY SHERIFF'S DEPARTMENT (CURRENT)

REPORT PROFILE

MEETING DATE 04/15/2026	**BUREAU SUBMITTING THE REPORT** Professional Conduct Northern Bureau	
RESEARCHED BY Rick Collins	**REVIEWED BY** Rob Guyton	
REPORT DATE	**APPROVED BY** Annemarie Del Mugnaio	**DATE APPROVED**
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

The matter is before the Peace Officer Standards Accountability Advisory Board (POSAAB) for review and recommendation regarding the Respondent's peace officer certification status.

BACKGROUND:

On August 4, 2024, Respondent was arrested by a Folsom Police Officer for violating California Vehicle Code sections 23152(a) [driving under the influence] and 23152(b) [blood alcohol content of .08% or greater]. Respondent's BAC measured .11% by volume. On June 11, 2025, Respondent was convicted of California Vehicle Code section 23152(b), driving under the influence with BAC of .08 or greater. Additionally, on April 16, 2016, California Highway Patrol Officer Fuhrman arrested Respondent for violating California Vehicle Code sections 23152(a) and 23152(b), DUI. Respondent's BAC measured .12 by volume. On July 16, 2016, Respondent pled no contest to a misdemeanor violation of Vehicle Code section 23152(a).

Video Evidence Links:

- **BR08 POST2507337 White Matt Attachment G BWC Video**

ANALYSIS:

The Division determined there was clear and convincing evidence that Respondent engaged in serious misconduct as defined in California Penal Code 13150.8(b)(6) and Commission Regulation 1205(a)(3) -acts that violate the law

that are sufficiently egregious or repeated to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public. Impaired driving and repeated acts of impaired driving are acts that violated the law that are both sufficiently egregious and also sufficiently repeated as to be inconsistent with Respondent's obligation to uphold the law or respect the rights of members of the public. As an officer who is charged with enforcing California law, including the Vehicle Code, Respondent's actions in driving impaired on two occasions establish he engaged in in serious misconduct.

RECOMMENDATION: The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

ATTACHMENT(S):

BR01_POST2507337_White Matt_ISF
BR02_POST2507337_White Matt_ExecReviewDivisionRec
BR03_POST2507337_White Matt_POSTProfile
BR04_POST2507337_White Matt_Attachment C 2016 DUI Arrest
BR05_POST2507337_White Matt_Attachment D-2024 DUI Arrest
BR06_POST2507337_White Matt_Attachment E-2016 Admin Interview-Dep White
BR07_POST2507337_White Matt_Attachment F-2024 Admin Interview-Dep White
BR09_POST2507337_White Matt_Attachment H-45_Redacted.pdf
BR10_POST2507337_White Matt_Attachment I-2016 Court Docs-Sentencing
BR011_POST2507337_White Matt_Attachment J-2024 DUI Plea and Waiver
BR012_POST2507337_White Matt_Attachment K-2024 probation order
BR13_POST2507337_White Matt_Attachment L-Sac Co Court Minute Order 6-11-25
BR14_POST2507337_White Matt_Attachment M_Agency2024IA
BR15_POST2507337_White Matt_Attachment N__Agency2016IA
BR016_POST2507337_White Matt_Attachment O-POST Interview Transcript



INVESTIGATIVE SUMMARY AND FINDINGS

PEACE OFFICER NAME: Matt Lawrence White

POST ID NUMBER: A68-U16

EMPLOYING AGENCY: Sacramento County Sheriff's Department

POST CASE NUMBER: POST2507337

WRITTEN BY: Rick Collins

DATE: 2/19/2026

Contents

I. Executive Summary and Findings 3

II. Investigative Methodology 6

III. Respondent's Background 7

A. Respondent's Peace Officer Certificates and Employment 7

B. Respondent's Service Record 7

IV. Factual Background 8

V. Analysis and Findings 10

A. Does the alleged conduct violate POST Regulation 1205(a)(6) and Penal Code section 13510.8(b)(6)? 10

VI. Supporting Evidence 11

I. Executive Summary and Findings

2024 Incident

On August 4, 2024, Sacramento County Sheriff's Office Deputy Matt White (hereinafter "Respondent") was pulled over by a Folsom Police Officer based on suspicion of driving under the influence, in violation of Vehicle Code section 23152(a). According to the police report written by Officer Eathan Vavak **(Attachment D)**, he observed a vehicle driven by Respondent driving north on Folsom Auburn Rd. just four minutes after midnight. Officer Vavak saw the vehicle swerve back and forth within its lane, while the driver drove at inconsistent speeds ranging from 40-55 mph. Additionally, the driver applied the brakes irregularly as the vehicle approached a red traffic light.

Officer Vavak stopped the vehicle and when he spoke with Respondent, Officer Vavak immediately smelled the odor of alcohol coming from inside the car and noted Respondent's speech was slurred. Based on driving observations, coupled with the smell of alcohol and Respondent's slurred speech, Officer Vavak conducted a series of field sobriety tests and a preliminary alcohol screening ("PAS"). The PAS results showed his blood alcohol content was 0.116% for test 1 and test 2. After observing Respondent's driving mechanics, the objective signs of his intoxication and his performance on the field sobriety tests, Officer Vavak opined that Respondent was under the influence of alcohol and was unable to safely operate a motor vehicle. Respondent was subsequently arrested for violating Vehicle Code sections 23152(a) (driving under influence) and 23152(b) (blood alcohol content of .08% or greater). At the Folsom Police Department, Respondent submitted to a breath test via the Drager Alcotest 9510 to determine his BAC. The results showed his BAC was .11%. In the body worn camera video of this incident (**Attachment-G)**, Respondent appeared to be cooperative and respectful during the encounter with Officer Vavak. Respondent was later booked at the Sacramento County Main Jail.

On June 11, 2025, Respondent pled no contest to a misdemeanor violation of Vehicle Code section 23152(b). (**Attachment-J)** He was sentenced to four years' probation, four days in custody, fines, and was mandated to complete an 18-month second time offender DUI program. Respondent was employed by Sacramento County as a Deputy Sheriff when the arrest occurred in 2024. Following an Internal Affairs investigation, the Sacramento County Sheriff's Department suspended him without pay for 160 hours. He was also reassigned to a non-driving position in the jail facilities for the duration of any restriction on his driver's license or the duration of his criminal probation, whichever is greater. (**Attachment -M)**

2016 Incident

Respondent had a prior DUI in 2016. Sacramento County Superior Court documents associated with the above-mentioned criminal case reveal Respondent was arrested for a violation of California Vehicle Code section 23152(b) [blood alcohol content of .08% or greater] on or about April 16, 2016. **(Attachment-N)** His blood alcohol level for the 2016 incident was .12%. Respondent was employed by Sacramento County as a Deputy Sheriff when the arrest occurred in 2016.

According to the arrest report, California Highway Patrol Officer Fuhrman received a call from dispatch on April 16, 2016, at approximately 2:13 a.m. The call reported an off-duty Stockton police officer was following a driver who he suspected of driving under the influence. (**Attachment-C)** Officer Fuhrman located the suspected DUI driver on State Route 99 near Florin Rd. The following was taken directly from Officer Fuhrman's arrest report to describe his observations:

"I observed the s/v (suspect vehicle) weaving from right to left in its lane. The right-side tires touched the broken painted white lines and raised pavement markers as the s/v weaved to the right, and the left side tires touched the broken painted white lines and raised pavement markers as the s/v weaved to the left. I moved from the #2 lane into the #3 lane behind the s/v, and I positioned the CHP unit closer behind the s/v to begin an enforcement stop. I activated the CHP unit's forward red lights and wig-wag lights. I advised the s/v over the CHP unit's public address system (P/A) to take the next exit on the right. The s/v began yielding to the right shoulder. I continued to advise the s/v to take the exit at 47th Avenue. The s/v continued on northbound SR-99 and eventually exited at 47th Avenue. As the s/v exited at 47th, I instructed the s/v to turn right onto 44th Street. The s/v turned right onto 44th Street. I advised the s/v to turn right into the parking lot. The s/v complied with instructions and pulled into the parking lot on the southwest corner of 47th Avenue and 44th Street."

The arrest report states that Officer Fuhrman spoke to the off-duty officer, who reported that Respondent nearly collided into the center median at one point, and almost hit a big-rig as he weaved all over the road. The big-rig honked at Respondent and Respondent continued weaving in and out of its lane.

The arrest report states Officer Fuhrman spoke to the solo male driver at the open driver's side window. He explained the reason for the stop and asked the driver for his driver's license. The male, who later verbally identified himself as Respondent, told the officer he did not have his driver's license with him; however, he did let the officer know he (Respondent) was a Sacramento County Deputy Sheriff. While talking to the driver, Officer Fuhrman noticed the strong odor of an alcoholic beverage coming from inside the vehicle. He also noted Respondent's eyes were red and watery and his speech was

slurred. When he asked Respondent if he had any alcohol during the evening, he told the officer he had one shot and two beers. He subsequently instructed Respondent to get out of his vehicle and walk to the side of the CHP unit.

While at the side of the CHP unit, Officer Fuhrman continued to smell alcohol coming from Respondent's breath and/person. Respondent was unsteady on his feet, and had slurred speech, coupled with red and watery eyes. When asked to rate his level of intoxication, using a scale from 0-10, with 10 being the most drunk he's ever been, Respondent told Officer Fuhrman he felt like he was at a "6" on the scale. When asked if he should have been driving, Respondent said, "No." Officer Fuhrman opined that Respondent had been driving under the influence of alcohol. He based his opinion on his observation of Respondent's driving mechanics, the objective signs of intoxication, and his poor performance during the field sobriety tests.

Respondent was subsequently arrested for a misdemeanor violation of Vehicle Code section 23152(a). Respondent was taken to the Sacramento County Main Jail where he completed two breath tests to measure for alcohol. Both tests registered .12% BAC. He pled no contest to a misdemeanor violation of Vehicle Code section 23152(b) on July 25, 2016. At the time of this first DUI arrest, Respondent was employed by Sacramento County as a Deputy Sheriff. He was sentenced to three years informal probation and ordered to perform 48 hours of service on the Sheriff's Work Project.

During his Internal Affairs interview, Respondent told the investigators he had two beers and three or four shots of Jim Beam within an hour and forty-five-minute timeframe before he left the bar in Stockton. When asked if he had taken any steps to correct his behavior, he had the following response:

"Um, yes I have. Um, the, ah, irony of it all is, I've …I've been well aware for the last couple of years that, ah, alcohol has been a little bit of a problem in my life and, ah, in September I was introduced to Alcoholics Anonymous and I've attended there and I've been off again, on again, and then, ah, I was 45 days sober prior to this arrest and had not touched alcohol and ah, ah, and since this arrest I've gone right back, I have a sponsor and back to the program and, ah, I met with my, ah, Lieutenant and, ah, at the Airport. I expressed my disappointment in myself and, ah, I'm taking it from there and of course I have abstained from alcohol since."

Following the Internal Affairs Investigation, he was suspended without pay for 160 hours, 80 of which were held in abeyance for one year. (**Attachment-N)** Additionally, he was transferred to a non-driving assignment for the duration of any restriction on his driver's license or the duration of his criminal probation, whichever is greater.

General Discussion

Based upon the above events that occurred in 2016 and 2024, coupled with the subsequent criminal convictions for each act, Respondent's actions meet the definition of California Penal Code section 13510.8(b)(6) and Title 11, California Code of Regulations section 1205(a)(6)-Acts that Violate the Law, and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public. Respondent violated the above-mentioned criminal statute when he drove vehicles in 2016 and 2024 in violation of the California Vehicle Code restrictions for driving under the influence of alcohol. Respondent was convicted twice for driving under the influence within ten years, although the incidents were eight years apart.

According to the evidence presented in the Sacramento County Sheriff's Department's Internal Affairs investigation and my investigation, reasonable grounds exist for the suspension and/or revocation of Respondent's peace officer certifications pursuant to California Penal Code Section 13510.85(a)(1), as set forth in more detail in the attached Executive Review/Peace Officer Standards Accountability Division Recommendation (**Attachment A**)

II. Investigative Methodology

This report summarizes the findings related to allegations of serious misconduct. This investigation was conducted in accordance with the regulations and policies of the Commission on Peace Officer Standards and Training (POST). The investigation included a review of Sacramento County Sheriff's Department's Internal Affairs investigations, which included two interviews of the subject officer. (**Attachments E and F**). Additionally, I reviewed body worn camera footage, police reports, and court documents. Based on my review of the entire administrative investigations, the written investigative report(s), and my own independent investigation, the administrative findings were supported by reasonable grounds.

I analyzed the information I obtained in this investigation using the clear and convincing evidence standard. For purposes of this report, clear and convincing evidence means "evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true. The evidence need not establish a fact beyond a reasonable doubt."

This report is necessarily summary in nature and does not include every fact or issue that might be found in the underlying investigation and attachments. It does, however, contain reference to that evidence that I believe establishes the requisite facts and proves the serious misconduct charged by clear and convincing evidence.

III. Respondent's Background

A. Respondent's Peace Officer Certificates and Employment

The table below sets forth Respondent's employment history (**Attachment B- EDI Profile**):

Dates	Rank	Agency
06/04/2002 to 7/24/2003	Police Officer	Fortuna Police Department
09/05/2004 to present	Deputy Sheriff	Sacramento County Sheriff's Dept.

Respondent is assigned POST ID A68-U16. He received the following peace officer certificates from POST (**Attachment B – EDI Profile**):

Certificate Type	***Certificate Number***	***Date Issued***
Basic	121846	09/19/2005
Intermediate	95804	04/27/2009
Advanced	130055	02/13/2023

B. Respondent's Service Record

When evaluating whether suspension or revocation is appropriate, Penal Code section 13510.8(c)(5) and Title 11, California Code of Regulations section 1213(a)(5) provide that the Commission must consider Respondent's prior conduct, discipline and service record and any prior instances of misconduct, including any incidents occurring beyond the time limitation for investigation in evaluating whether to revoke certification for the incident under investigation. The relevance and weight the Commission may choose to assign to a peace officer's prior conduct and service record will depend on the facts in each case.

Respondent had three complaints dating back to 2016, which included one for discourteous treatment which resulted in an exonerated finding. The other two were for conduct unbecoming an officer related to his 2016 and 2024 DUI arrests. According to Sacramento County Sheriff's administrative investigation report number 2016PSB-158 relating to the 2016 incident, Respondent received a 160-hour suspension, without pay

of which 80 hours were held in abeyance for one year. (**Attachment N – Proposed Discipline for the 2016 DUI**). He was also transferred to a non-driving assignment. Respectively, in conjunction with Sacramento County Sheriff's administrative investigation report number 2024PSB-0421, relating to the 2024 incident, Respondent received a 160-hour suspension, without pay, in addition to his reassignment to a non-driving assignment. (**Attachment M – Proposed Discipline for the 2024 DUI**).

IV. Factual Background

a. 2024 DUI Incident and Internal Affairs Investigation.

On August 4, 2024, Respondent was arrested by a Folsom Police Officer for violating California Vehicle Code sections 23152(a) [driving under the influence] and 23152(b) [blood alcohol content of .08% or greater]. (**Attachment D- 2024 Folsom Police Department DUI Arrest Report**). Respondent's BAC measured .11% by volume. On June 11, 2025, Respondent was convicted of California Vehicle Code 23152(b), driving under the influence with BAC of .08% or greater. (**Attachment J – 2024 Court Records**). Sergeant Yeates was assigned to conduct an administrative investigation into Respondent's arrest for DUI. The investigation was submitted to POST subsequent to its completion. During his administrative interview concerning the August 4, 2024, arrest, Deputy White told investigators he thought he was okay to drive the night of his arrest. (**Attachment F – Deputy White's Interview Transcript from the 2024 DUI Administrative Interview**).

He said he fell short and made a mistake by having his last drink before leaving the bar. He admitted there was no reason for him to be driving that night and that his actions were not in line with department policy or the department's vision, mission, and values. He said his actions brought discredit to the organization. Additionally, he told investigators he started attending Alcoholic Anonymous meetings again after his arrest in conjunction with completing [redacted] (**Attachment H – Notice of Completion** [redacted]. [redacted] Additionally, Respondent told investigators he has been sober since January 12, 2025, and continues his weekly therapy sessions with a counselor [redacted]

POST Professional Conduct Northern Bureau interviewed Respondent on December 18, 2025. (**Attachment O – Transcript of POST Interview with Deputy White**). The interview took place at POST Headquarters, specifically in training room C. Respondent's Attorney, Joseph Hoffman of Mastagni Holstedt was present for the interview in its entirety. POST and Joseph Hoffman recorded the interview. The following is a summary of the interview and not a verbatim response to every question that was asked. Respondent maintains he had not had a drink of alcohol since January 12, 2025. Since then, he has abstained from consuming alcohol.

His efforts to stay sober are supported by weekly meetings with the counselor he worked with during his [redacted] He wanted to get to the root of why he was drinking. Additionally, he attends Alcohol Anonymous meetings once a week. His efforts are also supported by meeting with a counselor from the mandated 18-month DUI completion program, which he anticipates completing in February 2027. During the aftermath of his second arrest, he met with fellow employees who offered support and guidance for him. Respondent does not maintain a log pertaining to when he meets with his therapy counselor(s).

At the time of his arrest in August 2024, Respondent's driver's license status was valid, without restrictions. At that time, he was working the North Patrol Sector as a field training officer. He is currently assigned to the Rio Consumnes Correctional Facility. Although his driver's license status is currently restricted, he has the ability to drive a county vehicle if the current administration were to sign a form acknowledging the Respondent is required to use an ignition interlock device (IID) in his personal vehicle. If the administration signed the form, Respondent could drive a county vehicle if it became necessary.

b. 2016 DUI Incident and Internal Affairs Investigation

On April 16, 2016, California Highway Patrol Officer Fuhrman arrested Respondent for violating California Vehicle Code sections 23152(a) and 23152(b), DUI. (**Attachment C - 2016 California Highway Patrol DUI Arrest Report**). Respondent's BAC measured .12% by volume. On July 16, 2016, Respondent pled no contest to a misdemeanor violation of Vehicle Code section 23152(a). (**Attachment I – 2016 Court Records**). He was sentenced to three years informal probation and 48 hours of Sheriff's Work Project. At the time of his 2016 arrest, Respondent was employed as a Deputy Sheriff (**Attachment B – EDI Profile**). The Sacramento County Sheriff's Department initiated an administrative investigation into Respondent's arrest by the California Highway Patrol on April 18, 2016. Sergeant Marcus Gregory conducted an administrative investigation. That investigation was submitted to POST subsequent to its completion.

During his administrative interview, Respondent told the investigators he was aware that alcohol was a little bit of a problem in his life. (**Attachment E – Deputy White's Interview Transcript from the 2016 DUI Administrative Interview**). He said he was introduced to Alcoholics Anonymous in September of 2015 where he attended meetings off and on. He continued by saying he had been sober for 45 days before his arrest in April 2016. Since that arrest, he went back to AA, found a sponsor, and abstained from alcohol since the arrest. He also expressed the feeling of embarrassment he had for himself.

V. Analysis and Findings

According to the Sacramento County Sheriff's Administrative Investigation report, the agency received the complaint against Respondent on August 7, 2024. The agency sustained findings against Respondent for violating SCDSA MOU 18.5(p) -any failure of good behavior either during or outside of duty hours, which is of such nature that it causes discredit to the county or his/her employment. Respondent did not file an appeal after receiving disciplinary sanctions. POST received the agency misconduct report and the completed administrative investigation on August 22, 2025.

A. Does the alleged conduct violate POST Regulation 1205(a)(6) –Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public? If so, did the Respondent's actions constitute a violation of California Penal Code Section 13510.8(b)(6)?

The clear and convincing evidence established that Respondent violated POST Regulation 1205(a)(6) and California Penal Code section 13510.8(b)(6) when he was arrested and pled guilty to driving under the influence in 2016 and 2024. On both occasions, Respondent was employed by Sacramento County as a Deputy Sheriff. Court documents related to both criminal cases articulate the criminal sentences Respondent received as a result of his conduct. Impaired driving is illegal because of the dangers it places on the drivers themselves and the general public as a whole.

Under Penal Code section 13510.8(b)(6) and POST Regulation 1205(a)(6), acts that violate the law constitute serious misconduct when they are "sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public." Impaired driving and repeated acts of impaired driving are acts that violated the law that are both sufficiently egregious and also sufficiently repeated as to be inconsistent with Respondent's obligation to uphold the law or respect the rights of members of the public. As an officer who is charged with enforcing California law, including the Vehicle Code, Respondent's actions in driving impaired on two occasions establish he engaged in serious misconduct.

The clear and convincing evidence substantiated that Respondent violated California Penal Code section 13510.8(b)(6) when:

- He drove a vehicle on April 16, 2016, with his blood alcohol content at .12% by volume.

- He pled no contest to violating California Vehicle Code section 23152(b) on July 25, 2016.
- He drove a vehicle on August 4, 2024, with his blood content at .11% by volume.
- He was convicted on June 11, 2025, for violating California Vehicle Code section 23152(b).
- He knew in 2024 that he had already been convicted of DUI in 2016. As a peace officer, Respondent is charged with upholding the law and his repeated criminal offenses are inconsistent with that obligation.

Reasonable grounds exist to submit this case to the Peace Officer Standards Accountability Advisory Board and the POST Commission for consideration of revocation or suspension pursuant to California Penal Code section 13510.8.

VI. Supporting Evidence

Evidence	**Attachment**
Executive Review and Division Recommendation	A
Respondent's EDI Profile	B
2016 California Highway Patrol DUI Arrest Report	C
2024 Folsom Police Department DUI Arrest Report	D
Deputy White's Interview Transcript from the 2016 DUI Administrative Interview	E
Deputy Whites' Interview Transcript from the 2024 DUI Administrative Interview	F
Body Worn Camera Footage from Folsom Police Department	G

Evidence	Attachment
Notice of Completion [redacted]	H
2016 Court Documents and Details Related to Sentencing	I
2024 DUI Waiver and Plea	J
Informal Probation Order for 2024 DUI Conviction	K
Sacramento County Superior Court Minute Order	L
Proposed Discipline for the 2024 DUI Arrest/Administrative Investigation	M
Proposed Discipline for the 2016 DUI Arrest/Administrative Investigation	N
Transcript of POST Interview with Deputy White	O

Commission on Peace Officer Standards and Training
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EXECUTIVE REVIEW & PEACE OFFICER STANDARDS ACCOUNTABILITY DIVISION RECOMMENDATION

DATE: 1/15/2026

CASE #: POST2507337

PEACE OFFICER: Matt White

POST ID#: A68-U16

AGENCY: Sacramento County Sheriff's Department

POST CONSULTANT / BC: LEC Rich Collins / BC Rob Guyton

ALLEGATION(S):

PC § 13510.8 (b)(6) / CCR 1205(a)(6) – Acts that violate the law

On August 4, 2024, Sacramento County Sheriff's Department Deputy Matt White (hereinafter "Respondent") was pulled over by a Folsom Police Officer for suspicion of driving under the influence (DUI). Field Sobriety tests returned a blood alcohol content of 0.116%. Respondent was arrested for violating California Vehicle Code 23152(a) - driving under the influence. On June 11, 2025, Respondent was convicted of California Vehicle Code 23152(b) for this offense.

This was Respondent's second DUI offense, as on April 16, 2016, Respondent had been arrested for California Vehicle Code 23152(b), which led to a criminal conviction.

The Peace Officer Standards Accountability Division, Certification Executive Review Panel has reviewed the above referenced case involving alleged serious misconduct and has determined the following:

☒ There are reasonable grounds for suspension or revocation of a peace officer's certification.

POST determined clear and convincing evidence exists to show Respondent committed serious misconduct as defined in Penal Code §13510.8(b)(6) and Title 11, California Code of Regulations 1205(a)(6) – Acts that Violate the Law as a result of his multiple arrests for driving under the influence.

William Darden Chief Legal Counsel	Signature	1/21/26 Date
Annemarie Del Mugnaio Assistant Executive Director	Signature	1/21/2026 Date
Manny Alvarez Executive Director	Signature	01/21/2026 Date

cc: Bureau Chief Robert Guyton

cc: Jason Morlock

cc: Chandler Knapp

cc: _____

POST PROFILE NAME:

WHITE, MATT LAWRENCE

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

AKA: MATTHEW

DATE: 08/26/2025

PERSONAL IDENTIFICATION

POST I.D.	Agency	Birth Date	Gender	Race/Ethnicity
A68-U16	SACRAMENTO CO SD	[redacted]	Male	White

CERTIFICATES AWARDED

Cert No.	Type	Awarded	Education	T	T+	Comments
121846	B	09/19/2005		46.00		
95804	I	04/27/2009	52	46.00		35 UNITS @ SHASTA COLLEGE 12.5 UNITS @ AMERICAN RIVER COLLEGE 3 UNITS @ MENDOCINO COLLEGE 1 UNIT @ COLLEGE OF THE REDWOODS (W/O BASIC)
130055	A	02/13/2023	36.00	46.05	28.95	SHASTA COLLEGE

Total Number of Certificates: 3

EMPLOYMENT

Hired From	To	R*	Rank	Rank Date	Agency	Agency Name	F/P	P/U	Seas
06/04/2002	07/24/2003	2	PO	06/04/2002	12050	FORTUNA PD	F	P	
09/05/2004			DPTY	09/05/2004	34000	SACRAMENTO CO SD	F	P	

***Reason for Separation: 2 = Discharge**

POST CERTIFIED TRAINING

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
06/04/2002	A	2960-00100-01-002	921		Y	12050	COR		BASIC COURSE-INTENSIVE
01/14/2003	K	2960-23293-02-001	16		Y	12050	COR	*	DEV. DISAB.MENTAL.ILL/OFCR.RES
03/11/2003	K	2980-22220-02-006	16		Y	12050	SCJCTC		DRUG INFLUENCE - 11550 H&S
03/18/2003	K	2960-21065-02-024	4		Y	12050	COR	*	FORCE OPTION-SIMULATOR
03/20/2003	K	8790-29900-02-021	8	X	Y	12050	CNOA		S&K-SEARCH WARRANTS NARCOTICS
06/06/2003	K	1085-30612-02-001	8		Y	12050	NCAPCTASKF		IDENTITY THEFT INVEST/PATROL
06/19/2003	K	2960-23300-02-002	24		Y	12050	COR		RADAR OPERATOR
03/15/2004	K	2310-29506-03-033	9		Y	34000	SACTO SD	*	ARSTCTL/FIREARM(PSP)
03/16/2004	K	2310-29506-03-044	9		Y	34000	SACTO SD	*	ARSTCTL/FIREARM(PSP)
03/17/2004	K	2310-29505-03-033	2		Y	34000	SACTO SD	*	INTCOM(PSP)
03/17/2004	K	2310-29900-03-215	7		Y	34000	SACTO SD		S&K 45&46 TERROR.CIVIL DISOBED
03/18/2004	K	2310-29900-03-187	5		Y	34000	SACTO SD		S&K-FIRST AID MOD #19
03/18/2004	K	2310-29900-03-199	4		Y	34000	SACTO SD		S&K-CARDIO RESUS MOD #18
08/13/2004	K	2310-29900-04-073	8		Y	34000	SACTO SD		S&K-REPORT WRITING MOD #42
02/17/2006	K	2310-29900-05-113	4		Y	34000	SACTO SD		S&K #36 TASER M-26 OPERATOR
03/27/2006	K	2310-29900-05-116	4		Y	34000	SACTO SD		S&K-#15-COLLAPSIBLE BATON
06/01/2006	K	1039-21115-05-141	20	R	Y	34000	SACRDTF	*	DRIVER TRAINING UPDATE
08/29/2006	K	2310-20778-06-024	8	X	Y	34000	SACTO SD		NIMS/SEMS BASIC COURSE
02/09/2007	K	2970-22531-06-001	8		Y	34000	SRPSC		LEADERSHIP STRATEGIES
03/05/2007	K	2310-29506-06-021	9		Y	34000	SACTO SD	*	ARSTCTL/FIREARM(PSP)
03/06/2007	K	2310-28411-06-021	2		Y	34000	SACTO SD		WORKPLACE HARASSMENT PREVENTION
03/06/2007	K	2310-21768-06-021	2		Y	34000	SACTO SD		SUDDEN INFANT DEATH SYNDROME
03/06/2007	K	2310-32343-06-021	4		Y	34000	SACTO SD		DOMESTIC VIOLENCE UPDATE
03/07/2007	K	2310-29505-06-021	2		Y	34000	SACTO SD	*	INTCOM(PSP)
03/07/2007	K	2310-22322-06-021	2		Y	34000	SACTO SD		STRESS MANAGEMENT
03/07/2007	K	2310-32103-06-021	2		Y	34000	SACTO SD		INTERNAL AFFAIRS PROCESS
03/07/2007	K	2310-20510-06-021	3		Y	34000	SACTO SD		COURTROOM TESTIMONY
03/08/2007	K	2310-21771-06-021	9		Y	34000	SACTO SD		FIRST AID/CPR REFRESHER
11/02/2007	K	2310-22700-07-003	8		Y	34000	SACTO SD		REPORT WRITING

POST CERTIFIED TRAINING *continued*

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
06/24/2008	K	2310-21115-07-014	20		Y	34000	SACTO SD	*	DRIVER TRAINING UPDATE
09/17/2008	K	8790-22273-08-001	8		Y	34000	CNOA		SEARCH & SEIZURE UPD.
03/08/2010	K	2310-29506-09-023	9		Y	34000	SACTO SD	*	ARSTCTL/FIREARM(PSP)
03/09/2010	K	2310-23816-09-004	3		Y	34000	SACTO SD		PATROL TACTICS-HIGH RISK
03/09/2010	K	2310-32343-09-004	2		Y	34000	SACTO SD		DOMESTIC VIOLENCE UPDATE
03/09/2010	K	2310-23412-09-004	2		Y	34000	SACTO SD		COMPUTER CRIME/HIGH TECH INVESTIGATIONS
03/09/2010	K	2310-30854-09-004	2		Y	34000	SACTO SD	*	TACTICAL COMMUNICATIONS UPDATE
03/10/2010	K	2310-21771-09-023	9		Y	34000	SACTO SD		FIRST AID/CPR REFRESHER
03/24/2010	K	2310-22650-09-001	24	X	Y	34000	SACTO SD		PEER COUNSELING
03/22/2011	K	2310-21155-10-026	4		Y	34000	SACTO SD	*	DRIVER TRAINING (EVOC) UPDATE
03/22/2011	K	2310-30854-10-026	2		Y	34000	SACTO SD	*	TACTICAL COMMUNICATIONS UPDATE
03/22/2011	K	2310-32343-10-026	2		Y	34000	SACTO SD		DOMESTIC VIOLENCE UPDATE
03/23/2011	K	2310-21771-10-026	9		Y	34000	SACTO SD		FIRST AID/CPR REFRESHER
06/20/2011	K	2310-29506-10-035	9		Y	34000	SACTO SD	*	ARSTCTL/FIREARM(PSP)
11/04/2013	K	2310-29506-13-013	9		Y	34000	SACTO SD	*	ARSTCTL/FIREARM(PSP)
11/05/2013	K	2310-23287-13-013	2	X	Y	34000	SACTO SD		RACIAL PROFILING UPDATE
11/05/2013	K	2310-29505-13-013	2		Y	34000	SACTO SD	*	INTCOM(PSP)
11/05/2013	K	2310-32343-13-013	2		Y	34000	SACTO SD		DOMESTIC VIOLENCE UPDATE
11/06/2013	K	2310-21771-13-013	9		Y	34000	SACTO SD		FIRST AID/CPR REFRESHER
04/08/2014	K	2310-21155-13-066	9		Y	34000	SACTO SD	*	DRIVER TRAINING (EVOC) UPDATE
05/21/2014	K	2310-29501-13-072	4		Y	34000	SACTO SD	*	FIREARM(PSP)
07/13/2014	K	2310-29000-14-258	2	X	Y	34000	SACTO SD		HUMAN TRAFFICKING: IDENTIFY & RESPOND
06/22/2015	K	2310-29506-14-035	9		Y	34000	SACTO SD	*	ARSTCTL/FIREARM(PSP)
06/23/2015	K	2310-30854-14-018	2		Y	34000	SACTO SD	*	TACTICAL COMMUNICATIONS UPDATE
06/23/2015	K	2310-29000-14-247	2	X	Y	34000	SACTO SD		SOCIAL MEDIA
06/24/2015	K	2310-21771-14-035	9		Y	34000	SACTO SD		FIRST AID/CPR REFRESHER
08/04/2015	K	2310-32343-15-004	2		Y	34000	SACTO SD		DOMESTIC VIOLENCE UPDATE
05/15/2017	K	2310-21155-16-082	9		Y	34000	SACTO SD	*	DRIVER TRAINING (EVOC) UPDATE
06/19/2017	K	2310-29503-16-027	4		Y	34000	SACTO SD	*	ARSTCTL(PSP)
06/19/2017	K	2310-29501-16-028	5		Y	34000	SACTO SD	*	FIREARM(PSP)
06/20/2017	K	2310-21798-16-007	9		Y	34000	SACTO SD		FIRST AID/CPR UPDATE
05/11/2018	K	2310-20801-17-015	8	X	Y	34000	SACTO SD		CRISIS INTERVENTION
07/18/2018	K	2310-29000-18-260	2	X	Y	34000	SACTO SD		BIAS BASED POLICING: REMAINING FAIR & IMPARTIAL
07/23/2018	K	2310-12425-18-003	8		Y	34000	SACTO SD		PRINCIPLED POLICING
08/15/2018	K	9180-25583-18-046	2	X	Y	34000	POST		DOMESTIC VIOLENCE RESPONSE (WEB)
10/10/2018	K	9180-25554-18-102	2	X	Y	34000	POST	*	COMMUNICATION: KEEPING YOUR EDGE (WEB)
02/04/2019	K	2310-29503-18-038	4		Y	34000	SACTO SD	*	ARSTCTL(PSP)
02/04/2019	K	2310-29501-18-030	5		Y	34000	SACTO SD	*	FIREARM(PSP)
04/10/2019	K	2310-12425-18-028	8		Y	34000	SACTO SD		PRINCIPLED POLICING
05/06/2019	K	2310-30986-18-012	4	X	Y	34000	SACTO SD	*	LESS LETHAL/MUNITIONS
05/27/2019	K	2310-29000-18-258	2	X	Y	34000	SACTO SD		HUMAN TRAFFICKING: IDENTIFY & RESPOND
06/03/2019	K	2310-21797-18-007	9	X	Y	34000	SACTO SD		FIRST AID/CPR/AED REFRESHER
08/26/2019	K	2310-21155-19-015	9		Y	34000	SACTO SD	*	DRIVER TRAINING (EVOC) UPDATE
09/03/2019	K	9180-25585-19-065	2	X	Y	34000	POST	*	TACTICAL COMMUNICATION (WEB)
07/12/2020	K	2310-29000-20-289	2	X	Y	34000	SACTO SD		DE-ESCALATION

POST PROFILE NAME:

WHITE, MATT LAWRENCE

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

AKA: MATTHEW

DATE: 08/26/2025

POST CERTIFIED TRAINING *continued*

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
12/27/2020	K	9180-25589-20-180	2	X	Y	34000	POST		DV RESPONSE & LETHALITY ASSESSMENT (WEB)
03/16/2021	K	9180-25585-20-259	2	X	Y	34000	POST	*	TACTICAL COMMUNICATION (WEB)
08/06/2021	K	2310-22530-21-001	8	X	Y	34000	SACTO SD		TRANSITIONAL LEADERSHIP
08/23/2021	K	2310-21797-21-004	9	X	Y	34000	SACTO SD		FIRST AID/CPR/AED REFRESHER
10/04/2021	K	2310-29503-21-036	4		Y	34000	SACTO SD	*	ARSTCTL(PSP)
10/28/2021	K	2310-29501-21-018	4		Y	34000	SACTO SD	*	FIREARM(PSP)
11/29/2021	K	2310-21155-21-035	9		Y	34000	SACTO SD	*	DRIVER TRAINING (EVOC) UPDATE
02/14/2022	K	9180-25595-21-229	4	X	Y	34000	POST		BEYOND BIAS:RACIAL & IDENTITY PROFILING UPDATE
04/12/2022	K	2310-22530-21-008	8	X	Y	34000	SACTO SD		TRANSITIONAL LEADERSHIP
04/27/2022	K	9180-25599-21-301	4	X	Y	34000	POST	*	PSP: STRATEGIC COMMUNICATIONS-SELF PACED
06/08/2022	K	2310-32343-21-019	2	X	Y	34000	SACTO SD		DOMESTIC VIOLENCE UPDATE
07/01/2022	K	2310-31725-21-008	40		Y	34000	SACTO SD		FIELD TRAINING OFFICER
08/11/2022	K	2310-29580-22-008	4		Y	34000	SACTO SD	*	USE OF FORCE (PSP)
11/02/2022	K	9180-25587-22-125	2	X	Y	34000	POST		VEHICLE PURSUIT POLICY (WEB)
11/21/2022	K	2310-20278-22-004	8	X	Y	34000	SACTO SD		TACTICS FOR CLEARING AND SEARCHING OUTSIDE SPACES
05/08/2023	K	2310-21155-22-072	9		Y	34000	SACTO SD	*	DRIVER TRAINING (EVOC) UPDATE
10/02/2023	K	2310-21797-23-009	9	X	Y	34000	SACTO SD		FIRST AID/CPR/AED REFRESHER
02/29/2024	K	5006-30340-23-004	32		Y	34000	NBISS		BACKGROUND INVESTIGATION
05/16/2024	K	9181-25505-23-321	2	X	Y	34000	CAPLP		DOMESTIC VIOLENCE RESPONSE UPDATE
10/07/2024	K	9181-25599-24-099	4	X	Y	34000	CAPLP	*	PSP: STRATEGIC COMMUNICATIONS
10/08/2024	K	2310-29580-24-010	4		Y	34000	SACTO SD	*	USE OF FORCE (PSP)
10/09/2024	K	2310-29501-24-021	4		Y	34000	SACTO SD	*	FIREARM(PSP)
10/09/2024	K	2310-29503-24-019	4		Y	34000	SACTO SD	*	ARSTCTL(PSP)
08/10/2025	K	9181-25587-25-041	2	X	Y	34000	CAPLP		VEHICLE PURSUIT POLICY (WEB)

***Meets Perishable Skills**

FOOTNOTES

NO FOOTNOTE ON FILE.

PLEASE REFER TO THE ENCLOSED EXPLANATION SHEET FOR ADDITIONAL INFORMATION.

COMMISSION ON POST – PROFILE REPORT

The Profile Report contains confidential information.

EXPLANATION SHEET

PERSONAL IDENTIFICATION: Subject's personal information as indicated in POST database (EDI system)	
POST ID:	Unique identification number assigned to subject by POST.
Agency:	Indicates the agency (or one of the agencies) where subject is currently employed. An "*" indicates that the subject is employed in more than one position within the same agency.
Birth Date/Gender:	Self-explanatory.
Race/Ethnicity:	**A** = Asian **B** = African American (Black) **N** = Native American **S** = Spanish/Hispanic **W** = White **O** = Other

CERTIFICATES AWARDED	
Cert:	Certificate serial number.
Type:	**B** = Basic **I** = Intermediate **A** = Advanced **S** = Supervisory **M** = Management **E** = Executive **R** = Reserve **D** = Public Safety Dispatcher **SX**= Specialized X (example: SA = Specialized Advanced)
Awarded:	Date certificate was issued.
Education:	Educational points or degree used for earning a certificate.
T:	Training points used for awarding the certificate.
T+:	Additional training points.
Comments:	Comments regarding training or institute(s) where subject received education.
Total Number of Certificates:	Number of certificates awarded to subject as indicated in POST database.

EMPLOYMENT: Subject's employment history as indicated in POST database	
Hired From:	Date subject was hired or sworn into the agency.
To:	Date subject left agency (if applicable).
R*:	Reason for separation as indicated by number in the Report description.
Rank / Rank Date:	Indicates rank as translated by POST database and date subject made rank.
Agency / Agency Name:	Agency code number and name where subject is currently working or previously worked.
F/P:	Time base: **F** = Full time **P** = Part time
P/U:	Wage status: **P** = Paid **U** = Unpaid
Seas:	Provisional or seasonal employment.

POST TRAINING: Courses attended or completed as indicated in POST database	
Comp Date:	Date course ended.
Cat:	General course category (for POST use only).
CCN:	Course Control Number.
Hrs:	Hours completed in course.
Rmb:	Reimbursement indicator: **R** = Reimbursed *(before FY 83/84 reimbursable agency not necessarily reimbursed)* **J** = Job specific * = Job specific, SALARY NOT PAID **Blank** = None or no data available
Cmp:	Completion indicator: **Blank or Y** = Course completed **N** = Course not completed **?** = Prior to 1979
Agency:	Agency where subject was employed at time of course enrollment.
School:	Training institute offering the course.
Course Name:	Course name as shown in POST database.

NON-CERTIFIED COURSES
This section will only appear if applicable.

FOOTNOTES
This section reserved for additional information.

STATE OF CALIFORNIA
CALIFORNIA HIGHWAY PATROL
DRIVING UNDER THE INFLUENCE
ARREST--INVESTIGATION REPORT

CHP 202 (Rev. 5-15) OPI 061

[X] Misdemeanor [ ] Domestic Violence (Refer HPM 100.69) [ ] Felony

WHITE, MATTHEW LAWRENCE
LAST NAME, FIRST NAME, AND MIDDLE INITIAL

COURT	FILE NUMBER	EVIDENCE/PROPERTY
SACRAMENTO	CA 37111	[ ] YES [X] NO

AREA	BEAT	COLLISION REPORT NUMBER
252	192	

E

DATE/TIME OF ARREST REPORT	DATE/TIME OF INCIDENT	LOCATION OF ARREST/INCIDENT	MVARS
04/16/2016 0304	[X] SAME	47TH AVENUE AND 44TH STREET	[X] YES [ ] NO Disc # 041516-C3

CITATION NUMBER	OFFENSE(S) CHARGED OR INVESTIGATED	JUS 8715 REQUIRED
CA 37111	23152(A) CVC, 23152(B) CVC	[X] YES [ ] NO NUMBER

SUBJECT NO 1 OF 1

DEPARTMENTAL APPROVED HANDCUFFING TECHNIQUE UTILIZED [ ] YES [ ] NO [ ] OTHER OR N/A (EXPLAIN IN NARRATIVE)

NAME (last, first, middle): ~~WHITE, MATTHEW LAWRENCE~~

RESIDENCE ADDRESS: [redacted]

AKA

HOME PHONE: (916)502-1208

MAILING ADDRESS [X] SAME

RACE/ETHNICITY	SEX	BIRTHDATE	HAIR	EYES	HEIGHT	WEIGHT
White	M	[redacted]	BRN	BRN	6-02	192

PLACE OF BIRTH (city, state, country): [redacted]

DISPATCH NOTIFIED [X] YES [ ] NO

DRIVER LICENSE NUMBER	STATE	DDL STATUS	MISC (SSN, INS #, ETC.)
[redacted]	CA	VALID	[redacted]

EMPLOYER: SAC CO SHERIFF

BUSINESS PHONE

BUSINESS ADDRESS: US

TIME 0423 ID 16093 LOG ST-030

BOOKING, CII, FBI, ETC., NUMBER(S): CA 37111

WHERE BOOKED/CONFINED: Sac. Co. Main Jail

DATE/TIME: 04/16/2016 0415

FINGERPRINTED [X] YES [ ] NO

NOTIFICATION (Who, How, When) EXPLAIN IN NARRATIVE

NOTIFIED BY:

[ ] JUVENILE [ ] FOREIGN NATIONAL [ ] IMMUNITY CLAIM

VEHICLE

LICENSE	STATE	YEAR	VIN/EN NUMBER
[redacted]	CA	2016	[redacted]

VEHICLE WAS [X] PARKED [ ] RELEASED [ ] STORED [ ] RECOVERED [ ] IMPOUNDED

STORAGE AUTHORITY

VEH YEAR	MAKE	BODY STYLE	COLOR	BODY TYPE
2001	FORD	EXPLORER	BLK	SUV

LOCATION OF VEHICLE/RELEASED TO/ADDRESS/TELEPHONE NUMBER: 47TH AVENUE AND 44TH STREET

NAME OF REGISTERED OWNER [redacted] [ ] SAME AS SUBJECT

ADDRESS [redacted]

NAME OF LEGAL OWNER [X] SAME AS R/O

ADDRESS

LOCATION OF KEYS: PROPERTY BAG

WITNESS/PASSENGER/VICTIM

BIRTHDATE	SEX	NAME	ADDRESS/AGENCY	PHONE
	M	[X] WITNESS [ ] PASSENGER [ ] VICTIM OFFICER STAHR, ID# 19279	SOUTH SACRAMENTO CHP	RES: BUS: (916)681-2300
	M	[X] WITNESS [ ] PASSENGER [ ] VICTIM [redacted]	STOCKTON POLICE DEPARTMENT	RES: [redacted]
	M	[X] WITNESS [ ] PASSENGER [ ] VICTIM SERGEANT MATTHEWS, ID# 14510	SOUTH SACRAMENTO CHP	RES: BUS: (916)681-2300
		[ ] WITNESS [ ] PASSENGER [ ] VICTIM		RES: BUS:

ADMONITION OF RIGHTS

1. YOU HAVE THE RIGHT TO REMAIN SILENT.
2. ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW.
3. YOU HAVE THE RIGHT TO TALK WITH AN ATTORNEY AND TO HAVE AN ATTORNEY PRESENT BEFORE AND DURING QUESTIONING.
4. IF YOU CANNOT AFFORD AN ATTORNEY, ONE WILL BE APPOINTED FREE OF CHARGE TO REPRESENT YOU BEFORE AND DURING QUESTIONING, IF YOU DESIRE.

THE ABOVE STATEMENT WAS READ TO THE ARRESTEE BY:

[ ] NOT ADVISED [ ] ARRESTING OFFICER [ ] OR: NOT QUESTIONED I.D. TIME:

DO YOU UNDERSTAND EACH OF THESE RIGHTS I HAVE EXPLAINED TO YOU?	HAVING THESE RIGHTS IN MIND, DO YOU WISH TO TALK TO US NOW?	WAIVER STATEMENT
[ ] YES [ ] NO	[ ] YES [ ] NO	NOT QUESTIONED / NOT ADMONISHED

MISDEMEANOR INCARCERATION

(To be completed upon physical arrest for any misdemeanor, pursuant to Penal Code Section 853.6)

The person arrested:

1. [ ] was so intoxicated as to be a danger to himself/herself or others.
2. [ ] required medical examination or medical care or was otherwise unable to care for his/her own safety.
3. [X] was arrested under one or more of the circumstances listed in Sections 40302 and 40303 of the Vehicle Code (Note 5 and 8 if also applicable).
4. [ ] had one or more outstanding arrest warrants issued.
5. [ ] could not provide satisfactory evidence of personal identification.
6. [X] if released immediately, would jeopardize the prosecution of the offense or offenses for which arrested or the prosecution of any other offenses.
7. [X] would be reasonably likely to continue the offense or offenses, or the safety of persons or property would be imminently endangered if immediately released.
8. [ ] demanded to be taken before a magistrate or refused to sign the citation.
9. [ ] would not appear at the time and place specified in the notice.
10. [ ] domestic violence (refer to HPM 100.69)

ARRESTING/INVESTIGATING OFFICER (Print name/rank)	I.D. NUMBER	REVIEWED BY (Print name/rank)	I.D. NUMBER	DATE
Fuhrman / Officer	019542	S. KENT / Sgt	13432	4/16/16

WHITE, MATTHEW LAWRENCE | CA 37111/CA 37111

ALL ASKED PRIOR TO FSTS — INVESTIGATION INTERVIEW

DO YOU KNOW OF ANYTHING MECHANICALLY WRONG WITH YOUR VEHICLE? DESCRIBE. ☐ YES ☒ NO	ARE YOU SICK OR INJURED? DESCRIBE. ☐ YES ☒ NO	
ARE YOU DIABETIC OR EPILEPTIC? ☐ YES ☒ NO	DO YOU TAKE INSULIN? (Pills/Injection) ☐ YES ☒ NO	DO YOU HAVE ANY PHYSICAL IMPAIRMENTS? DESCRIBE. (Feet, Legs, Ankles or Hips) ☐ YES ☒ NO
WHEN DID YOU LAST SLEEP? LAST NIGHT	HOW LONG? 7 HOURS / WHEN DID YOU LAST EAT? 5:30 PM	DESCRIBE 4 SLICES OF PIZZA
WERE YOU DRIVING THE VEHICLE? ☐ YES ☐ NO ☒ N/A	IF NO, WHO?	WHERE DID YOU START DRIVING? FROM STOCKTON / WHERE WERE YOU GOING? TO CITRUS HEIGHTS

WHERE WERE YOU STOPPED?	WHAT HAVE YOU BEEN DRINKING?	HOW MUCH?	TIME STARTED	TIME STOPPED
44TH AND 47TH	JIM BEAM / MILLER BEER	1 SHOT / 2 BEERS	7:30 PM	10:00 PM

LOCATION WHERE YOU WERE DRINKING? NAME/ADDRESS	DO YOU FEEL THE EFFECTS OF THE DRINKS? DESCRIBE. ☒ YES ☐ NO
AT A BAR IN STOCKTON	"6" ON A SCALE OF ZERO TO TEN

DID YOU BUMP YOUR HEAD?	HAVE YOU BEEN DRINKING SINCE THE ACCIDENT?	IF YES, WHAT?	HOW MUCH?
☐ YES ☒ NO ☐ N/A	☐ YES ☐ NO ☒ N/A		

ARE YOU UNDER THE CARE OF A DOCTOR OR DENTIST?	IF YES, NAME AND ADDRESS	RECENT SURGERY PERFORMED?
☐ YES ☒ NO		☐ YES ☒ NO *(Explain in Narrative)

HAVE YOU TAKEN ANY MEDICINE OR DRUGS?	IF YES, WHAT?	HOW MUCH?	TIME OF LAST DOSAGE
☐ YES ☒ NO			

DO YOU FEEL THE EFFECTS OF THE MEDICINE/DRUGS? DESCRIBE. ☐ YES ☐ NO

N/A

OBJECTIVE SIGNS/APPEARANCE/FIELD SOBRIETY TEST LOCATION

BREATH ODOR OF ALCOHOLIC BEVERAGE PRESENT	GLASSES/LENSES	EYES (appearance)	DEMEANOR	SPEECH
☒ YES ☐ NO STRONG	☐ YES ☒ NO	RED & WATERY	COOPERATIVE & NERVOUS	SLURRED

CLOTHING WORN: CONDITION AND DESCRIPTION

BLACK T-SHIRT, BROWN VEST, BLUE DENIM JEANS, BROWN BOOTS. CASUAL AND IN USED CONDITION.

DESCRIBE TEST LOCATION, SURFACE, WEATHER, AND LIGHTING

FLAT ASPHALT PARKING LOT SURFACE. COOL, DRY, NO WIND. FLASHLIGHT, PV, AND STREET LIGHTING.

PRELIMINARY ALCOHOL SCREEN INFORMATION

P.A.S. Admonition: I am requesting that you take a preliminary alcohol screening test to further assist me in determining whether you are under the influence of alcohol. You may refuse to take this test; however, this is not an implied consent test and if arrested, you will be required to give a sample of your blood, breath, or urine for the purpose of determining the actual alcoholic and drug content of your blood.

THE SUBJECT WAS ADVISED OF THE ABOVE STATEMENT BY:

☐ N/A ☒ ARRESTING OFFICER ☐ OR I.D. TIME 0251

PAS SERIAL NUMBER	TEMPERATURE	ZEROED	RESULTS NO. 1	TIME 1	RESULTS NO. 2	TIME 2	RESULTS NO. 3 (if needed)	TIME 3
082906	17 C	☒ YES ☐ NO	☐ Refused .138	0301	.139	0303		

LOCATION OF TEST	BREATH SAMPLE	OFFICER ADMINISTERING PAS TEST	I.D. NUMBER	AREA
☒ At scene	☒ Automatic ☐ Manual	☐ OR ☒ ARRESTING OFFICER		

CHEMICAL TEST INFORMATION

☒ Implied Consent Admonishment, 23612 V.C. ☐ Refused Test(s) (Complete DS 367)	DRUG ADMONISHMENT ☒ N/A ☐ Yes ☐ Refused (Complete DS 367)	ATTACHMENTS ☐ CHP 202 DRE ☒ OTHER ONE SHEET FROM BREATH TEST

TYPE OF TEST	TIME			I.D. OF SAMPLE(S)	RESULTS IF AVAILABLE	DISPOSITION OF SAMPLE(S)
1 ☒ Breath	0333	0336		ARWD-0115	.12 .12	ATTACHED TO REPORT
2 ☐ Blood						
3 ☐ Urine						

TEST GIVEN	LOCATION WHERE TEST WAS CONDUCTED	NAME AND TITLE OF PERSON GIVING TEST OR TAKING SAMPLE
1	Sac. Co. Main Jail	☒ ARRESTING OFFICER ☐ OR
2		☐ ARRESTING OFFICER ☐ OR
3		☐ ARRESTING OFFICER ☐ OR

TROMBETTA ADVISEMENT

A. The breath testing equipment does NOT retain any breath sample for later analysis by you or anyone else.

B. If you want a sample retained, you may provide a blood or urine sample that will be retained at no cost to you. If you do so, the blood or urine sample may be tested for alcoholic or drug content by either party in a criminal prosecution.

C. Do you wish to provide an additional sample? ☐ YES ☒ NO ☐ N/A "NO"

FIELD SOBRIETY TESTS (FSTS)

Prior to beginning each field sobriety test (FST), I instructed White to put his heels and toes together and keep his hands at his sides, and not to move from that position until I instructed him to begin. I explained and demonstrated each test to White and asked if he understood the test. Prior to beginning each FST, White stated that he understood the test.

1-Horizontal Gaze Nystagmus: White was not wearing glasses, and he did not appear to have been wearing any contact lenses. White's eyes were red and watery. White exhibited lack of smooth pursuit in both eyes while following the tip of my stimulus (pen). White exhibited distinct sustained nystagmus at maximum deviation in both eyes.

2-One Leg Stand (Right Leg Lifted): While explaining and demonstrating the test to White, he lifted his right foot, which touched the top of my left foot. I reminded White again not to begin until I instructed him to do so. White put his right foot down. White counted to "7-1000" and put his right foot down. White stopped, and did not continue the test on his own. I reminded White to continue. White continued the test and put his right foot down again on "12-1000." When White continued he counted "13,14" then White put his right foot behind his left foot as he stumbled backwards. White then counted "15" with his foot still down. At this point, I instructed White to discontinue the test. During the test, White swayed side to side and lifted both arms up for balance.

3-Romberg: White tried beginning the test during my instruction. I reminded White again not to begin until I instructed him to. I continued with the instructions. White tilted his head back and closed his eyes after I explained the test to him, but he did not wait for my instruction to do so. When White closed his eyes, I instructed him to begin. White exhibited eyelid tremors during the test. White finished the test, looked at me and said "30". I asked White how many seconds he estimated. White stated "30." I asked White how many sets I asked him to estimate. White stated "30." White estimated 30 seconds in a 24 second time period on my watch.

4-Finger Count (Right Hand): I requested White to perform 3 sets. On the first set in the reverse direction, White counted "4" on his pinky finger, skipped his ring finger and counted "3" on his middle finger. White then went back to his ring finger but did not speak, then counted "2" on his middle finger, and "1" on his index finger. On the third set in the reverse direction, White went to touch his pinky finger to his thumb and completely missed. White finished the test and I asked him how many sets he completed. White stated "3". I asked White how many sets I asked him to complete. White stated "3." White performed 3 sets improperly.

5-Preliminary Alcohol Screening Device (PAS): I read White the PAS admonishment verbatim from the CHP 202S form at 0251 hours and he agreed to submit to a PAS test. Because White put a mint in his mouth at 0246 hours, I had to wait 15 minutes (until 0301 hours) to obtain the first breath sample. I advised White of this. White provided two moderate breath samples, which the

PAS device captured automatically. White completed the PAS with results of .138% BAC and .139% BAC at 0301 hours and 0303 hours, respectively. The PAS test indicated the presence of Ethyl alcohol in White's blood. The PAS serial number was 082906. (See page two for additional information).

FIRST OBSERVATIONS

On April 16, 2016 at approximately 0213 hours, I was on patrol in the county of Sacramento. I was in a fully marked CHP unit (2485) wearing full CHP uniform and traveling on northbound SR-99 in Galt. I was driving and my partner Officer Stahr, ID# 19279, was in the right front passenger seat. I received a call from CHP dispatch that an off-duty Stockton Police Officer [redacted] was following behind a possible DUI driver. The vehicle was described as a black Ford Explorer (subject vehicle – s/v) with a license plate number of [redacted] The vehicle was described as weaving all over the road. The off-duty police officer [redacted] activated his flashing emergency lights so that we could easier locate him. I obtained a visual of [redacted] following the s/v at a location of northbound SR-99, south of Florin Road in the #3 lane at approximately 0231 hours. I observed the s/v weaving from right to left in its lane. The right side tires touched the broken painted white lines and raised pavement markers as the s/v weaved to the right, and the left side tires touched the broken painted white lines and raised pavement markers as the s/v weaved to the left. I moved from the #2 lane into the #3 lane behind the s/v, and I positioned the CHP unit closer behind the s/v to begin an enforcement stop. I activated the CHP unit's forward red lights and wig-wag lights. I advised the s/v over the CHP unit's public address system (P/A) to take the next exit on the right. The s/v began yielding to the right shoulder. I continued to advise the s/v to take the exit at 47th Avenue. The s/v continued on northbound SR-99 and eventually exited at 47th Avenue. As the s/v exited at 47th Avenue, I instructed the s/v to turn right onto 44th Street. The s/v turned right onto 44th Street. I advised the s/v to turn right into the parking lot. The s/v complied with instructions and pulled into the parking lot on the southwest corner of 47th Avenue and 44th Street.

OBSERVATIONS AFTER THE STOP

I exited the CHP unit and contacted the solo male driver through an open driver's side window at 0234 hours. I advised him the reason for the stop and asked for his driver license. The male driver stated he did not have his driver license with him. The male driver then stated he was a Sacramento County Sheriff's Deputy. While speaking with the male driver, I immediately noted the strong odor of an alcoholic beverage emitting from within the s/v, he had red and watery eyes, and his speech was slurred. I asked the male driver if he had consumed any alcohol that evening. The male driver stated he had one shot and two beers. I asked the male driver to exit the s/v and had him walk to the right side of the CHP unit.

Once at the right side of the CHP unit, the male driver identified himself verbally as Matt White, and stated his driver license number as [redacted] White stated to me that he was texting and

that was why he was weaving. I asked White a series of pre field sobriety test questions and had him perform a series of field sobriety tests (FSTS). While speaking with White, I continued to note the strong odor of an alcoholic beverage emitting from his breath and person, he had red and watery eyes, his speech was slurred, and he stood with an unsteady gait. While asking White pre-FST questions, I asked White on a scale of zero to ten, zero being sober and ten being the drunkest he has ever been, how he felt. White stated a "6". I asked White what he had to drink that evening. White stated he had two Miller beers and one shot of Jim Beam. While I was explaining the Romberg test to White, he put a mint in his mouth. Officer Stahr asked White what he put in his mouth. White stated a mint. I advised White to take the mint out of his mouth. White removed the Mint at 0246 hours (on my watch) and threw it on the ground. White asked us if he could just call a ride. I told White we could not let him call a ride. White also stated that he was going to get fired. I asked White if he thought he should be driving. White stated "no". Sergeant Matthews, ID# 14510, arrived on scene to assist prior to the PAS test. White did not perform the FSTS as explained and demonstrated. I formed the opinion White had been driving while under the influence of an alcoholic beverage. This was based on his improper driving, his objective signs of intoxication, his performance on the FSTS, and by my observations. I determined that further operation of a motor vehicle would be unsafe.

ARREST

I arrested White for 23152(a) VC (Misdemeanor DUI alcohol). I handcuffed White in accordance with CHP policy. The handcuffs were checked for proper fit and double-locked. I advised White of implied consent (23612 VC) and he chose the breath test. I searched White and placed him in the right rear passenger seat of the CHP unit. White was transported to the Sacramento County Main Jail for a breath test and booking. I observed White for over fifteen minutes prior to the breath test. White did not do anything to compromise the validity of the test. White completed the breath test with results of .12% BAC and .12% BAC at 0333 hours and 0336 hours, respectively. I advised White of Trombetta and he declined. I booked White into the Sacramento County Main Jail #1 for 23152(a) VC (Misdemeanor DUI alcohol) and 23152(b) VC (Misdemeanor DUI .08% BAC or above) at 0415 hours. The breath results are attached to this report.

ADDITIONAL INFORMATION

The off-duty police officer witness was identified by CHP dispatch as [redacted] with the Stockton Police Department. Officer [redacted] contacted me via telephone on 4/16/2016 at approximately 2020 hours to provide his statement. Officer [redacted] provided me a statement of what he had observed. Officer [redacted] related the following, in essence: He was driving on northbound SR-99 at Armstrong in the #3 lane. The s/v was to his left in the #2 lane. SR-99 at that location is three lanes. As he was driving, the s/v weaved to the right into the #3 lane. Officer [redacted] had to swerve to the right into the shoulder to avoid a collision. The s/v fluctuated its speeds during the entire time he saw the s/v driving. The s/v would slow to 40 mph, speed up to 70 mph, and drop back down to 40 mph and back up to 70 mph several times. SR-99 eventually

became two lanes and he pulled to the left of the s/v. He observed the driver with his cell phone in his hand, looking down at his phone, and scrolling and touching the phone with his thumb. He continued to watch the s/v and the s/v could not maintain its lane the entire time he observed the s/v. The s/v nearly collided into the center median at one point, and almost hit a big-rig as it weaved all over the road. The big rig honked at the s/v and the s/v continued weaving in and out of its lane. [redacted] stated he then got behind the s/v and called 911.

After placing White under arrest, I gave him the option for us to lawfully store the s/v or to park it. White wanted us to park s/v at the location of the stop. The s/v was parked and locked by Officer Stahr at the location of the stop at 47th Avenue and 44th Street. The keys were booked into White's property at the jail.

"This event involved a CHP patrol vehicle equipped with an MVARS (Mobile Video/Audio Recording System) that was activated during the event which may or may not have captured all information relevant to the event. The recording is maintained at the CHP office where the officer is assigned" (MVARS disk #041516 / C3, Event #17).

RECOMMENDATIONS

I recommend this report be forwarded to the Sacramento County District Attorney's office for review and prosecution of White for the following charges:

23152(a) VC - Misdemeanor DUI alcohol
23152(b) VC - Misdemeanor DUI .08% BAC or above

Dräger Alcotest® 7110 MK III-C Precautionary Checklist

Subject WHITE MATTHEW L. Date 4.16.16

Officer FUHRMAN #19542 Agency CHP S.

1. Continuously observe subject for at least fifteen minutes prior to starting the test, during which time the subject must not have ingested alcoholic beverages or other fluids, regurgitated, vomited, eaten, or smoked.

ATTACH BREATH RECORD HERE

2. Insert new, clean mouthpiece into Breath Inlet Hose.

3. Push the orange button next to the display to start the test. If the instrument displays "NOT READY" and "WARMING UP", it will take two minutes for the instrument to warm up. When the display shows "READY", press the orange button again to start the test.

4. Enter your LAST NAME and then your CERTIFICATION NUMBER. You can review your information by pressing "Y" at the "REVIEW DATA <Y/N>" prompt.

5. At the prompt, indicate if the subject's driver license is in possession. If yes, swipe the card and then review the subject's information for accuracy. If no, manually enter the subject's information. The subject's information can be reviewed by pressing "Y" at the "REVIEW DATA <Y/N>" prompt.

6. Enter the first time observed in the following format: MMDDYYYY HHMM. Be sure to put a space between the date and time. (If 15 minutes has not passed since the first time observed, the instrument will start a countdown timer for the remaining time before the test can be continued.)

7. Ask the subject if they regurgitated during the observation period and enter their response at the "REGURGITATED <Y/N>" prompt. If "Y" is selected, the instrument will initiate a 15-minute timer before the test can be continued.

8. Instrument will display "PURGING", then "AMBIENT AIR CHECK" and then "AIR BLANK CHECK". When instrument displays "PLEASE BLOW/R", obtain the first breath sample from the subject.

9. Instrument will display "PURGING", then "AMBIENT AIR CHECK" and then "AIR BLANK CHECK". When instrument displays "PLEASE BLOW/R", obtain the second breath sample from the subject.

10. If the two sets do not agree by 0.02%, the instrument will display "NO.02 AGREEMENT" and then repeat step 8 to obtain a third breath sample from the subject.

11. Instrument will display "DATA STORED", and then print out two copies of the results. Sign both copies. Attach the first copy to this checklist. Place the other copy in the designated drop box.

12. Remove and dispose of the mouthpiece in a sanitary manner.

Revised 10/06/2005

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**********************
*  SACRAMENTO COUNTY  *
*    LABORATORY OF    *
*  FORENSIC SERVICES  *
**********************
  ALCOTEST 7110 MKIII-C
SERIAL NO.:    ARWD-0115
SEQ. TEST#:        08249
TEST DATE :  04/16/2016
LOCATION  :      JAIL-B
**********************
*     SUBJECT DATA     *
LAST:             WHITE
FIRST:          MATTHEW
MIDDLE INIT.:
D.O.B.:
DL #:
DL STATE:
ID #:
**********************
*     SUBJECT TEST     *
OBSERVATION START: 02:46
REGURGITATED:         NO
DIAGNOSTIC:           OK
AIR BLANK 0.00     03:32

BREATH SAMPLE #1
SUBJ.TEST 0.12     03:33
SUBJ. EC  PASS     03:33
AIR BLANK 0.00     03:35

BREATH SAMPLE #2
SUBJ.TEST 0.12     03:36
SUBJ. EC  PASS     03:36
AIR BLANK 0.00     03:36

UNITS:----G/210L -----TIME
DIAGNOSTIC:           OK
**********************
*     OFFICER DATA     *
NAME:          FUHRMAN
BADGE #:         19542
DEPT.:           SCHP
CASE #:       CA37111
OFFICER SIGNATURE:
                 19542
**********************
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STATE OF CALIFORNIA DMV DEPARTMENT OF MOTOR VEHICLES
A Public Service Agency

AGE 21 AND OLDER OFFICER'S STATEMENT

SECTIONS 13353, 13353.1, 13353.2 & 13389 CALIFORNIA VEHICLE CODE (CVC)

APS

FORWARD THIS FORM WITHIN 5 BUSINESS DAYS TO YOUR LOCAL DRIVER SAFETY OFFICE, LISTED ON THE BACK OF PAGE 2

COMPLETE IN BLACK INK

AW ENFORCEMENT AGENCY CASE NO.	DETENTION/ARREST DATE	FOR DMV USE ONLY
CA 37111	4-16-16	

DRIVER'S NAME (LAST, FIRST, M.I.): WHITE MATTHEW L

DRIVER LICENSE NO.: [redacted] | COMMERCIAL? ☐ Yes ☒ No | STATE: CA | THUMB PRINT (Rig [redacted]

MAILING ADDRESS: [redacted] STATE ZIP CODE

DOB: [redacted] Sex: M Hair: BRN Eyes: BRN Ht.: 6-2 Wt.: 195

Driver License: ☐ Suspended/Revoked ☒ Surrendered (Attached) ☐ Unlicensed

- ☐ 0.01% or more BAC DUI Probation
- ☐ 0.04% or more BAC/COMM VEH
- ☒ 0.08% or more BAC Chemical Tests Results
- ☐ PAS or other Chemical Test Refusal – (DUI Probation) (Complete reverse)
- ☐ Chemical Test Refusal (Complete reverse)
- ☐ Forced Blood Test (Complete reverse)

Vehicle Lic. No. or VIN [redacted]

☐ **COMMERCIAL VEHICLE:** Vehicle operation requires a **commercial** driver license (Section 15210 CVC).

☐ **HAZARDOUS MATERIALS:** (transporting materials requiring placards/markings per Section 27903 CVC).

On 4-16-16 at 2:31 (AM)/PM in *(City and County)* SACRAMENTO CA, the above named driver was:

☒ Driving: ☒ observed by this officer or ☐ the observer shown in the shaded area on the second page, ☐ admitted to driving.

☐ Contacted per Section 40300.5 CVC. (Describe details in probable cause section on second page.)

☐ Involved in a collision. Attach collision report. In the probable cause section on the second page, describe how time of collision was established.

I had reasonable cause to believe the driver was driving a motor vehicle with alcohol and/or drugs present in the blood or while under the influence. The driver was lawfully arrested, or lawfully detained while on DUI probation, by this officer, or by the person shown in the shaded area on the second page on 4-16-16 (Month/Day/Year) at 3:04 (AM)/PM for violation of Section 23152 or 23153, 23154 CVC.

PROBABLE CAUSE. Describe in detail the facts and circumstances that led to the stop or contact. If driving was observed by someone other than the arresting officer, what did the observer say? State details on second page of this form hereby incorporated by reference.

OBJECTIVE SYMPTOMS OF INTOXICATION: ☒ Bloodshot/watery eyes ☒ Odor of alcoholic beverage ☒ Unsteady gait ☒ Slurred speech ☐ Other: _____ Observed by: FUHRMAN at 3:03 (AM)/PM

PRELIMINARY ALCOHOL SCREENING TEST 0.01% OR MORE BLOOD ALCOHOL CONCENTRATION (BAC) DUI PROBATION

Driver submitted to and completed a Preliminary Alcohol Screening (PAS) test with the results of:

TEST 1 .138 % BAC on 4-16-16 (DATE) at 3:01 (TIME) (AM)/PM **TEST 2** (Optional) .139 % BAC on 4-16-16 (DATE) at 3:03 (TIME) (AM)/PM

OFFICER'S CERTIFICATION: I certify under penalty of perjury under the laws of the State of California that (1) I obtained the above PAS test results in the regular course of my duties, (2) I used PAS Model (Name/Number) ALCO SENSOR IV, Serial# 082906, Manufactured by INTOXIMETERS INC, (3) I administered this PAS test properly in accordance with the manufacturer's guidelines and instructions, (4) I have received training on the proper operation of this device and administration of the PAS test and am competent and qualified to operate the device, and (5) the device was functioning properly at the time of the test. ☐ PAS Test Unavailable

Date 4-16-16 Signature X [signature] BADGE/ID NO. 19542 Agcy./Div. CHP SOUTH SAC

CHEMICAL TEST

Breath Test Results (Attach copy of the results, if available)

TEST 1 .12 % BAC on 4-16-16 (DATE) 3:33 (TIME) (AM)/PM **TEST 2** .12 % BAC on 4-16-16 (DATE) 3:36 (TIME) (AM)/PM **TEST 3** ___ % BAC on _____ (WHEN APPLICABLE) (DATE) (TIME) AM/PM

BREATH TEST MACHINE OPERATOR'S CERTIFICATION: I certify under penalty of perjury under the laws of the State of California, that the above breath test sample results were obtained in the regular course of my duties. I further certify that I am qualified to operate this equipment and that the test was administered pursuant to the requirements of Title 17 of the California Code of Regulations.

Date 4-16-16 Signature X [signature] Badge/ID No. 19542 Agcy./Div. CHP SOUTH SAC

Blood Test Results ☐ Blood Test on _____ (DATE) (TIME) AM/PM ☐ Breath Test Unavailable

Urine Test Results ☐ Both Breath and Blood tests unavailable. ☐ Drug use suspected. ☐ Urine required.

☐ Urine Test First Void on _____ (DATE) (TIME) AM/PM Test on _____ (DATE) (TIME) AM/PM

I certify under penalty of perjury, under the laws of the State of California, that the information contained on all pages of this Officer's Statement is true and correct.

EXECUTED ON: Date 4-16-16 AT: City SACRAMENTO County SACRAMENTO State CA

OFFICER'S PRINTED NAME	BADGE/ID NO.	TELEPHONE NO.
FUHRMAN	19542	(916) 681-2300
AGENCY	**AREA**	**COURT CODE (IF UNKNOWN, COURT NAME)**
CHP SOUTH SAC	252	SA

I ☒ did ☐ did not personally serve a copy of the Order of Suspension/Revocation to the driver.

ISSUE DATE OF ORDER	SIGNATURE OF ARRESTING OFFICER
4-16-16	X [signature]

IF ORDER SERVED BY ANOTHER OFFICER: I personally served a copy of the order to the driver on the date shown below:

ISSUE DATE	OFFICER'S PRINTED NAME	BADGE/ID NO.	SIGNATURE OF OFFICER
			X

A Public Service Agency

OFFICER'S STATEMENT - PAGE 2
SECTIONS 13353, 13353.1, 13353.2 AND 13389 CVC

APS

COMPLETE IN BLACK INK

LAW ENFORCEMENT AGENCY CASE NO.	DETENTION/ARREST DATE	FOR DMV USE ONLY
CA 37111	4-16-16	

DRIVER'S NAME (LAST, FIRST, M.I.): WHITE MATTHEW L

DRIVER LICENSE NO.: [redacted] | COMMERCIAL? ☐ Yes ☒ No | STATE: CA | THUMB-PRINT: [redacted]

MAILING ADDRESS: [redacted] STATE ZIP CODE

DOB: [redacted] Sex: M Hair: BRN Eyes: BRN Ht.: 6-2 Wt.: 195

Driver License: ☐ Suspended/Revoked ☒ Surrendered (Attached) ☒ Temporary Possession ☐ Unlicensed

- ☐ 0.01% or more BAC DUI Probation
- ☐ 0.04% or more BAC/COMM VEH
- ☒ 0.08% or more BAC Chemical Tests Results
- ☐ PAS or other Chemical Test Refusal – (DUI Probation)
- ☐ Chemical Test Refusal
- ☐ Forced Blood Test

Complete shaded area only if driving/collision observed by someone other than arresting officer or arrest done by another officer.

☐ Driving observed ☐ Driver arrested ☐ Collision witnessed By ☐ Another Officer ☐ Citizen	☐ Driving observed ☐ Driver arrested ☐ Collision witnessed By ☐ Another Officer ☐ Citizen
NAME (PLEASE PRINT)	NAME (PLEASE PRINT)
ADDRESS	ADDRESS
TELEPHONE NO. ( ) OFFICER'S BADGE/ID NO. OFFICER'S AGENCY	TELEPHONE NO. ( ) OFFICER'S BADGE/ID NO. OFFICER'S AGENCY

PROBABLE CAUSE ***(DESCRIBE IN DETAIL THE FACTS AND CIRCUMSTANCES THAT LED TO THE STOP OR CONTACT.) THE NARRATIVE MUST BE AN ORIGINAL. PRINT OR WRITE DIRECTLY ON THIS PAGE. (A SYNOPSIS OF THE SUPPLEMENTAL REPORT MAY BE CUT AND PASTED BELOW AND MUST BE DATED AND CONTAIN AN ORIGINAL SIGNATURE.) (FOR DUI PROBATION VIOLATIONS) CLEARLY INDICATE BELOW HOW YOU DETERMINED THE DRIVER WAS ON DUI PROBATION.***

On April 16, 2016 at approximately 0213 hours, I was on patrol in the county of Sacramento. I was in a fully marked CHP unit (2485) wearing full CHP uniform and traveling on northbound SR-99 in Galt. I was driving and my partner Officer Stahr, ID# 19279, was in the right front passenger seat. I received a call from CHP dispatch that an off-duty Stockton Police Officer [redacted] D# [redacted] was following behind a possible DUI driver. The vehicle was described as a black Ford Explorer (subject vehicle – s/v) with a license plate number of [redacted] The vehicle was described as weaving all over the road. The off-duty police officer [redacted] activated his flashing emergency lights so that we could easier locate him. I obtained a visual of [redacted] following the s/v at a location of northbound SR-99, south of Florin Road in the #3 lane at approximately 0231 hours. I observed the s/v weaving from right to left in its lane. The right side tires touched the broken painted white lines and raised pavement markers as the s/v weaved to the right, and the left side tires touched the broken painted white lines and raised pavement markers as the s/v weaved to the left. I moved from the #2 lane into the #3 lane behind the s/v, and I positioned the CHP unit closer behind the s/v to begin an enforcement stop. I activated the CHP unit's forward red lights and wig-wag lights. I advised the s/v over the CHP unit's public address system (P/A) to take the next exit on the right. The s/v began yielding to the right shoulder. I continued to advise the s/v to take the exit at 47th Avenue. The s/v continued on northbound SR-99 and eventually exited at 47th Avenue. As the s/v exited at 47th Avenue, I instructed the s/v to turn right onto 44th Street. The s/v turned right onto 44th Street. I advised the s/v to turn right into the parking lot. The s/v complied with instructions and pulled into the parking lot on the southwest corner of 47th Avenue and 44th Street.

E Le ID#19542 4-16-2016

ARREST REPORT-BLACK INK ONLY
SACRAMENTO COUNTY JAIL

Packet ID: 030422

Arrest Report Number: CA 37111

Arresting Agency: .CAL HIGHWAY PATROL

Arresting Type: Fresh

Arrestee: WHITE, MATTHEW

XREF: 3981864

Charge	CNT	MISD	FEL	WRNT	CRIME TITLE
VC 23152(A)	1	X			Driving Under Influence Of Alcohol
VC 23152(B)	1	X			Driving With B.A. Of 0.08 Percent Or More

BAIL	
Registry	
Fingerprint	
CII	
FBI	
XREF	3981864

Last Name	First Name	Middle Name	Nickname
WHITE	MATTHEW	LAWRENCE	

Home Address	City	State	Zip	Place of Birth
[redacted]	[redacted]	CA	[redacted]	[redacted]

DOB	Sex	Race	HGT	WGT	Hair	Eye	Home Phone	Alt Phone
[redacted]	M	W	601	195	BRO	BRO	[redacted]	--

OLN	State	SSN	Employer	Employer Phone
[redacted]	CA	[redacted]		--

NOK/Parent/Guardian	Address	Phone	Notified
		--	No

Vehicle License	Make	Model	Year	Style	Color
[redacted]	Ford	Explorer	2001	SUV	Black

Towed By	Left at Address	Other
	47TH AND 44TH	

Location of Crime	Date/Time of Crime	Victim/Complainant Name	Victim/Complainant Address
47TH AND 44TH CA			

Location of Arrest	Date/Time Arrested	Date/Time Booked
47TH AND 44TH , CA	04/16/2016 03:04	

Arrestee Sobriety	BAC	Tested
~~Under Influence~~	0.12	Breath

Accomplices/Crime Partners:	Assaultive	Combative	Uncooperative	Cooperative

Fingerprint

I declare the above named person has been arrested and is detained in the Sacramento County Jail. I am informed of and believe the facts below, which establish probable cause to detain this individual. **Evidence establishing a crime was committed and the arrested person committed the crime:**

☐ Witness ☐ Victim ☒ Officer stated he/she saw/heard the following:

ON 4-16-2016 AT APPROXIMATELY 0213 HOURS, I RECIEVED A CALL FROM CHP DISPATCH THAT AN OFF DUTY STOCKTON POLICE OFFICER [redacted] WAS FOLLOWING BEHIND A POSSIBLE DRUNK DRIVER. THE VEHICLE WAS DESCRIBED AS A BLACK FORD EXPLORER (SUBJECT VEHICLE - S/V) WEAVING ALL OVER THE ROAD. I RESPONDED FROM N/B SR-99 IN GALT. THE OFF DUTY POLICE OFFICER ACTIVATED HIS FLASHING EMERGENCY LIGHTS SO THAT WE COULD LOCATE HIM EASIER. I OBTAINED A VISUAL OF THE S/V AT A LOCATION OF N/B SR-99 SOUTH OF FLORIN IN THE #3 LANE AT APPROXIMATELY 0231 HOURS. I OBSERVED THE S/V WEAVING FROM RIGHT TO LEFT IN ITS LANE. THE RIGHT SIDE TIRES TOUCHED THE BROKEN PAINTED WHITE LINES AND RAISED PAVEMENT MARKERS, AND THE LEFT SIDE TIRES ALSO TOUCHED THE BROKEN PAINTED WHITE LINES AND RAISED PAVEMENT MARKERS AS THE S/V WEAVED. I POSITIONED MY CHP UNIT BEHIND THE S/V AND INITIATED AN ENFORCEMENT STOP ON THE S/V. I ADVISED THE S/V TO TAKE THE NEXT EXIT AT 47TH AVE. THE S/V EXITED AT 47TH AVE. I INSTRUCTED THE S/V TO PULL INTO THE PARKING LOT AT 47TH AVE AND 44TH ST AND THE S/V COMPLIED WITH INSTRUCTIONS. I EXITED MY CHP UNIT AND MADE CONTACT WITH THE SOLO MALE DRIVER THROUGH AN OPEN

******* Probable Cause Continues on Next Page. Exceeded 14 Lines *******

ARREST REPORT-BLACK INK ONLY
SACRAMENTO COUNTY JAIL

Packet ID: 030422

Arrest Report Number: CA 37111

Arresting Agency: CAL HIGHWAY PATROL

Arresting Type: Fresh

Arrestee: WHITE, MATTHEW

XREF: 3981864

RIVER'S SIDE WINDOW AT 0234 HOURS. I ADVISED THE DRIVER THE REASON FOR THE STOP AND ASKED FOR HIS DRIVER LICENSE. THE MALE DRIVER IDENTIFIED HIMSELF VERBALLY AS MATT WHITE, AND STATED HE DID NOT HAVE HIS DRIVER LICENSE, BUT THAT HIS DRIVER LICENSE NUMBER WAS [redacted] WHITE STATED HE WAS A SACRAMENTO COUNTY SHERIFF'S DEPUTY. WHILE SPEAKING WITH WHITE, I IMMEDIATELY NOTED THE STRONG ODOR OF AN ALCOHOLIC BEVERAGE EMITTING FROM WITHIN THE S/V, HIS SPEECH WAS SLURRED, AND HIS EYES WERE RED AND WATERY. I ASKED WHITE IF HE HAD CONSUMED ANY ALCOHOL THAT EVENING. WHITE STATED HE HAD TWO BEERS AND ONE SHOT. I ASKED WHITE TO EXIT THE S/V AND HAD HIM WALK TO THE RIGHT SIDE OF MY CHP UNIT. ONCE AT THE RIGHT SIDE OF MY CHP UNIT, I ASKED WHITE A SERIES OF PRE-FST QUESTIONS AND HAD HIM PERFORM A SERIES OF FSTS. WHILE ASKING WHITE PRE-FST QUESTIONS, I ASKED HIM ON A SCALE OF ZERO TO TEN HOW, ZERO BEING SOBER AND TEN BEING THE DRUNKEST HE HAS EVER BEEN, HOW HE FELT. WHITE STATED '6' WHITE ASKED IF HE COULD CALL A RIDE, AND HE PLEADED ME NOT TO ARREST HIM. WHITE DID NOT PERFORM THE FSTS AS EXPLAINED AND DEMONSTRATED. I DETERMINED FURTHER OPERATION OF A MOTOR VEHICLE WOULD BE UNSAFE. THIS WAS BASED ON HIS IMPROPER DRIVING, HIS OBJECTIVE SIGNS OF INTOXICATION, HIS PERFORMANCE ON THE FSTS, AND BY MY OBSERVATIONS. I PLACED WHITE UNDER ARREST FOR 23152(A) CVC AT 0304 HOURS. THE S/V WAS PARKED AND LOCKED AT 47TH AVE AND 44TH ST PER WHITE'S REQUEST. I ADVISED WHITE OF IMPLIED CONSENT AND HE CHOSE THE BREATH TEST. WHITE WAS TRANSPORTED TO SACRAMENTO COUNTY MAIN JAIL FOR A BREATH TEST AND BOOKING. ONCE THE BREATH TEST WAS CONCLUDED, WHITE WAS BOOKED INTO THE SACRAMENTO COUNTY MAIN JAIL FOR 23152(A) CVC AND 23152(B) CVC.

BLACK T-SHIRT, BROWN VEST, BLUE JEANS, BROWN BOOTS.

Arresting Officer Name	Badge	Division	Officer Signature
M. Fuhrman	19542		

Judges Signature	☐ Declaration DOES establish probable cause to believe this arrested person committed a crime. ☐ Declaration DOES NOT establish probable cause to believe this arrested person committed a crime


CALIFORNIA DRIVER LICENSE

DL [redacted]
EXP 07/07/2020 CLASS CM1
LN WHITE
FN MATTHEW LAWRENCE
[redacted]
RSTR
SEX M HAIR BRN EYES BRN
HGT 6'02" WGT 192 lb
DD 07/13/2015430900CCF0/20 ISS 04/05/2016

STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
NOTICE TO APPEAR
CHP 215 (REV. 06-15)

CA 37111

☒ MISDEMEANOR ☐ Traffic ☐ Nontraffic

Date of Violation	Time		Day of the Week	
4-16-16	3:04	☒ AM ☐ PM	S M T W T F (S)	☐ CHP 215s ☐ Accident

Name (First, Middle, Last): MATTHEW LAWRENCE WHITE ☐ Owner's Responsibility (§40001 VC)

Addre [redacted]

City [redacted] State CA ZIP Code [redacted]

Driver Li [redacted] State CA Commercial ☐ Yes ☒ No Age Birth Date [redacted]

Sex	Hair	Eyes	Height	Weight	Race/Ethnicity
M	BRN	BRN	6-02	192	W

V [redacted] State CA Reg Exp. 09-16 ☐ COMMERCIAL VEHICLE (§15210(b) VC)

Yr. of Veh.	Make	Body Style	Color	Veh. Type	☐ HAZARDOUS MATERIAL (§353 VC)
01	FORD	EXPLORER	BLK	07	

Evidence of Financial Responsibility or CHP/DOT/PUC/ICC: BINDER

[redacted] ☐ Same as Driver

☐ Same as Driver

Ci [redacted]

Correctable Violation (§40610 VC) ☒ Booking Required (See Reverse) Misdemeanor or Infraction (Circle)

Yes	No	Code and Section	Description	
☐	☒	23152(A) VC	MISD. DUI ALCOHOL	M I
☐	☒	23152(B) VC	DUI ALCOHOL .08% BAC OR ABOVE	M I
☐	☐			M I
☐	☐			M I

Speed Approx.	P.F./Max Spd.	Veh. Lmt.	Safe	Special
>				

Location of Violation(s) at: 47TH AVE AND 44TH ST.

Beat	Area	Perm. Area	☐ Radar/Lidar Unit/Patrol Vehicle No.	☒ MVARS
192	30	252		

☐ Violations not committed in my presence, declared on information and belief.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.
Executed at (place): SAC CO., California

Dec. Date	Arresting or Citing Officer	I.D. No.	Vacation Dates
4-16-16	FUHRMAN	19542	to

Perm Area: to

Dec. Date	Name of Arresting Officer, if different from Citing Officer	I.D. No.	Vacation Dates

WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE INDICATED BELOW.

X SIGNATURE: IN CUSTODY

CA 37111

WHEN: DATE: TIME: ☐ AM ☐ PM

WHAT TO DO: FOLLOW THE INSTRUCTIONS ON THE REVERSE

WHERE: ☒ SUPERIOR COURT ☐ JUVENILE

ADDRESS: 720 9TH ST.

PHONE NO.: SACRAMENTO, CA 95814 916-874-5522

☐ To be notified
☐ You may arrange with the clerk to appear at a night session of the court.

Judicial Council of California Form TR-130
Rev. 08-26-15 (§§ 40500(b), 40513(b), 40522, 40600 VC; § 853.9 PC.) SEE REVERSE

CA37111

FOLSOM POLICE DEPARTMENT

46 NATOMA ST FOLSOM, CA 95630 916-355-7230

CRIME REPORT

Case FPD24-3123

OFFENSES

F/M	A/C	Offenses (A/C - Attempt/Completed)
M	C	23152(A) VC Dui alcohol
M	C	23152(B) VC Dui alcohol/0.08 percent

Date Occurred	Time Occurred	Incident #
08/04/2024	0004	2408040001

Date Reported	Time Reported
08/04/2024	0004

Related Cases:

Date Printed	Time Printed	Printed By
08/05/2024	09:21:00	3233

Latitude	Longitude
38.706260	-121.169650

Location	Beat	Area	Disposition	Dispo Date
Folsom Auburn Rd/Folsom Dam Rd, Folsom, CA 95630	1	1	Cleared by Arrest	08/04/2024

Location Type	Location of Entry	Method of Entry	Point of Entry	Alarm System	Means of Attack (Robbery)

Victim	Drivers License	Cell Phone	Email			
Residence Address	**Notified of Victim Rights**	**Residence Phone**	**DOB**	**Age**	**Sex**	**Race**
Business Name and Address		**Business Phone**	**Height**	**Wt**	**Hair**	**Eyes**
Assistance Rendered/Victim Disposition		**Transporting Agency**	**Means of Attack (Assaults)**			
Description of Injuries		**Other Information**				

Name	Drivers License	Cell Phone	Email			
Residence Address		**Residence Phone**	**DOB**	**Age**	**Sex**	**Race**
Business Name and Address		**Business Phone**	**Height**	**Wt**	**Hair**	**Eyes**

Suspect Arrested	Action Taken	Charges			
White, Matthew Lawrence	On-View Arrest	23152(A) VC, 23152(B) VC			
Residence Address	**Residence Phone**	**DOB**	**Age**	**Sex**	**Race**
[redacted]	[redacted]	[redacted]	[redacted]	M	W
Business Name and Address	**Business Phone**	**Height**	**Wt**	**Hair**	**Eyes**
		6`2"	205	BRO	BRO
Identifying Features	**Cell Phone**	**Drivers License**		**Arrest Number**	
		[redacted]			
Aliases				**CII**	

VEHICLES

Status	Vehicle Make and Model	License/State	VIN	Val Damgd
Involved	2005 Merc	[redacted]		

OFFICERS

Prepared By	Date	Assisted By	Approved By	Date
272 - Vavak, Eathan	08/04/2024		171 - Triplett, John	08/04/2024

Routed To	Date	Routed To	Date	Notes

CONTROLLED DOCUMENT - DO NOT DUPLICATE

FIRST OBSERVATIONS:

On 8/4/2024 at approximately 0004 hours, I (Officer Vavak #272) observed a gold Mercury sedan [redacted] driving northbound on Folsom Auburn Rd in the City of Folsom and County of Sacramento. The vehicle was primarily driving in the number one lane. I was driving behind the vehicle making observations from Oak Ave to Folsom Lake Crossing where I initiated the stop.

During this time I observed the vehicle cross over the lane divide line and fog lane multiple times. The vehicle was also swerving back and forth within the lane. I observed the vehicle driving at inconsistent speeds from 40-55 mph in the 50mph zone. The vehicle was also breaking irregularly by going on and off the breaks while coming to a red light. The driving was captured on my in car camera which was uploaded into evidence.com.

I was driving a fully marked patrol vehicle equipped with overhead lights. I activated my emergency lights and the vehicle stopped on Folsom Dam Rd. I was equipped with a body worn camera that was activated during the investigation.

OBSERVATIONS AFTER THE STOP:

I approached the vehicle along the driver's side and contacted the driver through the open window. I immediately noticed the odor of an alcoholic beverage coming from the vehicle. I advised the driver and solo occupant of the reason for the stop. He was identified via CADL as MATTHEW WHITE [redacted] During this time I noticed S-WHITE's speech to be slurred.

Due to the objective signs of intoxication displayed, I requested that S-WHITE conduct field sobriety tests.

I asked S-WHITE the following investigative questions in no particular order:

When did you eat last?	Today at about 5pm
Were you driving?	Yes
Where were you going?	Home
Where were you coming from?	Folsom Hotel
What have you been drinking?	I had a couple shots.
Do you think you should be driving?	It's a tough call.

STANDARDIZED FIELD SOBRIETY TESTS (SFST's):

The S-WHITE was wearing cowboy boots during the SFST's. The tests were performed on the sidewalk. The

ground was flat and level.

HORIZONTAL GAZE NYSTAGMUS (HGN):

S-WHITE displayed a lack of smooth pursuit in both eyes, distinct and sustained nystagmus at maximum deviation in both eyes, and nystagmus prior to 45 degrees in both eyes.

WALK AND TURN:

S- WHITE asked not to do the tests.

ONE LEG STAND:

S- WHITE asked not to do the tests.

PRELIMINARY ALCOHOL SCREENING TEST (P.A.S #16460140)

I read S- WHITE the PAS admonition verbatim from my field interview card. Results were .116 at 0012 hours and .116 at 0014 hours.

Based on my personal observations of his driving, the objective signs of intoxication displayed, his performance on the SFST's, and PAS results, I formed the opinion that S- WHITE was under the influence of alcohol and unable to operate a motor vehicle safely.

ARREST/BOOKING:

At approximately 0016 hours, I advised and placed S- WHITE under arrest for violation of Vehicle Code section 23152(a/b). I then placed him in handcuffs, double locking and checking for tightness.

The vehicle was moved to an open parking lot at 7700 Folsom-Auburn Rd.

S-WHITE chose the voluntary breath test. He was transported to the Folsom Police Department. I administered the chemical breath test (no: 01349) on the Drager Alcotest 9510 (sn: ARJN-0054). Results were 0.11 at 0040 hours and 0.11 at 0044 hours.

S-WHITE was served the temporary driver's license from the DS367.

S-WHITE was transported to the Sacramento County Main Jail where he was booked without incident.

RECOMMENDATIONS:

I recommend a copy of this report be forwarded to the District Attorney for review and prosecution.

FOLSOM POLICE DEPARTMENT

ARREST REPORT
WHITE, MATTHEW LAWRENCE

08/05/2024

Address	Mailing Address
8220 AUBURN FOLSOM DR, GRANITE BAY, CA 95746	

ID	Phone	Cell Phone	DOB	Age	Sex	Height	Weight
644257	[redacted]		[redacted]	[redacted]	M	6`2"	205

Race	Hair	Eyes	CII
WHITE	BROWN	BROWN	

Drivers License	Vehicle	FBI #
[redacted]		

Business Name	Address	City & State

Business Phone	Email	Arrest ID

Next of Kin/Parent/Guardian	Address	Phone

Occupation	Gang Affiliation	School ID

Officer Safety	Note

Aliases

Arrest Date	Arrest Time	Location of Arrest	Action Taken	Cite #	
08/04/2024	00:16	Folsom Dam Rd	On-View Arrest		
Level Misdemeanor (Adult And Juvenile)	**Bail**	**Case #** FPD24-3123	**Arrest Disposition** Adult - Complaint Sought	**Booking #**	**Warrant #**

Arresting Officers
Vavak, Eathan

Counts	Charges	
1	23152(A) VC	Dui alcohol (M)
1	23152(B) VC	Dui alcohol/0.08 percent (M)

CONTROLLED DOCUMENT - DO NOT DUPLICATE

ARREST REPORT
SACRAMENTO COUNTY JAIL

Arresting Agency *		Arrest Report Number *
FOLSOM PD 10/23		24-3123

REF * 3981864	CII [redacted]	FBI [redacted]	Fingerprint 0000770754

Case Type *	Warrant #	Count	Qualifier	Charge	Sev	Crime Title
ARREST-FRESH		(1)		VC 23152(A)	M	DUI ALCOHOL/DRUGS
ARREST-FRESH		(1)		VC 23152(B)	M	DUI ALCOHOL/0.08 PERCENT

Last Name *	First *	Middle	Nickname
WHITE	MATTHEW	LAWRENCE	

Address	Direction	Street Name *	Suffix	Unit Type	Unit #
[redacted]		[redacted]			

City *	State *	Zip *	COB: *	Country/State of Birth *	Home Phone	Cell Phone
sacramento	CA	95822	[redacted]	UNITED STATES		

DOB *	Sex *	Race *	Hgt *	Wgt *	Hair: *	Eyes: *
[redacted]	MALE	WHITE	6 2	215	BLACK	BROWN

OLN	OLN State	SSN	Employer	Phone
[redacted]	CA	[redacted]		

Next Of Kin Relationship *	Next of Kin Name *
UNKNOWN	N/A

Address	Direction	Street Name	Suffix	Unit Type	Unit #	City	State	Zip	Phone

Vehicle License	Make	Model	Year	Type	Color1	Color2
[redacted]	MERCURY	GRAND MARQUIS	2005		BEIGE	

Disposition	Location-Impound/Tow	Victim/Complainant Name/Address *
LEFT AT SCENE		none

Location of Arrest *	Date/Time of Arrest *		Military Service *
FOLSOM AUBURN RD/ FOLSOM DAM	08/04/2024	00:16	Yes ○ No ◉

Arrestee Condition	BAC	Behavior
DRUNK	0.11/0.11 BREATH	

Accomplice/Crime Partner:

I declare the above named person had been arrested and is detained in the Sacramento County Jail. I am informed of and believe the facts below which establish probable cause to detain this individual. **Evidence establishing a crime was committed and the arrested person committed the crime:**

☑ **Officer** / * ☐ **Witness** / * ☐ **Victim** he/she saw/heard the following: *

Matthew White was contacted on a traffic stop and showed obvious signs of intoxication. A DUI investigation was conducted and ultimately White was arrested for 23152 (A/B). White chose to do a breath test and his BAC was .11. White was transported to SCMj where he was booked for the above charges.

Arresting Officer Name *	Badge *	Division *
VAVAK	58	patrol

Judicial Decision Regarding Probable Cause to Detain.	☐ Declaration DOES establish probable cause to believe this arrested person committed a crime.
Judges **Signature**	☐ Declaration DOES NOT establish probable cause to believe this arrested person committed a crime.

To be completed upon a physical arrest for any misdemeanor, pursuant to Penal Code Section 853.6. Indicate reason for non-release by citation.

The person arrest:

1.	☑	Person arrested was so intoxicated that he/she could have been a danger to self or others.
2.	☐	Person arrested required medical examination or medical care or otherwise unable to care for own safety.
3.	☐	Person was arrested under one or more circumstances listed in Sections 40302 and 40303 of the Vehicle Code.
4.	☐	There were one or more outstanding warrants for the person.
5.	☐	The person could not provide satisfactory evidence of personal identification.
6.	☐	The prosecution of the offense or offenses for which the person was arrested, or the prosecution of any other offense or offenses, would be jeopardized by immediate release of the person arrested.
7.	☐	There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested.
8.	☐	The person arrested demanded to be taken before a magistrate or refused to sign a notice to appear.
9.	☐	There is reason to believe that the person would not appear at the time and place specified in the notice. The basis for this determination shall be specifically stated:
10.	☐	The person was subject to Section 1270.1.

AGE 21 AND OLDER OFFICER'S STATEMENT

California Vehicle Code (CVC) §§13353, 13353.1, 13353.2 & 13389

DMV — A Public Service Agency

LAW ENFORCEMENT AGENCY CASE NUMBER	DETENTION/ARREST DATE	FOR DMV USE ONLY
24-3123	8/4/24	

DRIVER NAME (LAST, FIRST, M.I.): WHITE, MATTHEW

DRIVER LICENSE NUMBER: [redacted] | COMMERCIAL? ☐ Yes ☒ No | STATE: CA

[redacted] STATE | ZIP CODE [redacted]

DATE OF B[redacted] | SEX: M | HAIR: BRN | EYES: BRN | HEIGHT: 6'2 | WEIGHT: 195

Arrest Type (For statistical purposes only. Check all that apply.)
☒ Alcohol Use ☐ Cannabis Use ☐ Other Drug Use

LICENSE: ☐ Suspended/Revoked ☒ Surrendered (*Attached*) ☐ Not in Possession ☐ Unlicensed

VIOLATION: ☒ 0.08% or more BAC Chemical Test Results ☐ 0.01% or more BAC (*DUI Probation*) ☐ 0.04% or more BAC (*Commercial Vehicle*)
☐ Chemical Test Refusal (*Complete Reverse*) ☐ PAS or other Chemical Test Refusal (*DUI Probation*) (*Complete Reverse*)

VEHICLE: License Number or VIN: [redacted]
☐ Commercial Vehicle: Vehicle requires a commercial driver license (CVC §15210). ☐ Hazardous Materials: Transporting materials requiring placards/markings (CVC §27903).

NARRATIVE: Describe in detail the facts, observations, and circumstances that led to the stop or contact with the driver in *Narrative* section on Page 2 of this form.

Contact: On date: 8/4/24 at 0004 ☒ AM ☐ PM in City/County FOLSOM CA, the above driver was contacted.

DRIVING: ☒ Driving observed by this officer or ☐ Driving observed by another observer (complete *Observation/Arrest* section on Page 2)
Admission of Driving: ☒ Driver admitted to driving the vehicle Collision: ☐ Driver involved in a collision

TIME: (If driving not observed by an officer.) What time did you stop driving or how long after driving/collision did you wait for law enforcement to arrive? Driver Response: _____ ☐ AM ☐ PM ☐ HR ☐ MIN

ARREST OR DETENTION STATEMENT: I had reasonable cause to believe the driver was driving a motor vehicle with alcohol and/or drugs present in the blood or while under the influence. The driver was lawfully arrested, or lawfully detained while on DUI probation, by this officer, or by the person shown in the *Observation/Arrest* section on Page 2, on date 8/4/24 at 0016 ☒ AM ☐ PM for violation of CVC §§23152, 23153, or 23154.

OBJECTIVE SYMPTOMS OF INTOXICATION: ☒ Bloodshot/watery eyes ☒ Odor of alcoholic beverage ☐ Unsteady gait ☐ Slurred speech ☐ PAS results (*complete below*)
☐ Other: _____ Observed by: ☒ This officer ☐ Another observer: _____

PRELIMINARY ALCOHOL SCREENING TEST (PAS)

DUI Probation: Required. Non-DUI Probation: Optional. Always complete section if PAS results available.

Driver submitted to and completed a PAS test with the results of:

Test 1 .116 % BAC on 8/4/24 (DATE) at 0012 (TIME) ☒ AM ☐ PM Test 2 .116 % BAC on 8/4/24 (DATE) at 0014 (TIME) ☒ AM ☐ PM

OFFICER CERTIFICATION: I certify under penalty of perjury under the laws of the State of California that: (1) I obtained the above PAS test results in the regular course of my duties, (2) I used PAS Model (*Name/Number*) FC 10, Serial# 1646C140 Manufactured by EFE LOC, (3) I administered this PAS test properly in accordance with the manufacturer's guidelines and instructions, (4) I have received training on the proper operation of this device and administration of the PAS test and am competent and qualified to operate the device, and (5) the device was functioning properly at the time of the test.

Date 8/4/24 Signature X [signature] Badge/ID Number 272 Agcy./Div FOLSOM PD

Attach copy of the results, if available.

CHEMICAL TEST

Breath Test Results:

Test 1 _____ % BAC on 8/4/24 (DATE) at _____ (TIME) ☐ AM ☐ PM Test 2 _____ % BAC on 8/4/24 (DATE) at _____ (TIME) ☐ AM ☐ PM Test 3 (WHEN APPLICABLE) _____ % BAC on __/__/__ (DATE) at _____ (TIME) ☐ AM ☐ PM

BREATH TEST MACHINE OPERATOR CERTIFICATION: I certify under penalty of perjury under the laws of the State of California, that the above breath test sample results were obtained in the regular course of my duties. I further certify that I am qualified to operate this equipment and that the test was administered pursuant to the requirements of Title 17 of the *California Code of Regulations*.

Date 8/4/24 Signature X [signature] Badge/ID Number 272 Agcy./Div FOLSOM PD

BLOOD TEST RESULTS: Blood test on date: __/__/__ at _____ ☐ AM ☐ PM

URINE TEST RESULTS: First void on date: __/__/__ at _____ ☐ AM ☐ PM Test on date: __/__/__ at _____ ☐ AM ☐ PM

I certify under penalty of perjury, under the laws of the State of California, that the information contained on all pages of this Officer's Statement is true and correct.

EXECUTED ON: Date 8/4/24 in City FOLSOM County SACRAMENTO

OFFICER'S PRINTED NAME	BADGE/ID NUMBER	TELEPHONE NUMBER
J AVJAK	272	(916) 461-6400
AGENCY	**AREA**	**COURT CODE (IF UNKNOWN, COURT NAME)**
FOLSOM PD	SACRAMENTO	SACRAMENTO

I ☒ did ☐ did not personally serve a copy of the Order of Suspension/Revocation to the driver.

Date 8/4/24 Signature of Arresting Officer X [signature]

ORDER SERVED BY ANOTHER OFFICER: If order was served on driver by another officer have that officer complete this section.

I personally served a copy of the order to the driver on the date shown below:

Date __/__/__ Serving Officer's *Printed* Name _____ Badge/ID Number _____ Signature Of Serving Officer X _____

continued on reverse

CHEMICAL TEST ADMONITION

(CVC §§23154, 23612)

I admonished the driver on date: ___/___/___ at _____ ☐ AM ☐ PM

1. You are required by state law to submit to and complete a chemical test to determine the alcohol and/or drug content of your blood.
2. Because I believe you are under the influence of alcohol or a combination of alcohol and drugs, you have a choice of taking a breath or blood test. If you are on DUI Probation you are required to submit to a Preliminary Alcohol Screening Test.
3. Availability of Tests. (*Read only when applicable.*)
   - ☐ **When Applicable:** Since the breath and blood tests are unavailable; you are incapable of completing a breath or blood test; or you are afflicted with hemophilia or are using an anticoagulant medication, you are deemed to have given your consent to chemical testing of your urine.
   - ☐ **When Applicable:** Since you need medical treatment, your choice is limited to the (*check all available*) ☐ blood, ☐ breath, and/or ☐ urine test(s), the only test(s) available at _____.
4. If you refuse to submit to, or fail to complete a chemical test, your driving privilege will be administratively suspended for one year or administratively revoked for two or three years by the Department of Motor Vehicles. A second offense within ten years of a separate violation of driving under the influence, including such a charge reduced to reckless driving, or vehicular manslaughter, or a violation of CVC §23140, which resulted in a conviction, or separate administrative determination that you were driving with a BAC of 0.01% or more while under age 21; or a separate administrative determination that you were driving with a BAC of 0.01% or more while on DUI probation, or a BAC of 0.04% or more while operating a commercial motor vehicle, or a BAC of 0.08% or more at any age, or you refused a test, will result in a two-year administrative revocation. Three or more offenses within ten years of any combination of the above violations, convictions or separate administrative determinations will result in a three-year administrative revocation.
5. Refusal or failure to complete a chemical test may be used against you in court.
6. Refusal or failure to complete breath or urine testing will result in a fine and mandatory imprisonment if you are convicted of a violation of CVC §§23152 or 23153.
7. You do not have the right to talk to an attorney or have an attorney present before stating whether you will submit to a test, before deciding which test to take, or during the test.
8. If you cannot, or state you cannot, complete the test you choose, you must submit to and complete a remaining test.

DRIVER RESPONSE: Include statements or actions by the driver that indicate a refusal or failure of each test.

☐ **Will you take a Preliminary Alcohol Screening Test?** (*DUI Probation*) _____

☐ **Will you take a Breath Test?** _____

☐ **Will you take a Blood Test?** _____

TEST UNAVAILABLE: One or more tests were unavailable. ☐ PAS test unavailable ☐ Breath test unavailable ☐ Blood test unavailable

Explain: _____

LANGUAGE: If not given in English, admonition was given in ☐ Spanish ☐ Other language (*specify*): _____

Admonition Read by a Different Officer: If the above Chemical Test Admonition was read to arrestee by another officer, indicate that officer's information:

OFFICER NAME	BADGE/ID NUMBER	AGENCY/DIVISION	TELEPHONE NUMBER
			( )

DRUG ADMONITION

1. Because I believe you are under the influence of drugs or a combination of drugs and alcohol, you are required by state law to submit to a blood, breath, or urine test. A urine test is available only if you are afflicted with hemophilia or are using an anticoagulant medication.
   - ☐ **When Applicable:** Because you have already submitted to or refused or failed to complete a breath test or a breath test is unavailable, your choice is limited to a blood test or a urine test, when applicable.
2. If you refuse to submit to, or fail to complete a chemical test, your driving privilege will be administratively suspended for one year or administratively revoked for two or three years, by the Department of Motor Vehicles. A second offense within ten years of a separate violation of driving under the influence, including such a charge reduced to reckless driving, or vehicular manslaughter, or a violation of CVC §23140, which resulted in a conviction, or separate administrative determination that you were driving with a BAC of 0.01% or more while under age 21, or a separate administrative determination that you were driving with a BAC of 0.01% or more while on DUI probation, or a BAC of 0.04% or more while operating a commercial motor vehicle, or a BAC of 0.08% or more at any age, or you refused a test, will result in a two-year administrative revocation. Three or more offenses within ten years of any combination of the above violations, convictions or separate administrative determinations will result in a three-year administrative revocation.
3. Refusal or failure to complete a chemical test may be used against you in court.
4. Refusal or failure to complete breath or urine testing will result in a fine and mandatory imprisonment if you are convicted of a violation of CVC §§23152 or 23153.
5. You do not have the right to talk to an attorney or have an attorney present before stating whether you will submit to a test, before deciding which test to take, or during the test.

DRIVER RESPONSE: Include statements or actions by the driver that indicate a refusal or failure of each test.

☐ **Will you take a Blood Test?** _____

☐ **Will you take a Urine Test?** _____

TEST UNAVAILABLE: One or more tests were unavailable. ☐ Blood test unavailable ☐ Urine test unavailable

Explain: _____

LANGUAGE: If not given in English, admonition was given in ☐ Spanish ☐ Other language (*specify*): _____

Admonition Read by a Different Officer: If the above Drug Admonition was read to arrestee by another officer, indicate that officer's information:

OFFICER NAME	BADGE/ID NUMBER	AGENCY/DIVISION	TELEPHONE NUMBER
			( )

continued on next page

DMV
A Public Service Agency

AGE 21 AND OLDER OFFICER'S STATEMENT

CVC §§13353, 13353.1, 13353.2 & 13389

DS 367
Page 2

LAW ENFORCEMENT AGENCY CASE NUMBER	DETENTION/ARREST DATE	FOR DMV USE ONLY
24-1123	8/4/24	

DRIVER NAME (LAST, FIRST, M.I.): [redacted]
DRIVER LICENSE NUMBER: [redacted] COMMERCIAL? ☐ Yes ☒ No STATE: CA
MAILING ADDRESS: [redacted] STATE: [redacted] ZIP CODE: [redacted]
DATE OF BIRTH: [redacted] SEX: M HAIR: BLK EYES: BRN HEIGHT: 6'2" WEIGHT: 195

Arrest Type
For statistical purposes only. Check all that apply.
☒ Alcohol Use
☐ Cannabis Use
☐ Other Drug Use

LICENSE: ☐ Suspended/Revoked ☒ Surrendered (*Attached*) ☐ Not in Possession ☐ Unlicensed

VIOLATION: ☒ 0.08% or more BAC Chemical Test Results ☐ 0.01% or more BAC (*DUI Probation*) ☐ 0.04% or more BAC (*Commercial Vehicle*)
☐ Chemical Test Refusal (*Complete Reverse*) ☐ PAS or other Chemical Test Refusal (*DUI Probation*) (*Complete Reverse*)

OBSERVATION/ARREST: If driving or collision was observed by someone other than the arresting officer, or if arrest was completed by another officer or person, input that person's information.

☒ Driving or Collision observed by: ☒ Arrest made by:	Observation or Arrest made by ☒ Officer ☐ Citizen	☐ Driving or Collision observed by: ☐ Arrest made by:	Observation or Arrest made by ☐ Officer ☐ Citizen
NAME (PLEASE PRINT): OFC. VAVAK		NAME (PLEASE PRINT):	
ADDRESS: 46 NATOMA ST		ADDRESS:	
TELEPHONE NUMBER: ( )	BADGE/ID NUMBER: 272 / AGENCY/DIVISION: FOLSOM	TELEPHONE NUMBER: ( )	BADGE/ID NUMBER: / AGENCY/DIVISION:

NARRATIVE

Describe in detail the facts, observations, and circumstances that led to the stop or contact. Print or write directly on this page.
A portion of another report may be **cut and pasted** below but should be dated and contain an original signature.
Attach arrest, collision, and/or supplemental report(s) if available.
If arrest was made per CVC **§40300.5** state the facts and circumstances that support the arrest.
DUI Probation Violations: Indicate below how you determined the driver was on DUI probation.

ON 8/4/24 AT APPROX 0004 HRS, I (OFC VAVAK #272) OBSERVED THE VEHICLE DRIVING NORTHBOUND ON FOLSOM AUBURN RD. THE VEHICLE WAS SWERVING AND BREAKING IRREGULARLY. THE VEH WAS STOPPED AND THE DRIVER WAS IDENTIFIED VIA CADL. HE DISPLAYED OBJECTIVE SIGNS OF INTOXICATION AND INDICATORS OF IMPAIRMENT ON SFSTS. PAS WAS ADMINISTERED. WHITE WAS ARRESTED FOR VIOLATION OF 23152 (A/B) CVC.

[redacted]

continued on reverse

AGE 21 AND OLDER ADMINISTRATIVE PER SE SUSPENSION/REVOCATION ORDER AND TEMPORARY DRIVER LICENSE

DS 367

DMV A Public Service Agency

Driver must be given a copy of this order. DMV telephone number (916) 657-0214.

LAW ENFORCEMENT AGENCY CASE NUMBER	DETENTION/ARREST DATE	FOR DMV USE ONLY
21 123	7/7/24	

DRIVER NAME (LAST, FIRST, M.I.)	DRIVER LICENSE NUMBER	COMMERCIAL?	STATE
[redacted] MATTHEW	[redacted]	☐ Yes ☒ No	CA

ADDRESS	STATE	ZIP CODE
[redacted]		[redacted]

DATE OF BIRTH	SEX	HAIR	EYES	HEIGHT	WEIGHT
[redacted]	M	BRN	BLU	6'2"	195

Arrest Type
For statistical purposes only. Check all that apply.
- ☒ Alcohol Use
- ☐ Cannabis Use
- ☐ Other Drug Use

LICENSE: ☐ Suspended/Revoked ☒ Surrendered (*Attached*) ☐ Not in Possession ☐ Unlicensed

VIOLATION: ☒ 0.08% or more BAC Chemical Test Results ☐ 0.01% or more BAC (*DUI Probation*) ☐ 0.04% or more BAC (*Commercial Vehicle*)
☐ Chemical Test Refusal (*Complete Reverse*) ☐ PAS or other Chemical Test Refusal (*DUI Probation*) (*Complete Reverse*)

You are hereby notified that your privilege to operate a motor vehicle will be suspended or revoked effective 30 days from the issue date of this order as shown below, and until you pay a $125 reissue fee and file proof of financial responsibility as shown on the reverse.
For additional information call (916) 657-0214.

TEMPORARY DRIVER LICENSE

This document must be carried with you and shall serve as your temporary California driver license. It is subject to the same class(es) and all restrictions as your permanent driver license. **This temporary driver license does not provide you with any driving privileges if you do not have a California driver license or your license is expired, suspended, revoked, canceled, or denied.** It expires at midnight 30 days from the issue date of this order shown below.

This action is taken under authority of *California Vehicle Code* (*CVC*) §§13353, 13353.1, 13353.2 and 13389 because you were arrested or detained for driving under the influence of alcohol and/or drugs and:

BAC 0.01% PAS, Breath, Blood or Urine Test DUI Probation	You completed a PAS, breath, blood, or urine test and the officer believes the results will show 0.01% BAC or more. If the laboratory results show your BAC was less than 0.01%, this suspension will be set aside. Your driver license will be reissued to you if you do not have another suspension or revocation in effect.
BAC 0.08% Breath, Blood, or Urine Test	You completed a breath test with 0.08% BAC or more, or you completed a blood or urine test and the officer believes the results will show 0.08% BAC or more. If the laboratory results show that your BAC is less than 0.08%, this suspension or revocation will be set aside. Your driver license will be reissued to you if you do not have another suspension or revocation in effect.
BAC 0.04 % Breath, Blood or Urine Test while driving a Commercial Vehicle	You completed a breath test with 0.04% BAC or more, or you completed a blood or urine test and the officer believes the results will show 0.04% BAC or more. If the laboratory results show that your BAC is less than 0.04%, this suspension or revocation will be set aside. Your driver license will be reissued to you if you do not have another suspension or revocation in effect.
Chemical Test Refusal	You refused to submit to, or failed to complete, a chemical test of the alcohol and/or drug content of your blood.

COMMERCIAL DISQUALIFICATION

A commercial disqualification action will be taken due to any of the following: if you refused a chemical test, if you had a 0.04% BAC or more while operating a commercial motor vehicle as defined in CVC §15210 or while transporting hazardous materials, or held a commercial driver license and were driving any vehicle when you had a 0.08% BAC or more.

HEARING INFORMATION

YOU HAVE **10 DAYS** FROM RECEIPT OF THIS NOTICE TO REQUEST A HEARING TO SHOW THAT THE SUSPENSION OR REVOCATION IS NOT JUSTIFIED. ***The suspension or revocation will not be stayed (delayed) unless you request a hearing within 10 DAYS from the issue date of this order and DMV cannot provide a hearing before the effective date of the suspension or revocation and make a determination.*** Hearings are conducted only to determine questions of fact as described on the reverse. Your need for a license cannot be considered at a hearing. **If you want a hearing or have questions regarding this matter, contact the DMV at (916) 657-0214.** A telephone hearing will be conducted unless you request an in-person hearing. Before the hearing you may see or obtain copies of the department's evidence. ***You must request copies of the department's evidence at least 10 DAYS prior to the date set for commencement of the hearing in order to receive them prior to the hearing date.*** If you want the information released to someone else, give them signed permission. ***You have the right to have a sign or language interpreter present at your hearing. If you require the service of an interpreter, immediately notify DMV of the need for such service.*** ***During the hearing*** you may present oral testimony and/or other evidence. Testimony is taken under oath or affirmation, and the hearing is recorded. You may be represented by legal counsel, or you may represent yourself. The arresting officer(s) may be subpoenaed in this matter, if it is determined that his or her testimony is needed. If you wish to question the arresting officer(s), you have the right to have subpoenas issued on your behalf. You may subpoena any other witness(es) you feel may help your case, and you have the right to cross-examine any opposing witness(es). Blank subpoenas may be obtained on the internet at the following address *http://www.dmv.ca.gov/portal/dmv/detail/forms/formsds* or provided to you by the hearing officer upon request prior to the hearing. You are responsible for service of your subpoena(s) and any witness fee required by law. ***After the hearing,*** the hearing officer shall make findings and render a decision.

OFFICER'S PRINTED NAME	BADGE/ID NUMBER	TELEPHONE NUMBER
[illegible]	[illegible]	(916) [illegible]
AGENCY	AREA	COURT CODE (IF UNKNOWN, COURT NAME)
[illegible]	[illegible]	[illegible]

☒ did ☐ did not personally serve a copy of the Order of Suspension/Revocation to the driver.

Date 7/7/24 Signature of Arresting Officer X [signature]

ORDER SERVED BY ANOTHER OFFICER: If order was served on driver by another Officer have that officer complete this section.
I personally served a copy of the order to the driver on the date shown below:

Date	Serving Officer's *Printed* Name	Badge/ID Number	Signature Of Serving Officer
/ /			X

continued on reverse

```
JB2PF2                    ***** PERSONAL DESCRIPTOR ***** (PF2)
 HELP-
XREF- 3981964                                        DATA ENTRY- _  UPDATE- _

  ALIAS-    ADDRESS-    REMARK- _   O/I- _   MH- _        LOCAL-
NAME- WHITE             MATTHEW     LAWRENCE              PHONE- [redacted]
ADDR- [redacted]                                                  [redacted]
                                CA  USA- UNITED STATES
[redacted]
                    SEX- M  RACE- W  HGT- 602  WGT- 215  HAIR- BLK  EYES- BRO
IDENTIFIERS:
[redacted]                [redacted]                [redacted]
[redacted]                [redacted]                [redacted]


CAUTION-
 SPECIAL NOTIFICATION NAME-                                    PHONE-
 FLAGS:  GUN PERMIT-     DEATH FLAG-     PC290-       PAROLE-     DATE-
       DO NOT MERGE-       PC457.1-     H311590-     PROB    /   DATE-
 WARRANTS: FEL- 00 MIS- 00 INF- 00                    CA03400CC 08042024 022427
 PF: 1 MENU      2 PERSON     3 ARREST     4 CRIME      5 JAIL CUST
                              9 BUSINESS  10 WARRANT   11 DUE DIL   12 CASE HIST
W0313-I HAS 01 NAMES, 04 ADDRESSES      W0333-I HAS REMARKS
```

```
JB3DF2        *****  A R R E S T   R E P O R T  *****  (PF03)
XREF- 3981864 DATA ENTRY- _ UPDATE- _ HIST- _
     NAME- WHITE                MATTHEW        LAWRENCE                    CITERT- _
                                                      SACRAMENTO          CA [redacted]
                 [redacted] PO3- [redacted]                CA
        SEX- M RACE- W HGT- 602 WGT- 215 HAIR- Bla EYES- Bro OLN-
ARREST# 24051592 01  CRIME REPORT- CA0340100 24-3123      CART-      FRAME-
 ARREST:  DATE- 080424 TIME- 0016 LEA- CA0340100 OFFICER- 2910  VAVAK
  HOW ARR- PU WARR#            LOCATION- FOLSOM AUBURN RD/ FOLSOM DAM   L/C-
 CHARGES: VIOLATION SEV CNT |     VIOLATION  SEV CNT |     VIOLATION   SEV  CNT
     VC  23152(B)   MIS  01 | VC  23152(A)   MIS  01 |
                            |                        |
                            |                        |
RELEASE: DATE 080424 853.6? X CIT#            DENY   OR'D?   BAIL $0.00
 COURT-  34100 G1             APPEAR- 102324 1330 BAIL       $5,000.00 FORFEIT?
  NOTES(POSTED BY)-                                            RECEIPT-
         ADDR-
 REJECT:    DATE-          STATUTE-                  REASON-
 BOOKING:  DATE- 080424 TIME- 0216 LEA-             OFFICER-        MOUA
  VLN/DISPO-                                  HOLD LEA/STATUS-
   NEXT OF KIN-                                      RELATIONSHIP-
  ADDR-                                             PHONE-
```

24-3123

Dräger Alcotest® 9510 Precautionary Checklist

Subject WHITE, MATTHEW Date 8/4/24

Officer VAVAK Agency FOLSOM PD

1. **Continuously observe subject for at least fifteen minutes prior to starting the test, during which time the subject must not have ingested alcoholic beverages or other fluids, regurgitated, vomited, eaten, or smoked.**

2. Push the green button near the display to start the test. If the instrument displays "NOT READY" and "WARMING UP", the instrument will proceed to warm up. When the display shows "READY", press the green button again to start the test.

3. Enter your OPERATOR LAST NAME, OPERATOR FIRST NAME, OPERATOR AGENCY, OPERATOR BADGE #, and AGENCY CASE NUMBER, pressing enter on the keyboard after each field is completed. Review your information then press enter on the keyboard or SAVE on the touch screen to proceed to Step 4.

4. Enter the subject's information as prompted: SUBJECT LAST NAME, SUBJECT FIRST NAME, SUBJECT MI, SUBJECT DATE OF BIRTH, SUBJECT DRIVER LICENSE NUMBER, SUBJECT DRIVER LICENSE STATE, and SUBJECT OTHER ID NUMBER.

5. Enter the date first observed in the indicated format. Enter the time first observed in the indicated format. (If 15 minutes has not passed since the first time observed, the instrument will start a countdown timer for the remaining time before the test can be continued.) Review subject information on the summary screen. Press Enter on the keyboard or SAVE on the touch screen to proceed to Step 6.

6. Ask the subject if they regurgitated during the observation period and enter their response at the "SUBJECT REGURGITATED" prompt. Review regurgitation information on the summary screen. (If "Y" is selected, the instrument will abort the test sequence.) Press Enter on the keyboard to proceed.

7. Insert new, clean mouthpiece into Breath Inlet Hose.

8. Instrument will display "PURGING", then "BLANK CHECK", then "AMBIENT AIR CHECK." When instrument displays "PLEASE BLOW", obtain the first breath sample from the subject. Once a sample has been successfully provided, the instrument will display "TWO MINUTE WAIT PERIOD IN PROGRESS." To terminate or indicate a subject refusal at any time, push the "R" button on the screen during this testing procedure.

9. Once the two minute wait period is completed, the instrument will display "PURGING", then "BLANK CHECK", then "AMBIENT AIR CHECK". When instrument displays "PLEASE BLOW", obtain the second breath sample from the subject.

10. <u>If the two sets do not agree by 0.02%,</u> the instrument will display "TESTS OUTSIDE TOLERANCE" and repeat Step 9 to obtain a third breath sample from the subject.

11. Instrument will display "PLEASE WAIT", then print out **<u>TWO</u>** copies of the results. Sign both copies. Attach the first copy to this checklist for your record. Place the other copy in the designated drop box.

12. Remove and dispose of the mouthpiece in a sanitary manner and return the breath hose to its original position.

SACRAMENTO COUNTY
LABORATORY OF
FORENSIC SERVICES

ALCOTEST 9510

SERIAL NO.:	ARJN-0054
TEST NO.:	01349
DATE:	08/04/2024
START TIME:	00:36
LOCATION:	FPD

SUBJECT INFORMATION:

LAST:	WHITE
FIRST:	MATTHEW
MI:	L
DOB:	[redacted]
DL STATE:	
DL #:	
ID #:	-

BREATH ANALYSIS

OBSERVATION START:		00:04
REGURGITATED:		NO
DIAGNOSTIC		OK
	g/210L	TIME
AIR BLANK	0.00	00:39
TEST 1 IR	0.11	00:40
TEST 1 EC	PASS	00:40
AIR BLANK	0.00	00:41
AIR BLANK	0.00	00:44
TEST 2 IR	0.11	00:44
TEST 2 EC	PASS	00:44
AIR BLANK	0.00	00:45
DIAGNOSTIC		OK

OFFICER INFORMATION:

LAST:	VAVAK
BADGE #:	272
AGENCY:	FOLSOM PD
CASE #:	24-3123

SIGNATURE: VAVAK 272


California USA DRIVER LICENSE
FEDERAL LIMITS APPLY
CLASS CM1
EXP
END NONE
LN WHITE
FN MATTHEW LAWRENCE
DOB
RSTR
SEX M
HGT 6'-02"
HAIR BRN
WGT 205 lb
EYES BRN
ISS 12/30/2020

COUNTY OF SACRAMENTO

Inter-Department Correspondence

SCOTT R. JONES
Sheriff

Date: June 6, 2016

To: LIEUTENANT LISA GAYMAN
Professional Standards Division

From: SERGEANT MARCUS GREGORY
Professional Standards Division

Subject: INTERVIEW WITH MATTHEW WHITE, 2016PSB-158

Today is Tuesday, May 31, 2016 and the time is 1820 hours. I'm Sergeant Marcus Gregory of the Sacramento Sheriff's Department Professional Standards Division. With me is Sergeant Mike Abbott, also from the Professional Standards Division. We are at the Division Office located at 711 G Street, Sacramento, California. Present today is Deputy Matt White. Deputy White has declined to have any representation during this interview.

GREGORY: Is that correct?

WHITE: Yes.

GREGORY: This interview is regarding investigation 2016PSB-158 where it is alleged that Deputy Matthew White was arrested by the California Highway Patrol for driving under the influence of an alcoholic beverage and subsequently booked into the Sacramento County Main Jail on April 16, 2016. Deputy White's actions and conduct was of such nature to cause discredit to the Sacramento County Sheriff's Department. Prior to going on tape I gave Deputy White a Lybarger Warning explaining his Miranda Rights. Deputy White has invoked his Miranda Rights and has been ordered to make a truthful statement regarding this investigation. He has read and signed the Lybarger Warning. Deputy White, you are advised this investigation is confidential. You are hereby instructed not to discuss the substance of the investigation, nor any questions or answers presented during the course of this interview with anyone with the exception of your representative or attorney pending the conclusion of the investigation. Do you understand this conversation is being recorded?

WHITE: Yes sir.

GREGORY: Before we start would you please say your full name and spell your first and last name.

WHITE: It's Matthew Lawrence White, M-A-T-T-H-E-W, White like the color, W-H-I-T-E.

GREGORY: By who are you employed?

WHITE: The Sacramento County Sheriff's Department.

GREGORY: For how long?

WHITE: Approximately 12 years.

GREGORY: What is your current position with the department?

WHITE: Deputy Sheriff at the, ah, Sacramento County, ah, Airport.

GREGORY: How long have you been assigned out there?

WHITE: Three and a half years.

GREGORY: Did you have an opportunity to read the California Highway Patrol report I provided you, CA37111?

WHITE: Yes I did.

GREGORY: Were there any discrepancies or corrections that you would like to address in that report?

WHITE: Ah, no.

GREGORY: Were you traveling northbound State Route 99 on April 16, 2016, at approximately 2:30 in the morning?

WHITE: Yes I was.

GREGORY: Were you subsequently pulled over around that time by a member of the California Highway Patrol?

WHITE: Yes I was.

GREGORY: After being pulled over did you advise the officer that you were a Sacramento County Sheriff's Deputy?

WHITE: Yes I did.

GREGORY: Why did you advise him you were a Deputy?

WHITE: Um, I was afraid of, ah, ah, unfair treatment or being, ah, arrested.

GREGORY: Is it correct you did not have your license on your person that morning?

WHITE: Ah, that is true.

GREGORY: Was that part of the reason for telling him you were a Deputy?

WHITE: I, ah, prior to…I think two weeks prior to that I lost my, ah, Sheriff's I.D. along…my…my whole wallet was lost and I submitted a…a Info Report just a day or two before this. That's the reason I didn't have a driver's license on me.

GREGORY: Were you in possession of your duty weapon when you got pulled over?

WHITE: I was not.

GREGORY: Do you recall what you had to drink that evening?

WHITE: Ah, to the best of my knowledge I know I had, ah, ah, two, um, Miller beers and I think three to four shots of Jim Beam throughout the course of the night.

GREGORY: Do you recall what time you started drinking that night?

WHITE: Um, I know it was later. I would probably estimate it the first beer was probably around a quarter to 12 and I took three shots prior to leaving, which would have been I believe, ah, estimated around 1:30.

GREGORY: Where were you coming from?

WHITE: I don't re…remember the name of the bar actually, but I know it's from Stockton. If I think hard enough I can think of it, but now I don't know.

GREGORY: Did you ask Officer Fuhrman or his partner, Officer Stahr, if you could just call a ride?

WHITE: Yes I did.

GREGORY: Were you looking for consideration based on your peace officer status when you asked them that?

WHITE: No, just as a citizen I was trying to avoid a driving under the influence arrest.

GREGORY: Do you believe that based on your peace officer status that that put the CHP Officers in an uncomfortable position?

WHITE: I can, ah, guess that it probably did. I don't know for sure, but they were very, ah, professional and, ah, throughout the, ah, encounter.

GREGORY: It mentioned in the report that you stated you thought you were gonna get fired. Is that the case?

WHITE: I did, yeah.

GREGORY: Did the officer conduct Field Sobriety Tests on you?

WHITE: Yes.

GREGORY: Did he tell you whether or not you passed those tests?

WHITE: Ah, I…I don't believe he ever informed me that I failed them, but given the current position we're in I assumed that I failed them poorly.

GREGORY: The officers subsequently arrested you and transported you to the Sacramento County Jail to conduct a breathalyzer examine on you, is that correct?

WHITE: Yes sir.

GREGORY: Were you booked into jail that night?

WHITE: Yes I was.

GREGORY: What is the current status of your court case related to this arrest?

WHITE: Um, you know, I…I spoke with the, ah, lawyer. I paid him his fees, um, I know that it's going through the process. I…I don't think it's complete. I know the DMV hearing was not done and then for the actual court case I'm…I'm unaware what the status is right now.

GREGORY: Do you currently have a valid driver's license?

WHITE: I, ah, I do…I do. It's…I just received one today in the mail. Ah, picture I.D. and everything. It said, ah, subject to, ah, being surrendered upon the, ah, completion of the investigation per DMV.

GREGORY: Prior to this interview I provided you with a copy of the Sacramento Sheriff's Department Vision, Mission and Values. Upon reviewing that document do you believe the arrest was good ethical behavior?

WHITE: I'm sorry, can you say that one more time for me.

GREGORY: After reviewing the Vision, Mission and Values there, do you believe your arrest was good ethical behavior?

WHITE: On my part, no.

GREGORY: Have you taken any steps in correcting your behavior since the incident?

WHITE: Um, yes I have. Um, the, ah, irony of it all is, ah, I've…I've been well aware for the last couple of years that, ah, alcohol has been a little bit of a problem in my life and, ah, in September I was introduced to Alcohol Anonymous and I've attended there and I've been off again, on again and then, ah, I was 45 days sober prior to this arrest and had not touched alcohol and, ah, ah, and since this arrest I've gone right back, I have a sponsor and back to the program and, ah, I met with my, ah, Lieutenant and, ah, at the Airport. I expressed my disappointment in myself and, ah, I'm taking it from there and of course, ah, ah, I have abstained from alcohol since.

ABBOTT: Obviously part of this case will go up to be reviewed by your commanders and the chiefs. Is there anything that you would like to add on your own behalf?

WHITE: Absolutely, yeah, thank you for, ah, asking me. Ah, I think that the two things that, ah, stick, ah, there's a handful of things that really stick out to me and most sincerely I say, ah, how humbled I've been by this overall experience and regardless of what happens, as far as discipline goes, I mean, the, ah, DMV, courts, down to my appointment, the part that hurts me the most is my own personal pride. I can truly say with astonishment, ah, how embarrassed I was to be booked into the Main Jail and to have this a stigma of going through that and I'm the first to, ah, recognize the values that our department has, but, ah, and I, ah, I…I, ah, tend to, ah, concur with these values 'cause that's how I want to conduct my own personal life and that's how I want to be, so just as damaging as it's been to the department, it's been to myself and I can't reiterate the humbleness that I feel overall and in…in the course of that they…I think the one thing I really need to do is obviously come clean and be honest about alcohol is a problem in my life. That's

embarrassing to say, but also I tend to be the hero of my own story and move on and try to, ah, I mean, as we were talking before about the number of alcohol related incidents that we have as a department I hope to be somewhat of a contributor to…to that and would hope to…that my supervisors would put me in a position that they can count on me again to help to attempt that is all that I would hope to say.

GREGORY: Okay. The time is 1830 hours and that will conclude the interview.

(WHITE.158) tli

INTERVIEW WITH DEP. MATT WHITE
HAYNES=SGT. ANDREA HAYNES
SHELTON=SGT. KENNY SHELTON
WHITE=DEP. MATT WHITE
HOFFMANN=ATTY. JOSEPH HOFFMANN

HAYNES: Today is Tuesday, July 8, 2025. The time is 2:08 pm. I am Sergeant Andrea Haynes of the Sacramento County Sheriff's Office Internal Affairs Bureau. With me is Sergeant Kenny Shelton, also with the Internal Affairs Bureau. We are at the Rio Cosumnes Correctional Center located at 12500 Bruceville Road in Elk Grove. We are here today with Deputy Matt White. Also present is Attorney Joseph Hoffmann, who will be representing Deputy White during this interview. This interview is regarding Internal Affairs case 2024PSB-421, where it is alleged that on August 4, 2024, Deputy White exhibited signs of driving while under the influence and was subsequently arrested for California Vehicle Code 23152(A), driving while under the influence of alcohol and/or drugs, and California Vehicle Code 23152(B), driving while under the influence of alcohol with a blood alcohol concentrate of 0.08 or greater. Prior to going on record, I provided Deputy White with an administrative admonishment and a Lybarger warning explaining his Miranda rights. Deputy White has invoked his Miranda rights. He has been ordered to make a truthful statement regarding this investigation. Deputy White has read and signed the Lybarger warning. Deputy White also read and signed the Administrative Admonishment Form. Deputy White, you are advised this administrative internal investigation is confidential. Prior to beginning the interview, I will have everyone present introduce themselves in their own voice for transcription purposes. I am Sergeant Andrea Haynes.

SHELTON: Sergeant Kenny Shelton.

HOFFMANN: Joe Hoffmann with Mastagni.

WHITE: Deputy Matt White.

HAYNES: Deputy White, can you spell your first and last name?

WHITE: Matt -- M-A-T-T -- White -- W-H-I-T-E.

HAYNES: Deputy White, do you understand this conversation is being recorded?

WHITE: Yes, I do.

HAYNES: By whom are you employed?

WHITE: The Sacramento County Sheriff's Office.

HAYNES: How long?

WHITE: For 22 years.

HAYNES: And what is your current rank?

WHITE: I'm a Deputy Sheriff.

HAYNES: Okay. Where are you currently assigned?

WHITE: The Rio Cosumnes Correctional Center.

HAYNES: And how long have you been with the Rio Cosumnes Correctional Center?

WHITE: For approximately 11 months now.

HAYNES: What shift are you assigned to?

WHITE: A-Days.

HAYNES: Prior to the Rio Cosumnes Correctional Center, where were you assigned?

WHITE: To our Sheriff's North Patrol.

HAYNES: And what shift were you assigned to?

WHITE: Boy Watch.

HAYNES: Prior to this interview, were you able to review Folsom Police Department's Report 24-3123?

WHITE: Yes, I was.

HAYNES: The in-car camera and body-worn camera footage associated with your arrest?

WHITE: Yes.

HAYNES: Your DMV printout?

WHITE: Yes.

HAYNES: Sacramento County Sheriff's Standards of Conduct Policy?

WHITE: Yes, I had.

HAYNES: And the Sacramento Sheriff's Office Vision, Mission and Values?

WHITE: Yes, I did.

HAYNES: Were you driving your personal vehicle on August 4, 2024 in the vicinity of Folsom-Auburn Road and Folsom Dam Road?

WHITE: Yes, I was.

HAYNES: And what type of vehicle were you operating?

WHITE: A 2005 Mercury.

HAYNES: Was anyone in the vehicle with you?

WHITE: No.

HAYNES: Can you tell me where you were going?

WHITE: I was heading home.

HAYNES: And where were you coming from?

WHITE: The Folsom Hotel Bar.

HAYNES: Who were you with at this location?

WHITE: Friends and family.

HAYNES: Okay. Had you consumed any alcohol prior to driving that night?

WHITE: Yes, I did.

HAYNES: And do you recall what you were drinking and how much?

WHITE: I was drinking Jim Beam. I don't recall how much. I know I initially took a shot of Jim Beam approximately three hours before this incident. And then I know I waited an hour. And then while leaving the bar, closing out my tab, I took one more shot.

HAYNES: Okay. Were you feeling the effects of the alcohol?

WHITE: Yes.

HAYNES: And based on how much you had to drink or based on the effects of the alcohol, do you feel like you should have been operating a vehicle?

WHITE: You know, the interesting thing about alcohol is it really impairs your judgment.

HAYNES: Mm-hm.

WHITE: So I can say with confidence that I felt in that moment that I was capable of operating a vehicle and traveling home.

HAYNES: Okay.

HOFFMANN: But in retrospect, do you have a different opinion?

WHITE: Absolutely. In retrospect, because of that impairment, I was over the legal limit.

HAYNES: So when asking you why you made that decision to drive home that evening, you would say it's because at that moment, you felt like you were okay?

WHITE: I did.

HAYNES: Okay. Were you stopped by a Folsom police officer?

WHITE: I was.

HAYNES: Where at?

WHITE: Right before the dam, or right at the dam, right past Natomas Crossing, which is on Auburn-Folsom Boulevard.

HAYNES: Did you know at the time why you were stopped?

WHITE: Did I? I'm sorry, did I understand the reason I was stopped?

HAYNES: Mm-hm.

WHITE: He said that I weaved in my lane.

HAYNES: Okay. Did you recognize that you had too much to drink?

WHITE: I had an instant regret and a fear that I may have overdrank.

HAYNES: Did you identify yourself as a Sacramento County Sheriff's deputy?

WHITE: Yes, I did.

HAYNES: Did the Folsom police officer request that you conduct field sobriety tests?

WHITE: He did.

HAYNES: And did you cooperate with these tests?

WHITE: I did.

HAYNES: Can you describe these tests to me?

WHITE: Yeah, I recall that he did, I'm going to say it wrong, horizontal nystagmus gaze or whatever, with my eyes to follow his pen and also a Romberg stand and a breathalyzer.

HAYNES: Do you recall the results of the PAS?

WHITE: Yes, I believe I was 0.11.

HAYNES: And as a result of the traffic stop and DUI investigation, were you arrested for driving under the influence of alcohol?

WHITE: I certainly was.

HAYNES: Having reviewed the police report and the associated camera footage, is there anything that you believe is inaccurate or should be clarified?

WHITE: No, I don't.

HAYNES: What were you charged with?

WHITE: 23152 vehicle - driving while intoxicated over a legal limit of 0.08.

HAYNES: And how did you plead your charges?

WHITE: No contest.

HAYNES: What was the outcome of your plea?

WHITE: I received 4 years of probation.

HAYNES: And what are the terms of your probation?

WHITE: To sustain from all alcohol and alcohol possession and consumption or where it can be consumed.

HAYNES: Was there any other results of your plea besides the 4 years of probation?

HOFFMANN: I can shine some light on it because there were some technical terms that were deemed satisfied.

HAYNES: Mm-hm.

HOFFMANN: So what I conveyed was it was 10 days of jail but credit time served to include giving him credit for the time that he did at a treatment facility.

HAYNES: Mm-hm.

HOFFMANN: Four years of informal probation. Take the 18-month DUI course. And for the duration of probation - I'm sorry, it was 14 days credit time served.

HAYNES: Right. Okay.

HOFFMANN: During the course of probation, he can't have any alcohol, any measurable amount of alcohol and drive a vehicle or other standard terms and conditions like obey all laws. So.

WHITE: Thank you.

HAYNES: Okay. And what is the status of your driver's license currently?

WHITE: It's currently suspended or revoked.

HAYNES: And is there something that you have to do in order to get your driving status back?

WHITE: Yes. November 25 will be the date I can have it reissued as long as I'm signed up for the 18-month DUI program and also kind of show a SR-22 for insurance.

HAYNES: What is SR-22?

WHITE: It's a completion of insurance that you actively have insurance and that it's on record with DMV that if you ever miss a payment or any type of declinement of that insurance, or I didn't pay it that they would automatically suspend my license again. So I must currently have insurance.

HAYNES: And once you get your driver's license reissued, does that put you back into a valid status or does that...

WHITE: It does.

HAYNES: ...give you back just driving to and from work?

WHITE: No, it'll be a valid status.

HAYNES: Okay. And I guess this answers my next question. Were you court ordered to take any classes?

WHITE: Yes.

HAYNES: And what class is that?

WHITE: An 18-month DUI completion of classes.

HAYNES: And you said you start that class when?

WHITE: I have not signed up yet, but I have until August 3 to sign up and complete.

HAYNES: Okay. Since this incident, have you reached out to any department resources

for support relating to your alcohol use?

WHITE: Oh my gosh. Yeah, it's been quite the experience. Immediately after being booked into jail, you know, [redacted] was able to give me a ride home and was the first of many beginnings of addressing alcoholism and my status at the Sheriff's Department and then also the conduct of what is expected. And since then, that has led into the following morning, I spoke with [redacted] about this same incident and so forth. But since then, I've reached out to Peer Support and also continue doing therapy, which I explain later. But yeah, I've talked to several people.

HAYNES: Okay. Any other programs?

WHITE: Yeah, I've, you know, there was a - this incident happened on August 4. And in my past, I've been through AA meetings, I've continued to do that off and on. And so I jumped right back into AA and started going through there. And since August 4 to January 12, I had two drinks. And I knew that there would be this moment that I was sitting across from an Internal Affairs investigator. And I remember thinking, why am I drinking? What is going on with me? And I knew that this moment was pretty significant for me that I knew that I had to say, Am I good? Am I not good? And what have I done? And AA wasn't cutting it at the time, I didn't understand why I was still having, in this case, two drinks over four months. So 1st of year, I decided I'd look into outpatient programs or attempts to really counter my own internal problems with alcohol. So I began to look at outpatient programs in the area. And they were pretty sufficient, you know, they were all generally like six to eight weeks and outpatient therapy, or they were all alcohol counselors. And the one thing I really settled in kind of stuck my teeth in I was, like, I wanted therapy, I wanted something to really address past traumas, and everything the reasons I was drinking, that was really important to me.

HAYNES: Mm-hm.

WHITE: So with that said, I was able to through therapy found [redacted] My research to my insurance and also the union to know what type of systems was available. And I believe my insurance covered all of it. And it's a bit of a sacrifice. [redacted] And the big selling point for me was two to three times a week, you did meet one on one with the therapist. And that it was, again, [redacted], but it was one of the most beneficial times in my life where I realized why I was drinking for things and the causes of those things

and how to overcome addiction, trauma, and overall happiness with what I was doing [redacted], I've met with her for once a week and talk to her and continue to see her. And probably about one of the best experiences I've ever had. It was very challenging, but I was very thankful I did it.

HAYNES: And when did you complete this program?

WHITE: April 29.

HAYNES: And just to clarify, since completing this program, on April 29, you're continuing to talk to one of the counselors from this program?

WHITE: Yeah, and also remains sober, since January 12 I've not drank and done anything like that, nor ever desired to go back, and maybe it's a moot point, but really I know I've told Joe this and other things, if I had known how well I could feel now, I would almost get another DUI just to do it again. Because I know how that sounds terrible. But if I had known how great I felt now, I would have done anything possible to be how I feel now.

HAYNES: Right. I understand what you're saying.

WHITE: Yeah. Yeah.

HAYNES: Okay.

WHITE: Yeah. Thank you.

HAYNES: Are there any other programs? I mean, I know you said you attempted AA. You went to AA off and on for a while. Are there any other programs? You said you looked into outpatients programs, are there any other programs that you completed?

WHITE: No, [redacted] I continue to go to AA meetings now twice a week.

HAYNES: Okay.

HOFFMANN: And so your aftercare is two AA meetings a week and then a weekly counseling session...

WHITE: Yes.

HOFFMANN: ..[redacted]

WHITE: Yes.

HOFFMANN: Okay.

WHITE: And I have a sponsor through AA that I continue to talk to.

HAYNES: Okay. Are your AA meetings, are they in person? Are they online?

WHITE: There in person.

HAYNES: Okay.

WHITE: Yeah. They fortunately right by my house. I walk there.

HAYNES: Okay. And then is this meeting you have with the counselor through the what's it called again, the...

WHITE: [redacted]

HAYNES: [redacted]

WHITE: Yeah.

HAYNES: Is that over the phone or Zoom?

WHITE: It's either Zoom or FaceTime.

HAYNES: Okay. And we talked a little, had you attended any programs related to alcohol prior to your incident on August 4?

WHITE: Yeah. For the last I would say 5 or 6 years I've been on and off with AA, and never obviously had in and outs of it. But that was the only thing I had attempted prior.

HAYNES: Okay. Being that this isn't your first DUI conviction since being employed with the Sacramento County Sheriff's Office, what are you doing to ensure this type of incident or behavior won't happen again in the future?

WHITE: You know, I really appreciate that question because I think I personally I've been struggling with that for years now. And when you go through a DUI, there's a lot of peaks and valleys and a lot of good days and bad days and always a challenge of something whether it's your driver's license, your employment or your status or a criminal case or jail time. And I think in my case, I really have conquered all those things, and the last regrettable thing I have is guilt and shame that will not really shake. And as I continue to go through therapy, I've found ways to cope with that and move forward. So since the first DUI or the second one, I've learned that I'm moving forward. I am being someone that has been knocked down and continuing getting to back up and that this time I'm finally standing and that I'm also a lot more mature than I was prior - before now that I'm married and also have a child now, and there's a lot more at stake. And I think going through this process on a personal note to the Sheriff's Department has been so wonderful to me that this will never happen again and, nor will I ever be an alcoholic or be alcohol related problems.

HAYNES: Okay. Looking back at this entire situation, is there anything you would have done differently?

WHITE: Absolutely. You know, I think it should be at least mentioned that, like, prior to this, I did have, like, 50 days sober and was trying to do best. This was not a throw up my hands and don't give a heck about it. You know, I went there to this bar, drove because I had full intentions of not drinking and that I fell short. And even in my midst of falling short, I had a ride that lined up, and I called several times they unfortunately didn't answer. I did wait an hour. And the mistake I made was taking that last drink while I was closing out. And I do live 5 minutes away and I had some music equipment in the car that I didn't feel like leaving, and it was a poor lapse of judgment. But in hindsight, I wish I would have all done it completely different. There was no reason at all for me to drive.

HAYNES: Okay. In this situation, do you feel you followed department policy and procedure?

WHITE: No.

HAYNES: Do you believe your actions brought discredit upon our agency and profession?

WHITE: 100%.

HAYNES: Okay. Do you feel you conducted yourself appropriately and within the Sheriff's Office Vision, Mission and Values?

WHITE: No.

HAYNES: Sergeant Shelton, do you have any questions?

SHELTON: I do. Referring to your plea deal, your probation status is informal. Is that searchable or non -searchable?

WHITE: Searchable.

SHELTON: And then your...

HOFFMANN: Well, so it's searchable in the sense of he would have to submit to search and seizure by a police officer who wants to check his bodily fluids for the presence of alcohol. But I don't believe it's searchable in the sense of where they can just go in and toss his house in the middle of the night as a pretext or whatever.

SHELTON: And then for your driver's license is currently suspended until you complete your class, correct? Or is it revoked?

WHITE: No, it's suspended until I sign up for the class. The classes will be 18 months, but I will have it prior.

SHELTON: Okay, so you'll - I guess my ultimate question is, is there a work exemption? Or when will you be able to operate a motor vehicle in the course of your duties at work?

WHITE: Well, I'm eligible for a breathalyzer now, but that would obviously not be accountability for work. November 25 will be reinstated fully for my driver's license.

SHELTON: Okay. And prior to November, are there any kind of exemptions that allow you to drive to and from work?

WHITE: Yeah, with a breathalyzer, I would be able to.

HOFFMANN: So if he has an IID installed in his vehicle, he can get a restricted license where he can drive his private vehicle with the breathalyzer in it, anywhere he wants any time. If he goes that route, then there's a notice form that he could provide to his employer that would allow him to drive a county vehicle that does not have the IID installed in it so long as the employer receives the notice. So there is another route to go if he needs to drive in the course of his duties, we can get him there.

SHELTON: Okay, if need be?

HOFFMANN: Yes.

SHELTON: And then my last question, just one more. Have you learned from this incident? What I mean by that is, have you learned in a way that will make you a better employee in the future? And if so, how?

WHITE: Thank you for asking that because, like, [redacted] that I had, it ultimately led me to better happiness and to be a better person. So not only am I a better employee, but also a better father, better husband. But as far as my work status, I've come to terms of gratitude, and that I will continue to sustain from alcohol. And I've learned [redacted] coping skills of stress management, personal defect. And I also believe I have a great outpatient program for that with a therapist online. And I've been very open to friends and contacts too that I've been able to rely on that honestly, before I didn't care to have nor did I have, unfortunately. That's all I have.

HAYNES: Attorney Hoffmann, do you have any clarifying questions?

HOFFMANN: No.

HAYNES: Okay. Deputy White, is there anything important to this investigation that I have not asked?

WHITE: No, I don't think so. I appreciate your thorough investigation and the questions asked. I think the only thing I would add is that, I'm very proud of the Sheriff's Department, very proud that I've been here. It's not only provided me a lifestyle and everything I have, but it's pro- provided me integrity, and it's provided me professionalism and how to overcome things. And I'm deeply, like, very shameful and apologetic of how I reflected that it's something that I

really cared about. And my personal reflections of how I feel about myself during that time will always be a little bit damaged towards the Sheriff's Department. So I'm very sorry for the incident. And I hope to spend the rest of my career, continue to be a advocate for the Sheriff's Department and to help other employees avoid the situation.

HAYNES: Thank you. If no one else has anything else, this will end our interview. The time is 2:30 pm.

This transcript has been reviewed with the audio recording submitted and it is an accurate transcription.

Signed 

[redacted]

Re: Matthew White
Date of Birth:[redacted]

May 23, 2025

To Whom It May Concern:

Matthew White was a patient under our care from 03/15/2025 to 04/29/2025. Mr.

White [redacted] which included supportive

[redacted]

Should any other questions arise, please contact (949) 594-0060.

We greatly appreciate your attention to this matter.

Respectfully,

[redacted]

Case Information

Case Information

Defendant Name	MATTHEW LAWRENCE WHITE
Case Number	16MI008180
Xref	3981864
Filing Date	04/27/2016
Charge Document	Complaint
Case Status	Disposed
Court ID	34100

Aliases

First Name	Middle Name	Last Name	Suffix
MATTHEW	LAWRENCE	WHITE	

Other Cases

Case Number	Filing Date	Court ID
No other cases found.		

Charges

Count	Charge	Severity	Degree	Allegation	Blood Alcohol %
C001	VC 23152(A)	Misdemeanor	N/A	N/A	N/A
C002	VC 23152(B)	Misdemeanor	N/A	N/A	12

Future Hearings

Date	Time	Dept.	Reason	Outcome
No future hearings found.				

Hearing History

** **NOTE:** There is a cost associated with **court reporter transcripts**. When you request a court reporter transcript, you will be contacted by the court reporter regarding the cost and method of payment accepted.

Date	Time	Dept.	Reason	Outcome	**Request Transcript
07/25/2016	1:30 PM	04	FURTHER PROCEEDINGS	DEFENDANT SENTENCED	Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=04&eventDate=07%2F25%2F2016
07/25/2016	1:30 PM	04	JAIL INSTRUCTIONS	JAIL INSTRUCTIONS	Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=04&eventDate=07%2F25%2F2016
07/25/2016	1:30 PM	04	MOTION FOR DISMISSAL	MOTION GRANTED	Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=04&eventDate=07%2F25%2F2016
06/27/2016	1:30 PM	04	FURTHER PROCEEDINGS	CONTINUED	Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=04&eventDate=06%2F27%2F2016
06/06/2016	1:30 PM	04	COUNSEL INFORMATION	RETAINED COUNSEL	Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=04&eventDate=06%2F06%2F2016

Date	Time	Dept.	Reason	Outcome	**Request Transcript
06/06/2016	1:30 PM	04	FURTHER PROCEEDINGS	CONTINUED	Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=04&eventDate=06%2F06%2F2016
05/09/2016	1:30 PM	04	ARRAIGNMENT	CONTINUED	Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=04&eventDate=05%2F09%2F2016
05/09/2016	1:30 PM	04	COUNSEL INFORMATION	RETAINED COUNSEL	Request (/PublicCaseAccess/Criminal/RequestCourtReporterTranscript?dept=04&eventDate=05%2F09%2F2016

Charge Dispositions

Count	Plea	Charge	Disposition Code	Disposition Date	Severity	Degree
C001	No Plea	VC 23152(A)	Dismissed	07/25/2016	Misdemeanor	
C002	No Contest	VC 23152(B)	No Contest	07/25/2016	Misdemeanor	

Sentence Summary

Count	Sentence Type	Sentence Date	Prob. Type	Prob. Status	Prob. Term	Prob. Sup.	Custody Program	Custody Length	Non LT Code	Non LT Time	Non LT Susp.
CASE	Original	07/25/2016	Informal Probation	Granted / Non-Searchable	3Y		Sheriff's Work Project	48H			

____ COURT APPEARANCE DETAILS (PF11A) JI67F2

HELP- _ RET- _ CMTS- _ NEXT: CASE- DEF.- UPDATE-

COURT ID- 34100 CASE NO.- 16MI008180

DEFENDANT NO.- 01 WHITE MATTHEW LAWRENCE

XREF- 3981864 CASE STATUS- CLEAR-PEND CUSTODY STATUS-

BAIL: SET- $.00 POSTED- $.00 BOND NO.-

DATE- 07/25/2016 TIME- 01:30 PM DEPT- 04 CAL CODE- 8C PRESENT- N

REASON- FP PLEA/SET

OUTCOME- SENT NOLO CT2 VC 23152(B),3Y INF PROB,48H CJ CTS 1D,CRT HAS NO OBJ TO WORK REL,QUAL/SURR 09/30/16 6PM R3C,PLEA IN ABSENTIA

REASON- MOT/DISM MOTION FOR DISMISSAL

OUTCOME- MOT/GRANT CRT DISM BAL OF CHRGS IOJ/IVOP GTD

REASON- JAILINST SPECIAL NOTIFICATION TO JAIL (HAIRCUTS, DR'S APPT ETC.)

OUTCOME- JAILINST CTS 1D

ALL DEFENDANTS- THIS DEFENDANT ONLY-

PF: 1 MENU 2 PERSON 3 CHARGES 4 CHG DISPO 5 CASE INFO

7 SENTENCE 9 TRACKING 11 CASE HIST 12 PERS HIST

CB219-I NO MORE REASONS FOR APPEARANCE CB201-I CASE HAS 01 DEFENDANT RECORDS

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                                SENTENCE (PF7A)                          JI0DF2
HELP- _
CONDITIONS- _       CHANGE TO: CASE- _ CHG- ____
PRINT JAIL COMMITMENT ORDER- _
COURT- 34100 CASE NO- 16MI008180 CASE STATUS- CLEAR-PEND   CUST STATUS-
  T NO- 01 XREF- 3981864 WHITE              MATTHEW      LAWRENCE
 SENTENCE- CASE  VC  23152(B)   TYPE- O DATE- 07/25/2016 CORR- __________
  DEPT- 04 JUDGE- HOWELL,_S._____________________ RPTR- DR__________ _ SUSP- _
    PROBATION: STATUS- GN TYPE- I SUP- N TERM- 3Y_____ OR ENDING- __________
    LOCAL TIME: TYPE- SWP__ TERM- 48H_____ LAST ________ SWP- _ WF- _ WE- _
     OPT: TYPE- ST___ TERM- 15D_____                          MAND FINE- _
       OR FINE- ____480.00 + PA- ____816.00 CHOICE (T OR F)- F
      CS ALL- Y  SUSP ALL- _  SUSP TERM- ________ DAYS- __ __ __ __ __ __
    ALT SENT PROG: TERM- ________ END DATE- __________ TIME LIMIT- ________
    NON-LOCAL TIME: TYPE- __ TERM- ________ SUSP- _ REVIEW- _
  STAY DATE- 09/30/2016 TIME- 06:00PM REPT FACILITY- R3C
  TIME CREDITS (DAYS): 001   TIME LOST (DAYS OR "ALL"): GOOD- 000 WORK- 000
  REGISTER PER: PC 290- _  PC 457.1- _  HS 11590- _
SPEC INST- ____________________________________________________________________
_______________________________________________________________________________
 PF: 1 MENU      2 PERSON    3 CHARGES    4 CHG DISPO  5 CASE INFO
     7 SENTENCE              9 TRACKING              11 CASE HIST 12 PERS HIST
C7406-I CASE HAS 1  DEFENDANT RECORD(S)
```

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO
MINUTE ORDER - HEADER/PROCEEDINGS

DEFENDANT NAME	DEF	XREF	CASE
WHITE MATTHEW LAWRENCE	1	3981864	24MI015578 SUP

CUSTODY STATUS: 8536 pnb
DOB: [redacted]
LEA: FOLSOM POLICE DEPARTMENT
BAIL SET: $5,000.00
BAIL POSTED:

DATE FILED: 09/04/2024
ARREST #: 24051592-01

BOND #:

PROSECUTOR: CANTRELL, CHRIS

DEFENSE: HOFFMAN, JOSEPH
TYPE: RET

SECTION(S) VIOLATED:

08/04/2024 (CT 1) VC 23152(A), WITH 1 PRIOR
PRIORS: 04/16/16
ALLEGATIONS: VC 23546, 23548, 23550

08/04/2024 (CT 2) VC 23152(B), WITH 1 PRIOR - 10
PRIORS: 04/16/16 4d
ALLEGATIONS: VC 23546, 23548, 23550

30 days i/p rehab

DATE	JUDGE	DEPT	REL	CSR	PROCEEDINGS
061125 08:30	CRESS Sheppard	02	8536 pnb	OR	plea
	Deft. pres.: ☐ I/C ☐ O/C ☐ Remote Deft. App. Wvd: ☒ PC 977; ☐ GCA: Attorney Appearances: ☒ DA: ☐ PD: ☒ ~~CAC~~/ATTY:				PLEA IN ABSENTIA INFORMAL PROBATION ORDER ORDER FILED; : $40 COA; $30 CCA ASLE: ☒ DRR/ ☐ FORTHWITH pnb [redacted] DA stips Δ T/S

DO NOT FILE ANY DOCUMENTS EXCEPT OUTSTANDING WARRANTS ON TOP OF THIS

SUPERIOR RT OF CALIFORNIA, COUNTY OF S MENTO
MINUTE ORDER - PLEA

WHITE MATTHEW LAWRENCE 1 3981864 24MI015578 SUP

PLEA DATE: 6.11.25 JUDGE: R. Shepard DEPT: 7

RIGHTS:

ADV	WVD		ADVISED	
S		COUNSEL, retained or appointed	S	possible maximum sentence
		PRELIMINARY HEARING		possibility of 1203.03 PC
S	S	JURY TRIAL, speedy and public		parole rights
		CONFRONTATION, of witness		option changing plea re: West
		SELF INCRIMINATION, remain silent	S	consequences of plea
				Registration purs:
				No firearm/ammo purs 29810 PC
				Auto relief purs 1203.425 PC
			S	DUI purs 23593 VC

S If you are not a citizen, you are hereby advised that a conviction of the offense for which you have been charged may, or will if the offense is an aggravated felony, have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

Video mass advisement transcript on request

I Digital recording Number 8:49

Court Reporter

I The written Waiver and Plea form filed herein is ordered incorporated in the record

Defendant advised of above rights, penalties and consequences of plea. Court found defendant understood same. Court found that defendant knowingly, intelligently, voluntarily and expressly waived the rights as indicated by initials above. Defendant entered a plea of:

PLEA IN ABSENTIA

GUILTY

X NOLO CONTENDERE (Acknowledged it is same as guilty)

NGRI (PC 1026)

I And ADMITS ALLEGATION(S)/PRIOR(S) to the charges (and allegations/priors) of: Ct 2 VC 23152(B); adm Prior 4.16.16

BAC/TOX: .11

Court dismissed: Bal Chg clsr

Insufficient Evidence

X Interest of Justice

I In View of Plea

Harvey Waiver

Court found that the above plea(s) was voluntary and there was a factual basis for same.

Superior Court of California, County of Sacramento
Waiver and Plea to Driving Under the Influence Second Offense (Vehicle Code 23152)

(For Court Use Only)

JUN 11 2025

Defendant Name: Matthew White

Case Number: 24M101-5578

I, Matthew White, understand that I am charged with driving a vehicle on (Date) 8-4-2024 while under the influence of an alcoholic beverage or drugs or both (Vehicle Code Section 23152(a)), and/or while having 0.08 percent or more, by weight, of alcohol in my blood (Vehicle Code Section 23152(b)).

I understand that I am also charged with having a conviction for a separate violation of any of the offenses specified in 23540 of the Vehicle Code with an offense date of: 4-16-2016, and that this conviction shall be a prior offense for the purpose of subsequent sentencing as specified in Sections 23540, 23546, 23550, 23566 or 23622 of the Vehicle Code if I am convicted of a subsequent offense under Sections 23152 or 23153 of the Vehicle Code which occurs within ten years of this offense. In such a case, this conviction shall not be stricken by the court to avoid imposing the minimum penalties provided in the Vehicle Code for a violation of Sections 23152 or 23153 with prior convictions.

I understand the penalties are:

A. **Maximum: Fine of $1,000.00,** plus penalty assessments of $2,700.00, plus additional fees up to an amount of $889.00, plus restitution to victim(s) in an amount to be determined, if any, or restitution fund assessment of $1,000.00, 1 year in jail, DMV suspension of driving privilege for 2 years, vehicle impoundment at defendant-owner's expense for 30 days (unless defendant was driving another's vehicle or is exempted pursuant to Vehicle Code Section 23594), installation of an Ignition Interlock Device for 1-3 years pursuant to Vehicle Code Section 23575, possible court disallowance of DMV's ability to issue a restricted license pursuant to Vehicle Code Section 23542(d), and surrender to the court of driver's license.

B. **Minimum Without Probation:** Fine of $390.00, plus penalty assessments of $1053.00, plus additional fees up to an amount of $767.00, plus restitution to victim(s) in an amount to be determined, if any, or restitution fund assessment of $150.00, 90 days in jail, a t least 48 hours of which shall be continuous or at least 10 days of community service in lieu of the 48 continuous hours, suspension of driving privilege for 2 years, installation of an Ignition Interlock Device for 12 months, and surrender to the court of driver's license.

C. **Minimum With 3 to 5 Years Probation:** Fine of $390.00, plus penalty assessments of $1053.00, plus additional fees up to an amount of $767.00, plus restitution to victim(s) in an amount to be determined, if any, or restitution fund assessment of $150.00 plus an additional $150.00 suspended pending violation of probation, installation of an Ignition Interlock Device for 12 months, license suspension for 2 years, and either (1) 10 days in jail, or (2) 96 hours in jail, which shall be served in two increments of 48 continuous hours each, and either: (1) participation in an 18-month driving-under-the-influence program, or (2) participation in a 30-month driving-under-the-influence program. (Note: defendant will not be eligible for a license until an approved driving-under-the-influence program is completed.) Standard probation terms and conditions to include: obey all laws, not drive a motor vehicle with any drugs or measurable amount of alcohol in your system, not refuse to complete a blood alcohol chemical test when offered by any peace officer, not drive without a valid California driver's license or without valid insurance.

D. **Assessment Program:** I understand that I may be ordered to attend an alcohol and drug problem assessment program, and that I will be required to do so if I have been required to attend a licensed program pursuant to court order and failed at least once to comply with the rules and policies of the licensed program other than a rule related to the payment of fees (Vehicle Code Section 23646(b)).

E. **Ignition Interlock Device:** I understand that, if convicted of an offense that occurred on or after July 1, 2010, I will be required to install a certified ignition interlock device in any vehicle owned or operated by me, which will prevent the vehicle from starting if I have alcohol in my body, for a specified term of up to 48 months as required by the Department of Motor Vehicles prior to receiving reissuance of license or restricted license. Additionally, the court may also require this device for a term of one to three years. This requirement will be imposed if I am convicted hereafter of driving while my license is suspended or in violation of license restrictions.

F. **Refusal:** If I refused a chemical test (Vehicle Code Section 23577) 96 hours will be added to the jail term imposed.

G. **Commercial Vehicle:** I understand that the DMV will prohibit me from operating a commercial vehicle for one year if I am convicted of either of the following that occurred in any vehicle: 1) a first DUI offense or, 2) willful refusal to submit to or complete a chemical test to determine my blood alcohol level. The DMV will prohibit me from operating a commercial vehicle ever again if I am convicted of either of the following that occurred in any vehicle: 1) a second or subsequent DUI offense or, 2) willful refusal to submit to or complete a chemical test.

I understand that if I am not a citizen of the United States, a plea of guilty or no contest could result in my being deported from the United States, excluded from admission to the United States, or denied naturalization as a United States Citizen.

I have discussed any applicable immigration consequences with my attorney.

I understand that if I am currently on probation or parole for any other criminal offense, that such probation could be revoked as a result of my plea today.

I understand that in order to become eligible for a California driver's license, I must give satisfactory proof to the Department of Motor Vehicles of successful completion of an 18-month alcohol rehabilitation program.

I understand that my driver's license suspension or revocation from DMV administrative proceedings is independent of court-imposed penalties and that my driving privilege will not be restored until I provide satisfactory proof to the DMV that I successfully completed the required driving-under-the-influence program, whether or not such a program is required by the court.

READ AND COMPLETE REVERSE

Sacramento Superior Court, Plea in Absentia

Defendant Name	Case Number
Matthew White	24M01557S

Defendant Certification

☐ NON DUI

I certify that I have read the attached form # _____ entirely, that I understand it; that my attorney has orally explained it to me; that I have personally and voluntarily placed the answers in the boxes and I enter a plea of _____ to the charge of violation of the code section(s) _____.

I authorize and direct my attorney, _____, in my absence to enter my plea and admit any prior convictions and/or any allegation(s) as indicated on the attached waiver form(s). My attorney is further authorized and directed to waive time for sentencing, and to receive the sentence in my absence. My attorney is further authorized and directed to waive time for sentencing, and to receive the sentence in my absence. I specifically waive my right to personally enter my plea, I waive my right to be personally present when the sentence is imposed. I waive my right to delay sentencing not less than six hours nor more than five days after entry of the plea, and I waive my right to personally address the court in mitigation of any sentence which may be imposed. I understand that if the court grants probation, it shall be for not less than 3 years nor more than 5 years, and the terms and conditions of probation shall include, but not be limited to , fine, jail time, restitution and obey all laws. I authorize my attorney to accept the conditions on my behalf.

☒ DUI (VC 23152, 23153, 23103)

I certify that I have read the attached form # CR-172 entirely, that I understand it; that my attorney has orally that my attorney has orally explained it to me; that I have personally and voluntarily placed the answers in the boxes and I enter a plea of No Contest to the charge of violation of the Veh. Code Sections 23152(b).

I authorize and direct my attorney, Joseph Hoffman, in my absence to enter my plea and admit any prior convictions and/or any allegation(s) as indicated on the attached waiver form(s). My attorney is further authorized and directed to waive time for sentencing, and to receive the sentence in my absence. I spe cifically waive my right to personally enter my plea, I waive my right to be personally present when the sentence is imposed. I waive my right to delay sentencing not less than six hours nor more than five days after entry of the plea, and I waive my right to personally address the court in mitigation of any sentence which may be imposed. I understand that if the court grants probation, it shall be for not less than 3 years nor more than 5 years, and the terms and conditions of probation shall include, but not be limited to , fine, jail time, restitution and the conditions that I not drive without a valid California driver's license, not drive with any measurable amount of alcohol in my system, not refuse to take a chemical test or tests of blood, breath or urine when requested to do so by a peace officer, and obey all laws. I authorize my attorney to accept the conditions on my behalf.

Defendant Signature	Date
[signature]	06-10-25

Attorney Certification

I certify that I am the attorney of record for the defendant; that I have fully discussed the matters on the attached form # CR-172 with the defendant and advised the defendant thereon; that the representations above are the defendant's own; that I believe the plea and waivers were intelligently, voluntarily and expressly made; that I join in the plea and waivers, and that the above signature and the signature on the waiver form, if not notarized, were made in my presence. I stipulate there is a factual basis for the plea, and that time is waived for the judgment and sentencing. I have discussed potential conditions of probation with the defendant and I am satisf ied that he/she understands them.

Attorney Signature	Date
[signature]	6-10-2025

Findings and Order

This document having been completed and presented to the Court; the Court being satisfied that the plea and waivers were expressly, intelligently and voluntarily made; and the Court finding that there is a factual basis for said plea, the Court accepts such plea and enters it on the record.

Judge / ~~Commissioner~~ Signature	Date
Ronald F. Shepard	6/11/25

R. SHEPARD

DEFENDANT TO PERSONALLY WRITE YES OR NO IN EACH BOX:		I understand this right	I give up this right
1	Right to a speedy and public jury trial. At the trial, I would be presumed to be innocent, and I could not be found guilty unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were unanimously convinced beyond a reasonable doubt that I am guilty. I have a right, through my lawyer, to participate in jury selection.	MW	MW
2.	Right to confront and cross examine all witnesses against me.	MW	MW
3.	Right to remain silent and not incriminate myself.	MW	MW
4.	Right to subpoena and produce evidence.	MW	MW
5.	Right to be sentenced by a judge: I understand that by giving up this right I stipulate that I may be sentenced by a temporary judge.	MW	MW
6.	Right to be represented by an attorney at all stages of the proceedings and to have the court appoint one at no charge if I cannot afford my own.	MW	MW
7.	Right to delay sentencing not less than 6 hours nor more than 5 days after the entry of this plea.	MW	MW

DEFENDANT TO PERSONALLY WRITE YES IN ONE OF THE TWO BOXES:	
REPRESENTED BY SELF: I give up my right to an attorney	X
REPRESENTED BY AN ATTORNEY: I have discussed my case with an attorney, we discussed the rights I am giving up by my plea, the elements of the offense(s) charged, the possible defenses and the consequences of my plea.	MW

Vehicle Code Section 23593(a) states: "You are hereby advised that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and as a result of that driving someone is killed, you can be charged with murder."

I have read this document or have had it read for me, and I understand it. I have personally and voluntarily placed the answers in the boxes.

I enter a plea of No Contest (No Contest or Guilty) to the charge(s) of violation of the Vehicle Code Section 23152(b) and I admit the separate conviction as alleged.

Signed: MW Date: 06-10-25

ATTORNEY'S STATEMENT

I certify that I am the attorney of record for the defendant; that I have fully discussed matters herein with the defendant and advised the defendant thereon;

- that I have explained each of the above rights to the defendant, and the representations of the defendant are the defendant's own;
- that I have explored the facts with defendant and studied defendant's possible defenses to the charge(s);
- that I have discussed the nature of the charges and direct consequences of entering a plea;
- that I have advised about the immigration consequences of a proposed disposition, and defended against those consequences consistent with the goals of and with the informed consent of the defendant and professional standards;
- that I believe that the plea and waivers are intelligently and expressly made;
- that I join the plea and waivers; that I stipulate there is a factual basis for the plea and that the time is waived for judgment and sentencing.

The immigration aspect is based on California Penal Code Section 1016.3 (a).

☑ Absentia form attached.

Signed: _____ Date: 6-10-2025

INTERPRETER'S STATEMENT

I, _____, a certified/registered interpreter, having been sworn, truly translated this form and all the questions therein to the defendant in the language. With the exception of the defendant's signature, I have completed this form at the defendant's direction. The defendant indicated understanding the contents of the form and then signed the form.

Signed: _____ Date: _____

SACRAMENTO SUPERIOR COURT - ORDER OF INFORMAL PROBATION DUI SECOND

Case Number: 24M10155 78 | Def. Name (Last, First, Middle): White, Matthew Lawrence

Violations: ☐ 23152(a) VC – One prior ☑ 23152(b) VC – One prior ☐ 23152(e) VC – One prior ☐ 23152(f) VC – One prior ☐ 23152(g) VC – One prior | Date of Prior: 4.16.16

The defendant appeared before this Court for judgment and sentence, and having been duly arraigned for said purpose for the above violation(s) and no legal cause being shown why judgment should not be pronounced, **IT IS ORDERED THAT** imposition of sentence be suspended and that the defendant be placed on INFORMAL probation to this court for the term of **FOUR (4)** years from this date on the conditions checked below:

☒ 1. **(OAL)** Obey all laws

☒ 2. **(DRINK/DRIVE)** Do not drive a motor vehicle with any drugs or any measurable amount of alcohol in your system.

☒ 3. **(CHEMTEST)** Do not refuse to complete blood alcohol chemical test when offered by any peace officer with reasonable cause to do so.

☒ 4. **(VALID/LIC)** Do not drive without a valid California driver's license or in violation of California Vehicle licensing laws.

☒ 5. **(VALID/INS)** Do not drive without insurance.

☐ 6. **(REST/LOSS)** Make restitution for personal injury/property damage/loss caused in this offense. Pursuant to 1202.4(f)(7) & (11) PC, you shall prepare and file a financial disclosure form (CR-115) with the court and an updated form within 120 days prior to release from probation if there is any unpaid restitution or fine.

☐ 7. **(REST/TBD)** Restitution to be determined by Probation ☐ Amt.: $ _____ Victim(s): _____

☐ Restitution to the responding LEA. *(Specify agency)*: _____

☒ 8. **(FINE/ASMT)(FINE/TIME)** Fine & Assessments: Pay the following fines/assessments or serve 4 days County Jail.

Fine / Assessment Type	Amount		Reduced Amt.	
Base Fine per VC 23538(a)	$500.00	JAIL CREDIT		OR SERVE
☒ *CIF (PC1465.7(a)) **(CIF)**	$100.00			
*Penalty Assessment (PC 1464, GC 76000)	$850.00			
*Court Construction Penalty Assessment **(CTCONST)** (GC 70372(a)) (Effective 01/01/03)	$150.00			
*ICNA Penalty Assessment GC 70372(a) (Effective 01/01/09)	$100.00			
*DNA Penalty Assessment (GC 76104.6) **(DNA1)** (Effective 11/04/04)	$50.00			
*DNA Penalty Assessment (GC 76104.7) **(DNA2)** (Effective 07/12/06)	$50.00	DAY(S) REDUCES FINE(S)		DAYS CJ C/S IN LIEU OF FINE
*DNA Penalty Assessment (GC 76104.7) **(DNA2A)** (Effective 06/10/10)	$100.00			
*DNA Penalty Assessment (GC 76104.7) **(DNA2B)** (Effective 06/24/12)	$50.00			
*EMS-Co. Penalty Assessment **(EMSCOPA)** (GC 76000.5) (Eff. 01/01/2018)	$100.00			

** **THE FINES & ASSESSMENTS LISTED BELOW ARE NOT CONVERTIBLE TO COUNTY JAIL OR REDUCED BY CREDITS. SEE REVERSE SIDE OF THIS DOCUMENT FOR A CALCULATION OF PENALTY ASSESSMENTS****

☒ **(REST MISD)** Restitution Fine in the amount of $150.00 pursuant to PC 1202.4(b)

☒ **(1202.44 PC)** Additional Restitution Fine in the amount of $150.00 pursuant to PC 1202.44 stayed pending revocation of probation.

☒ **(ALC/ASMT)** Alcohol Abuse Education & Prevention Assessment (VC 23645) $50.00 ☒ **(ALC/ASMT2)** Alcohol & Drug Program Assessment (VC 23649) $10.00

☒ **(NCA)** Night Court Assessment (VC 42006) $1.00

All fines/fees payable through: ☑ **PAY/DRR** through DRR ☐ **(PAY/FW)** Forthwith ☐ **Fine Stayed**, payments to begin _____. ☐ Stay fee waived.

☐ **(ASP/LIEUF)** Alternative Sentencing Program in lieu of fine, _____ hours to be completed by/within _____ days/months.

☑ Jail in lieu of fine to be served 4 DAYS TIS, consecutive. ☐ Work Release

☒ 9. **(JAIL) SERVE** 10 days in the CJ, credit for time served 1 days. ☒ Plus 6 days good time work time (GTWT) = 1

☒ Consecutive ☐ Concurrent to _____

☐ Straight time ☐ Jail stayed pending completion of _____

☐ Court has no objection to a Work Release Program. Qualify or surrender at ☐ Main Jail ☐ RCCC on: _____

☐ Stay to sign up on or before: _____ Court objects to: ☐ SWP ☐ HD/Medical HD.

☐ CJ may be done in _____ County. ☐ Show proof of enroll/ completion on: _____ at _____ in Dept. _____

☐ County Jail converted to _____ hours of ASP by / within _____ days / months.

75

13 days Rosicl Rehab cts = 14

☒ 10. **(CONF/96 HRS)** Including 96 hours continuous custody (23542(b)(1) VC ☒ Per court. Hours to be completed straight time, in custody; no HD/SWP.

☒ Report to RCCC / Main Jail on _____ at _____ and be released on _____ at _____

☐ 11. **(NO/DRUGS)** Do not use, handle or possess controlled substances of any kind unless lawfully prescribed to you by a licensed medical practitioner.

☐ 12. **(NO/ASSOC)** Do not associate with persons known to be illegal users/sellers of controlled substances, or be in a place where you know illegal controlled substances are present.

☐ 13. **(NO/ALC)** Do not knowingly consume or possess any alcoholic beverages in any amount whatsoever nor be in places where you know alcohol is the chief item for sale.

☒ 14. **(DUI/2ND)** You are hereby ordered to report and enroll in the ☒ SB38 Program within 72 hours from today or release from custody.

☐ Provide proof of enrollment by: _____ (date). ☑ Stay to sign up on or before 10.3.25 (date).

☐ Program may be done in _____ County. ☐ Program to run C/C with case number: _____.

☐ 15. **(ATTEND/AA)** Defendant to attend _____ AA or 12-Step meetings and provide proof of attendance on _____ at _____, in Dept. _____ or in the alternative serve _____ days in the county jail consecutive.

☐ 16. **(LIC/REST)** Driver's License revoked/suspended / restricted for a period of _____ months/years pursuant 13202.5 VC (under the age of 21 years).

☐ 17. **(S&S)SEARCH:** Deft shall submit his/her person, property and automobile and any object under defendant's control to search and seizure, in or out of the presence of the defendant, by any law enforcement officer and/or Probation Officer, at any time of the day or night, with or without his/her consent, with or without a warrant. Defendant being advised of his/her constitutional rights in this regard, and having accepted probation, is deemed to have waived same.

☒ 18. **(ADV23593VC)** Advised pursuant 23593(a) VC that a DUI resulting in someone's death can be charged as murder.

☒ 19. **(BBSS)** Defendant shall not refuse to complete a blood alcohol chemical test when offered by any peace officer with reasonable cause to do so. Your blood and/or breath will be subject to search and seizure by any law enforcement officer at any time of the day or night, with or without your consent, and with or without a warrant.

☐ 20. Install an Ignition Interlock Device (IID) on any vehicle you own or operate for a period of _____ months/years.

☐ 21. Other: _____

Judge of the Superior Court	Dept.	Date
R. Shepard	2	6.11.25

CR-75 Second (Eff. 05/20/2023) Original – Court, Yellow – Defendant ***READ AND SIGN THE OTHER SIDE OF THIS ORDER***

GENERAL CONDITIONS OF INFORMAL PROBATION

NOTICE: This is your order of probation. It limits what you can do. A violation of probation can result in your arrest and confinement. If you do not understand any condition of probation, discuss it with your attorney or the judge who sentenced you.

WHAT MUST YOU DO?

You must obey all of the rules set out for you on the front side of this sheet. You do not have to report to a probation officer. But, if you are notified to return to court and do not do so, a warrant will be issued for your Arrest. Any notice will normally be sent to the address you gave on the front of this sheet. Be sure to notify the Post Office to forward your mail if you move.

WHAT IF YOU VIOLATE PROBATION?

If you fail to obey any of the rules set out for you, your probation can be revoked and a warrant be issued for your Arrest. If, after a hearing in court, the judge finds that you did, in fact, violate probation, you can be sentenced to the maximum jail term allowed by law. You could also receive additional fines or additional conditions of probation.

WHAT IF YOU SUCCESSFULLY COMPLETE PROBATION?

In general, at any time after the termination of the period of probation and upon completion of the requirements of Penal Code section 1203.4, probationers may petition the court to exercise its discretion to allow the probationer to withdraw a plea of guilty or nolo contendere or to set aside a verdict of guilty and dismiss the accusations against the probationer. If such relief is granted by the court, the probationer may also petition the court for a certificate of rehabilitation and pardon upon completion of the requirements of Penal Code section 4852.01. Probationers convicted of certain offenses are not eligible for this relief. (See Penal Code Section 1203.4(b).)

WHAT IF YOU FEEL YOUR PROBATION SHOULD BE ENDED EARLY OR CERTAIN CONDITIONS SHOULD BE CHANGED?

Talk to your attorney, or petition this Court if you want to change your probation order in any way. Remember though, only a judge of the Sacramento Superior Court can change any condition or term of your probation. No other person, agency, or court can do that.

WHAT DOES PROBATION REALLY MEAN?

Before you plead guilty or no contest, the judge explained to you what the maximum penalty was. In most cases it is one year in jail and a fine of one thousand dollars. The judge could have imposed that maximum penalty when you were sentenced. The imposition of that maximum penalty has simply been held back to see if you complete your period of probation without violating any of the special rules now established for you. Therefore, being on probation means that you do not have the same rights as other citizens. The special rules that apply to you are set forth on this form. Make sure that you understand and follow those rules.

PENALTY ASSESSMENT CALCULATION (See reverse):

PENALTY ASSESSMENT TYPE AND AUTHORITY	AMOUNT BASED ON...
Penalty Assessment pursuant PC 1464 (State) (Effective 07/09/91)	$10 for each $10, or part of $10, of base fine
Penalty Assessment pursuant GC 76000 (County) (Effective 07/09/91)	$7 for each $10, or part of $10, of base fine
Court Construction Penalty Assessment GC 70372(a) (Effective 01/01/03)	$3 for each $10, or part of $10, of base fine
ICNA Penalty Assessment GC 70372(a) (Effective 01/01/09)	$2 for each $10, or part of $10, of base fine
DNA Penalty pursuant GC 76104.6(Effective 11/04/04)	$ 1 for each $10, or part of $10, of base fine
DNA Penalty pursuant GC 76104.7(Effective 07/12/06)	$ 1 for each $10, or part of $10, of base fine
DNA Penalty pursuant GC 76104.7 (Effective 06/10/10)	$ 2 for each $10, or part of $10, of base fine
DNA Penalty pursuant GC 76104.7 (Effective 06/27/12)	$ 1 for each $10, or part of $10, of base fine
EMS-Co. Penalty pursuant to GC 76000.5 (Effective 01/01/18)	$ 2 for each $10, or part of $10, of base fine
SURCHARGES / ASSESSMENTS AND AUTHORITY	
Criminal Impact Assessment Fee pursuant PC1465.7(a) (Effective 01/01/02)	20% of the base fine amount
Court Operations Assessment PC 1465.8 (Effective 01/01/10)	$40 per conviction
Criminal Conviction Assessment GC 70373 (Effective 01/01/09)	$30 per conviction

The foregoing terms and conditions of informal probation have been explained to me and I fully understand them and agree in every particular to abide by them.

DEFENDANT SIGNATURE FTA FINES ROOM DATE 6/11/25

DEFENDANT ADDRESS, CITY, STATE, ZIP

TELEPHONE NUMBER

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO
MINUTE ORDER - HEADER/PROCEEDINGS

DEFENDANT NAME	DEF	XREF	CASE
WHITE MATTHEW LAWRENCE	1	3981864	24MI015578 SUP

CUSTODY STATUS: 8536 pnb
DOB: [redacted]
LEA: FOLSOM POLICE DEPARTMENT
BAIL SET: $5,000.00
BAIL POSTED:

DATE FILED: 09/04/2024
ARREST #: 24051592-01

BOND #:

PROSECUTOR: CANTRELL, CHRIS

DEFENSE: HOFFMAN, JOSEPH
TYPE: RET

SECTION(S) VIOLATED:

08/04/2024 (CT 1) VC 23152(A), WITH 1 PRIOR
PRIORS: 04/16/16
ALLEGATIONS: VC 23546, 23548, 23550

08/04/2024 (CT 2) VC 23152(B), WITH 1 PRIOR - 10
PRIORS: 04/16/16 4d
ALLEGATIONS: VC 23546, 23548, 23550

30 days i/p rehab

DATE	JUDGE	DEPT	REL	CSR	PROCEEDINGS
061125 08:30	CRESS Sheppard	02	8536 pnb	OR	plea
	Deft. pres.: ☐ I/C ☐ O/C ☐ Remote Deft. App. Wvd: ☒ PC 977; ☐ GCA: Attorney Appearances: ☒ DA: ☐ PD: ☒ CAC/ATTY:				PLEA IN ABSENTIA INFORMAL PROBATION ORDER ORDER FILED; : $40 COA; $30 CCA ASLE: ☒ DRR/ ☐ FORTHWITH pnb [redacted]

DO NOT FILE ANY DOCUMENTS EXCEPT OUTSTANDING WARRANTS ON TOP OF THIS

SUPERIOR RT OF CALIFORNIA, COUNTY OF S MENTO
MINUTE ORDER - PLEA

WHITE MATTHEW LAWRENCE 1 3981864 24MI015578 SUP

PLEA DATE: 6.11.25 JUDGE: R. Shepard DEPT: 7

RIGHTS:

ADV	WVD		ADVISED	
S		COUNSEL, retained or appointed	S	possible maximum sentence
		PRELIMINARY HEARING		possibility of 1203.03 PC
S	S	JURY TRIAL, speedy and public		parole rights
		CONFRONTATION, of witness		option changing plea re: West
		SELF INCRIMINATION, remain silent	S	consequences of plea
				Registration purs:
				No firearm/ammo purs 29810 PC
				Auto relief purs 1203.425 PC
			S	DUI purs 23593 VC

S If you are not a citizen, you are hereby advised that a conviction of the offense for which you have been charged may, or will if the offense is an aggravated felony, have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

Video mass advisement transcript on request

I Digital recording Number 8:49

Court Reporter

I The written Waiver and Plea form filed herein is ordered incorporated in the record

Defendant advised of above rights, penalties and consequences of plea. Court found defendant understood same. Court found that defendant knowingly, intelligently, voluntarily and expressly waived the rights as indicated by initials above. Defendant entered a plea of:

PLEA IN ABSENTIA

GUILTY

X NOLO CONTENDERE (Acknowledged it is same as guilty)

NGRI (PC 1026)

I And ADMITS ALLEGATION(S)/PRIOR(S) to the charges (and allegations/priors) of: Ct 2 VC 23152(B); adm Prior 4.16.16

BAC/TOX: .11

Court dismissed: Bal Chg clsr

Insufficient Evidence

X Interest of Justice

I In View of Plea

Harvey Waiver

Court found that the above plea(s) was voluntary and there was a factual basis for same.

Superior Court of California, County of Sacramento
Waiver and Plea to Driving Under the Influence Second Offense (Vehicle Code 23152)

(For Court Use Only)

JUN 11 2025

Defendant Name: Matthew White

Case Number: 24M101-5578

I, Matthew White, understand that I am charged with driving a vehicle on (Date) 8-4-2024 while under the influence of an alcoholic beverage or drugs or both (Vehicle Code Section 23152(a)), and/or while having 0.08 percent or more, by weight, of alcohol in my blood (Vehicle Code Section 23152(b)).

I understand that I am also charged with having a conviction for a separate violation of any of the offenses specified in 23540 of the Vehicle Code with an offense date of: 4-16-2016, and that this conviction shall be a prior offense for the purpose of subsequent sentencing as specified in Sections 23540, 23546, 23550, 23566 or 23622 of the Vehicle Code if I am convicted of a subsequent offense under Sections 23152 or 23153 of the Vehicle Code which occurs within ten years of this offense. In such a case, this conviction shall not be stricken by the court to avoid imposing the minimum penalties provided in the Vehicle Code for a violation of Sections 23152 or 23153 with prior convictions.

I understand the penalties are:

A. **Maximum: Fine of $1,000.00,** plus penalty assessments of $2,700.00, plus additional fees up to an amount of $889.00, plus restitution to victim(s) in an amount to be determined, if any, or restitution fund assessment of $1,000.00, 1 year in jail, DMV suspension of driving privilege for 2 years, vehicle impoundment at defendant-owner's expense for 30 days (unless defendant was driving another's vehicle or is exempted pursuant to Vehicle Code Section 23594), installation of an Ignition Interlock Device for 1-3 years pursuant to Vehicle Code Section 23575, possible court disallowance of DMV's ability to issue a restricted license pursuant to Vehicle Code Section 23542(d), and surrender to the court of driver's license.

B. **Minimum Without Probation:** Fine of $390.00, plus penalty assessments of $1053.00, plus additional fees up to an amount of $767.00, plus restitution to victim(s) in an amount to be determined, if any, or restitution fund assessment of $150.00, 90 days in jail, a t least 48 hours of which shall be continuous or at least 10 days of community service in lieu of the 48 continuous hours, suspension of driving privilege for 2 years, installation of an Ignition Interlock Device for 12 months, and surrender to the court of driver's license.

C. **Minimum With 3 to 5 Years Probation:** Fine of $390.00, plus penalty assessments of $1053.00, plus additional fees up to an amount of $767.00, plus restitution to victim(s) in an amount to be determined, if any, or restitution fund assessment of $150.00 plus an additional $150.00 suspended pending violation of probation, installation of an Ignition Interlock Device for 12 months, license suspension for 2 years, and either (1) 10 days in jail, or (2) 96 hours in jail, which shall be served in two increments of 48 continuous hours each, and either: (1) participation in an 18-month driving-under-the-influence program, or (2) participation in a 30-month driving-under-the-influence program. (Note: defendant will not be eligible for a license until an approved driving-under-the-influence program is completed.) Standard probation terms and conditions to include: obey all laws, not drive a motor vehicle with any drugs or measurable amount of alcohol in your system, not refuse to complete a blood alcohol chemical test when offered by any peace officer, not drive without a valid California driver's license or without valid insurance.

D. **Assessment Program:** I understand that I may be ordered to attend an alcohol and drug problem assessment program, and that I will be required to do so if I have been required to attend a licensed program pursuant to court order and failed at least once to comply with the rules and policies of the licensed program other than a rule related to the payment of fees (Vehicle Code Section 23646(b)).

E. **Ignition Interlock Device:** I understand that, if convicted of an offense that occurred on or after July 1, 2010, I will be required to install a certified ignition interlock device in any vehicle owned or operated by me, which will prevent the vehicle from starting if I have alcohol in my body, for a specified term of up to 48 months as required by the Department of Motor Vehicles prior to receiving reissuance of license or restricted license. Additionally, the court may also require this device for a term of one to three years. This requirement will be imposed if I am convicted hereafter of driving while my license is suspended or in violation of license restrictions.

F. **Refusal:** If I refused a chemical test (Vehicle Code Section 23577) 96 hours will be added to the jail term imposed.

G. **Commercial Vehicle:** I understand that the DMV will prohibit me from operating a commercial vehicle for one year if I am convicted of either of the following that occurred in any vehicle: 1) a first DUI offense or, 2) willful refusal to submit to or complete a chemical test to determine my blood alcohol level. The DMV will prohibit me from operating a commercial vehicle ever again if I am convicted of either of the following that occurred in any vehicle: 1) a second or subsequent DUI offense or, 2) willful refusal to submit to or complete a chemical test.

I understand that if I am not a citizen of the United States, a plea of guilty or no contest could result in my being deported from the United States, excluded from admission to the United States, or denied naturalization as a United States Citizen.

I have discussed any applicable immigration consequences with my attorney.

I understand that if I am currently on probation or parole for any other criminal offense, that such probation could be revoked as a result of my plea today.

I understand that in order to become eligible for a California driver's license, I must give satisfactory proof to the Department of Motor Vehicles of successful completion of an 18-month alcohol rehabilitation program.

I understand that my driver's license suspension or revocation from DMV administrative proceedings is independent of court-imposed penalties and that my driving privilege will not be restored until I provide satisfactory proof to the DMV that I successfully completed the required driving-under-the-influence program, whether or not such a program is required by the court.

READ AND COMPLETE REVERSE

Sacramento Superior Court, Plea in Absentia

Defendant Name	Case Number
Matthew White	24M01557S

Defendant Certification

☐ NON DUI

I certify that I have read the attached form # _____ entirely, that I understand it; that my attorney has orally explained it to me; that I have personally and voluntarily placed the answers in the boxes and I enter a plea of _____ to the charge of violation of the code section(s) _____.

I authorize and direct my attorney, _____, in my absence to enter my plea and admit any prior convictions and/or any allegation(s) as indicated on the attached waiver form(s). My attorney is further authorized and directed to waive time for sentencing, and to receive the sentence in my absence. My attorney is further authorized and directed to waive time for sentencing, and to receive the sentence in my absence. I specifically waive my right to personally enter my plea, I waive my right to be personally present when the sentence is imposed. I waive my right to delay sentencing not less than six hours nor more than five days after entry of the plea, and I waive my right to personally address the court in mitigation of any sentence which may be imposed. I understand that if the court grants probation, it shall be for not less than 3 years nor more than 5 years, and the terms and conditions of probation shall include, but not be limited to , fine, jail time, restitution and obey all laws. I authorize my attorney to accept the conditions on my behalf.

☒ DUI (VC 23152, 23153, 23103)

I certify that I have read the attached form # CR-172 entirely, that I understand it; that my attorney has orally that my attorney has orally explained it to me; that I have personally and voluntarily placed the answers in the boxes and I enter a plea of No Contest to the charge of violation of the Veh. Code Sections 23152(b).

I authorize and direct my attorney, Joseph Hoffman, in my absence to enter my plea and admit any prior convictions and/or any allegation(s) as indicated on the attached waiver form(s). My attorney is further authorized and directed to waive time for sentencing, and to receive the sentence in my absence. I spe cifically waive my right to personally enter my plea, I waive my right to be personally present when the sentence is imposed. I waive my right to delay sentencing not less than six hours nor more than five days after entry of the plea, and I waive my right to personally address the court in mitigation of any sentence which may be imposed. I understand that if the court grants probation, it shall be for not less than 3 years nor more than 5 years, and the terms and conditions of probation shall include, but not be limited to , fine, jail time, restitution and the conditions that I not drive without a valid California driver's license, not drive with any measurable amount of alcohol in my system, not refuse to take a chemical test or tests of blood, breath or urine when requested to do so by a peace officer, and obey all laws. I authorize my attorney to accept the conditions on my behalf.

Defendant Signature	Date
[signature]	06-10-25

Attorney Certification

I certify that I am the attorney of record for the defendant; that I have fully discussed the matters on the attached form # CR-172 with the defendant and advised the defendant thereon; that the representations above are the defendant's own; that I believe the plea and waivers were intelligently, voluntarily and expressly made; that I join in the plea and waivers, and that the above signature and the signature on the waiver form, if not notarized, were made in my presence. I stipulate there is a factual basis for the plea, and that time is waived for the judgment and sentencing. I have discussed potential conditions of probation with the defendant and I am satisf ied that he/she understands them.

Attorney Signature	Date
[signature]	6-10-2025

Findings and Order

This document having been completed and presented to the Court; the Court being satisfied that the plea and waivers were expressly, intelligently and voluntarily made; and the Court finding that there is a factual basis for said plea, the Court accepts such plea and enters it on the record.

Judge / ~~Commissioner~~ Signature	Date
Ronald F. Shepard	6/11/25

R. SHEPARD

DEFENDANT TO PERSONALLY WRITE YES OR NO IN EACH BOX:		I understand this right	I give up this right
1	Right to a speedy and public jury trial. At the trial, I would be presumed to be innocent, and I could not be found guilty unless, after hearing all of the evidence, 12 impartial jurors chosen from the community were unanimously convinced beyond a reasonable doubt that I am guilty. I have a right, through my lawyer, to participate in jury selection.	MW	MW
2.	Right to confront and cross examine all witnesses against me.	MW	MW
3.	Right to remain silent and not incriminate myself.	MW	MW
4.	Right to subpoena and produce evidence.	MW	MW
5.	Right to be sentenced by a judge: I understand that by giving up this right I stipulate that I may be sentenced by a temporary judge.	MW	MW
6.	Right to be represented by an attorney at all stages of the proceedings and to have the court appoint one at no charge if I cannot afford my own.	MW	MW
7.	Right to delay sentencing not less than 6 hours nor more than 5 days after the entry of this plea.	MW	MW

DEFENDANT TO PERSONALLY WRITE YES IN ONE OF THE TWO BOXES:	
REPRESENTED BY SELF: I give up my right to an attorney	X
REPRESENTED BY AN ATTORNEY: I have discussed my case with an attorney, we discussed the rights I am giving up by my plea, the elements of the offense(s) charged, the possible defenses and the consequences of my plea.	MW

Vehicle Code Section 23593(a) states: "You are hereby advised that being under the influence of alcohol or drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence of alcohol or drugs, or both, and as a result of that driving someone is killed, you can be charged with murder."

I have read this document or have had it read for me, and I understand it. I have personally and voluntarily placed the answers in the boxes.

I enter a plea of No Contest (No Contest or Guilty) to the charge(s) of violation of the Vehicle Code Section 23152(b) and I admit the separate conviction as alleged.

Signed: MW Date: 06-10-25

ATTORNEY'S STATEMENT

I certify that I am the attorney of record for the defendant; that I have fully discussed matters herein with the defendant and advised the defendant thereon;

- that I have explained each of the above rights to the defendant, and the representations of the defendant are the defendant's own;
- that I have explored the facts with defendant and studied defendant's possible defenses to the charge(s);
- that I have discussed the nature of the charges and direct consequences of entering a plea;
- that I have advised about the immigration consequences of a proposed disposition, and defended against those consequences consistent with the goals of and with the informed consent of the defendant and professional standards;
- that I believe that the plea and waivers are intelligently and expressly made;
- that I join the plea and waivers; that I stipulate there is a factual basis for the plea and that the time is waived for judgment and sentencing.

The immigration aspect is based on California Penal Code Section 1016.3 (a).

☑ Absentia form attached.

Signed: _____ Date: 6-10-2025

INTERPRETER'S STATEMENT

I, _____, a certified/registered interpreter, having been sworn, truly translated this form and all the questions therein to the defendant in the language. With the exception of the defendant's signature, I have completed this form at the defendant's direction. The defendant indicated understanding the contents of the form and then signed the form.

Signed: _____ Date: _____

SACRAMENTO SUPERIOR COURT - ORDER OF INFORMAL PROBATION DUI SECOND

Case Number	Def. Name (Last, First, Middle)
24M10155 78	White, Matthew Lawrence

Violations: ☐ 23152(a) VC – One prior ☑ 23152(b) VC – One prior ☐ 23152(e) VC – One prior ☐ 23152(f) VC – One prior ☐ 23152(g) VC – One prior

Date of Prior: 4.16.16

The defendant appeared before this Court for judgment and sentence, and having been duly arraigned for said purpose for the above violation(s) and no legal cause being shown why judgment should not be pronounced, **IT IS ORDERED THAT** imposition of sentence be suspended and that the defendant be placed on INFORMAL probation to this court for the term of **FOUR (4)** years from this date on the conditions checked below:

☒ 1. **(OAL)** Obey all laws

☒ 2. **(DRINK/DRIVE)** Do not drive a motor vehicle with any drugs or any measurable amount of alcohol in your system.

☒ 3. **(CHEMTEST)** Do not refuse to complete blood alcohol chemical test when offered by any peace officer with reasonable cause to do so.

☒ 4. **(VALID/LIC)** Do not drive without a valid California driver's license or in violation of California Vehicle licensing laws.

☒ 5. **(VALID/INS)** Do not drive without insurance.

☐ 6. **(REST/LOSS)** Make restitution for personal injury/property damage/loss caused in this offense. Pursuant to 1202.4(f)(7) & (11) PC, you shall prepare and file a financial disclosure form (CR-115) with the court and an updated form within 120 days prior to release from probation if there is any unpaid restitution or fine.

☐ 7. **(REST/TBD)** Restitution to be determined by Probation ☐ Amt.: $ _____ Victim(s): _____

☐ Restitution to the responding LEA. *(Specify agency)*: _____

☒ 8. **(FINE/ASMT)(FINE/TIME)** Fine & Assessments: Pay the following fines/assessments or serve 4 days County Jail.

Fine / Assessment Type	Amount		Reduced Amt.	
Base Fine per VC 23538(a)	$500.00	JAIL CREDIT		OR SERVE
☒ *CIF (PC1465.7(a)) **(CIF)**	$100.00			
*Penalty Assessment (PC 1464, GC 76000)	$850.00			
*Court Construction Penalty Assessment **(CTCONST)** (GC 70372(a)) (Effective 01/01/03)	$150.00			
*ICNA Penalty Assessment GC 70372(a) (Effective 01/01/09)	$100.00			
*DNA Penalty Assessment (GC 76104.6) **(DNA1)** (Effective 11/04/04)	$50.00			
*DNA Penalty Assessment (GC 76104.7) **(DNA2)** (Effective 07/12/06)	$50.00	DAY(S) REDUCES FINE(S)		DAYS CJ C/S IN LIEU OF FINE
*DNA Penalty Assessment (GC 76104.7) **(DNA2A)** (Effective 06/10/10)	$100.00			
*DNA Penalty Assessment (GC 76104.7) **(DNA2B)** (Effective 06/24/12)	$50.00			
*EMS-Co. Penalty Assessment **(EMSCOPA)** (GC 76000.5) (Eff. 01/01/2018)	$100.00			

**** THE FINES & ASSESSMENTS LISTED BELOW ARE NOT CONVERTIBLE TO COUNTY JAIL OR REDUCED BY CREDITS. SEE REVERSE SIDE OF THIS DOCUMENT FOR A CALCULATION OF PENALTY ASSESSMENTS****

☒ **(REST MISD)** Restitution Fine in the amount of $150.00 pursuant to PC 1202.4(b)

☒ **(1202.44 PC)** Additional Restitution Fine in the amount of $150.00 pursuant to PC 1202.44 stayed pending revocation of probation.

☒ **(ALC/ASMT)** Alcohol Abuse Education & Prevention Assessment (VC 23645) $50.00 ☒ **(ALC/ASMT2)** Alcohol & Drug Program Assessment (VC 23649) $10.00

☒ **(NCA)** Night Court Assessment (VC 42006) $1.00

All fines/fees payable through: ☑ **PAY/DRR** through DRR ☐ **(PAY/FW)** Forthwith ☐ **Fine Stayed**, payments to begin _____. ☐ Stay fee waived.

☐ **(ASP/LIEUF)** Alternative Sentencing Program in lieu of fine, _____ hours to be completed by/within _____ days/months.

☑ Jail in lieu of fine to be served 4 DAYS TIS, consecutive. ☐ Work Release

☒ 9. **(JAIL) SERVE** 10 days in the CJ, credit for time served 1 days. ☒ Plus 6 days good time work time (GTWT) = 1

☒ Consecutive ☐ Concurrent to _____

☐ Straight time ☐ Jail stayed pending completion of _____

☐ Court has no objection to a Work Release Program. Qualify or surrender at ☐ Main Jail ☐ RCCC on: _____

☐ Stay to sign up on or before: _____ **Court objects to:** ☐ SWP ☐ HD/Medical HD.

☐ CJ may be done in _____ County. ☐ Show proof of enroll/ completion on: _____ at _____ in Dept. _____

☐ County Jail converted to _____ hours of ASP by / within _____ days / months.

75

13 days Rosicl Rehab cts = 14

☒ 10. **(CONF/96 HRS)** Including 96 hours continuous custody (23542(b)(1) VC ☒ Per court, 4 ours to be completed straight time, in custody; no HD/SWP.

☒ Report to RCCC / Main Jail on _____ at _____ and be released on _____ at _____

☐ 11. **(NO/DRUGS)** Do not use, handle or possess controlled substances of any kind unless lawfully prescribed to you by a licensed medical practitioner.

☐ 12. **(NO/ASSOC)** Do not associate with persons known to be illegal users/sellers of controlled substances, or be in a place where you know illegal controlled substances are present.

☐ 13. **(NO/ALC)** Do not knowingly consume or possess any alcoholic beverages in any amount whatsoever nor be in places where you know alcohol is the chief item for sale.

☒ 14. **(DUI/2ND)** You are hereby ordered to report and enroll in the ☒ SB38 Program within 72 hours from today or release from custody.

☐ Provide proof of enrollment by: _____ (date). ☑ Stay to sign up on or before 10.3.25 (date).

☐ Program may be done in _____ County. ☐ Program to run C/C with case number: _____.

☐ 15. **(ATTEND/AA)** Defendant to attend _____ AA or 12-Step meetings and provide proof of attendance on _____ at _____, in Dept. _____ or in the alternative serve _____ days in the county jail consecutive.

☐ 16. **(LIC/REST)** Driver's License revoked/suspended / restricted for a period of _____ months/years pursuant 13202.5 VC (under the age of 21 years).

☐ 17. **(S&S)SEARCH:** Deft shall submit his/her person, property and automobile and any object under defendant's control to search and seizure, in or out of the presence of the defendant, by any law enforcement officer and/or Probation Officer, at any time of the day or night, with or without his/her consent, with or without a warrant. Defendant being advised of his/her constitutional rights in this regard, and having accepted probation, is deemed to have waived same.

☒ 18. **(ADV23593VC)** Advised pursuant 23593(a) VC that a DUI resulting in someone's death can be charged as murder.

☒ 19. **(BBSS)** Defendant shall not refuse to complete a blood alcohol chemical test when offered by any peace officer with reasonable cause to do so. Your blood and/or breath will be subject to search and seizure by any law enforcement officer at any time of the day or night, with or without your consent, and with or without a warrant.

☐ 20. Install an Ignition Interlock Device (IID) on any vehicle you own or operate for a period of _____ months/years.

☐ 21. Other: _____

Judge of the Superior Court	Dept.	Date
R. Shepard	2	6.11.25

GENERAL CONDITIONS OF INFORMAL PROBATION

NOTICE: This is your order of probation. It limits what you can do. A violation of probation can result in your arrest and confinement. If you do not understand any condition of probation, discuss it with your attorney or the judge who sentenced you.

WHAT MUST YOU DO?

You must obey all of the rules set out for you on the front side of this sheet. You do not have to report to a probation officer. But, if you are notified to return to court and do not do so, a warrant will be issued for your Arrest. Any notice will normally be sent to the address you gave on the front of this sheet. Be sure to notify the Post Office to forward your mail if you move.

WHAT IF YOU VIOLATE PROBATION?

If you fail to obey any of the rules set out for you, your probation can be revoked and a warrant be issued for your Arrest. If, after a hearing in court, the judge finds that you did, in fact, violate probation, you can be sentenced to the maximum jail term allowed by law. You could also receive additional fines or additional conditions of probation.

WHAT IF YOU SUCCESSFULLY COMPLETE PROBATION?

In general, at any time after the termination of the period of probation and upon completion of the requirements of Penal Code section 1203.4, probationers may petition the court to exercise its discretion to allow the probationer to withdraw a plea of guilty or nolo contendere or to set aside a verdict of guilty and dismiss the accusations against the probationer. If such relief is granted by the court, the probationer may also petition the court for a certificate of rehabilitation and pardon upon completion of the requirements of Penal Code section 4852.01. Probationers convicted of certain offenses are not eligible for this relief. (See Penal Code Section 1203.4(b).)

WHAT IF YOU FEEL YOUR PROBATION SHOULD BE ENDED EARLY OR CERTAIN CONDITIONS SHOULD BE CHANGED?

Talk to your attorney, or petition this Court if you want to change your probation order in any way. Remember though, only a judge of the Sacramento Superior Court can change any condition or term of your probation. No other person, agency, or court can do that.

WHAT DOES PROBATION REALLY MEAN?

Before you plead guilty or no contest, the judge explained to you what the maximum penalty was. In most cases it is one year in jail and a fine of one thousand dollars. The judge could have imposed that maximum penalty when you were sentenced. The imposition of that maximum penalty has simply been held back to see if you complete your period of probation without violating any of the special rules now established for you. Therefore, being on probation means that you do not have the same rights as other citizens. The special rules that apply to you are set forth on this form. Make sure that you understand and follow those rules.

PENALTY ASSESSMENT CALCULATION (See reverse):

PENALTY ASSESSMENT TYPE AND AUTHORITY	AMOUNT BASED ON...
Penalty Assessment pursuant PC 1464 (State) (Effective 07/09/91)	$10 for each $10, or part of $10, of base fine
Penalty Assessment pursuant GC 76000 (County) (Effective 07/09/91)	$7 for each $10, or part of $10, of base fine
Court Construction Penalty Assessment GC 70372(a) (Effective 01/01/03)	$3 for each $10, or part of $10, of base fine
ICNA Penalty Assessment GC 70372(a) (Effective 01/01/09)	$2 for each $10, or part of $10, of base fine
DNA Penalty pursuant GC 76104.6(Effective 11/04/04)	$ 1 for each $10, or part of $10, of base fine
DNA Penalty pursuant GC 76104.7(Effective 07/12/06)	$ 1 for each $10, or part of $10, of base fine
DNA Penalty pursuant GC 76104.7 (Effective 06/10/10)	$ 2 for each $10, or part of $10, of base fine
DNA Penalty pursuant GC 76104.7 (Effective 06/27/12)	$ 1 for each $10, or part of $10, of base fine
EMS-Co. Penalty pursuant to GC 76000.5 (Effective 01/01/18)	$ 2 for each $10, or part of $10, of base fine
SURCHARGES / ASSESSMENTS AND AUTHORITY	
Criminal Impact Assessment Fee pursuant PC1465.7(a) (Effective 01/01/02)	20% of the base fine amount
Court Operations Assessment PC 1465.8 (Effective 01/01/10)	$40 per conviction
Criminal Conviction Assessment GC 70373 (Effective 01/01/09)	$30 per conviction

The foregoing terms and conditions of informal probation have been explained to me and I fully understand them and agree in every particular to abide by them.

DEFENDANT SIGNATURE FTA FINES ROOM DATE 6/11/25

DEFENDANT ADDRESS, CITY, STATE, ZIP

TELEPHONE NUMBER

SACRAMENTO SHERIFF'S OFFICE
Proposed Discipline

Jim Cooper
Sheriff

To: DEPUTY MATT WHITE
Rio Cosumnes Correctional Center Division

From: CHIEF DEPUTY MICHELLE KACALEK
Support Services

Subject: PROPOSED DISCIPLINARY ACTION – SUSPENSION WITHOUT PAY AND REMAIN IN A NON-DRIVING ASSIGNMENT UNTIL PROBATION ENDS

YOU ARE HEREBY NOTIFIED that I have recommended you be suspended without pay for a period of 160 hours and remain in a non-driving assignment until the conclusion of your court probation on June 11, 2029.

The facts upon which the Proposed Disciplinary Action is based are:

On August 4, 2024, you were stopped by the Folsom Police Department while driving your personal vehicle off-duty. After performing Standardized Field Sobriety Tests and taking a Preliminary Alcohol Screening test, you were arrested for driving under the influence. You were subsequently convicted of Vehicle Code section 23152(b).

This constitutes the following disciplinary violations:

ALLEGATION I: You violated the Agreement Between the County of Sacramento and the Sacramento County Deputy Sheriffs' Association section 18.5(p) – Any failure of good behavior either during or outside of duty hours which is of such nature that it causes discredit to the County or his/her employment and the Standards of Conduct Policy.

The above facts are considered good cause for disciplinary action (Agreement Between the County of Sacramento and the Sacramento County Deputy Sheriffs' Association Section(s) 18.5). Materials upon which the Proposed Disciplinary Action is based are included in case file 2024PSB-421 and are incorporated herein by reference.

I have reviewed the allegations contained therein, and find that cause appears to exist for the discipline recommended. However, before a final decision is made in this matter you

may request a review, either personally or by mail, no later than ten (10) calendar days from the date you are served with a copy of this notice.

If you desire to examine or review the complaint which forms a part of the basis for the Proposed Disciplinary Action, you shall be given a reasonable amount of time off for such purposes by your request therefore duly submitted to your supervisor. The review shall be conducted at the Internal Affairs Bureau at 4500 Orange Grove Avenue, Suite 125, Sacramento, California, telephone number 874-5098. Unless other arrangements are made, such examination shall take place during the normal duty hours of the Internal Affairs Bureau (Monday through Friday, between 8:00 a.m. and 5:00 p.m.). For your convenience, you should call the Internal Affairs Bureau and make an appointment.

If you desire to respond personally, contact the Internal Affairs Bureau at 4500 Orange Grove Avenue, Suite 125, Sacramento, California, telephone number 874-5098 to schedule a "Skelly Review" in this matter before a Department Hearing Officer. Personnel Complaints Policy delineates the procedural and legal issues of the review.

If you do not respond to this Proposed Disciplinary Action either personally or in writing, or both personally and in writing, on or before the expiration of the ten-day period above, the Sheriff will make a final decision based upon the foregoing reasons mentioned above and any materials indicated. Should you decide to accept the proposed disciplinary action without a review, do not commence service of the imposed discipline prior to receipt of a final order of discipline from the Sheriff. Should you desire to forgo a review and expedite receipt of a final order of discipline please notify the Legal Advisor.

DATED: 7/23/25

M. Kacalek

CHIEF DEPUTY MICHELLE KACALEK
Support Services

AFFIDAVIT OF SERVICE

I, MARK LEMBERG, do hereby declare:

1. I am employed in the position of CAPTAIN with the County of Sacramento Sheriff's Office.

2. On JULY 28, 2025, at approximately 1033 a.m./p.m. at [redacted] (location)

I personally served a copy of the attached " Proposed Discipline" upon

MATT WHITE, by handing such a copy to him/her.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on JULY 28, 2025, at [redacted] California.

(Signature)

UPON SERVICE RETURN AFFIDAVIT TO INTERNAL AFFAIRS

COUNTY OF SACRAMENTO

Proposed Disciplinary Action

SCOTT R. JONES
Sheriff

To: DEPUTY SHERIFF MATT WHITE
Rio Cosumnes Correctional Center

From: CHIEF DEPUTY ROSANNE RICHEAL
Contract and Regional Services/ Support Services

Subject: PROPOSED DISCIPLINARY ACTION-SUSPENSION WITHOUT PAY, TRANSFER TO NON-DRIVING ASSIGNMENT

YOU ARE HEREBY NOTIFIED that I have recommended you be suspended from your position as Sheriff's Deputy with the Sacramento County Sheriff's Department for a period of one hundred sixty (160) hours. I further recommend you be transferred to a non-driving assignment in Correctional Services for the duration of any restriction or suspension on your Driver's License, or for the duration of your criminal probationary period, whichever of the two is greater. The facts upon which the Proposed Disciplinary Action is based are as follows:

On April 16, 2016, while off-duty and driving in the County of Sacramento, you were arrested by the California Highway Patrol (CHP) for driving under the influence of alcohol in violation of Vehicle Code Sections 23152(a) and 23152(b). You identified yourself as a Sacramento County Deputy Sheriff.

You were transported to the Sacramento County Main Jail by CHP and booked on the above charges. While at the jail, you submitted to a breath test which concluded your blood alcohol content (BAC) was .12%.

This constitutes the following disciplinary violations:

ALLEGATION I: That on or about April 16, 2016, you, while in an off-duty status, were arrested in the County of Sacramento for driving under the influence of alcohol in Violation of Vehicle Code Sections 23152(a) (Misdemeanor DUI) and 23152(b) (Misdemeanor DUI .08% or above). Your actions are in violation of the Agreement Between the County of Sacramento and the Sacramento County Deputy Sheriffs' Association

Section 18.5 (p) (Any failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to his or her agency or his or her employment).

The above facts are considered good cause for disciplinary action (Agreement Between the County of Sacramento and the Sacramento County Deputy Sheriffs' Association Section(s) 18.5). Materials upon which the Proposed Disciplinary Action is based are included in case file 2016PSB-158, and are incorporated herein by reference.

I have reviewed the allegations contained therein, and find that cause appears to exist for the discipline recommended. However, before a final decision is made in this matter you may request a review, either personally or by mail, no later than ten (10) calendar days from the date you are served with a copy of this notice.

If you desire to examine or review the complaint which forms a part of the basis for the Proposed Disciplinary Action, you shall be given a reasonable amount of time off for such purposes by your request therefore duly submitted to your supervisor. The review shall be conducted at the Professional Standards Division office at 711 G Street, Suite 306, Sacramento, California, telephone number 874-5098. Unless other arrangements are made, such examination shall take place during the normal duty hours of the Professional Standards Division (Monday through Friday, between 8:00 a.m. and 5:00 p.m.). For your convenience, you should call the Professional Standards Division and make an appointment.

If you desire to respond personally, contact the Professional Standards Division office at 711 G Street, Suite 306, Sacramento, California, telephone number 874-5098 to schedule a "Skelly Review" in this matter before a Department Hearing Officer. General Order 3/07 delineates the procedural and legal issues of the review.

If you do not respond to this Proposed Disciplinary Action either personally or in writing, or both personally and in writing, on or before the expiration of the ten-day

period above, the Sheriff will make a final decision based upon the foregoing reasons mentioned above and any materials indicated. Should you decide to accept the proposed disciplinary action without a review, do not commence service of the imposed discipline prior to receipt of a final order of discipline from the Sheriff. Should you desire to forgo a review and expedite receipt of a final order of discipline please notify the Legal Advisor.

DATED: 9/12/16

CHIEF DEPUTY ROSANNE RICHEAL
Contract and Regional Services

AFFIDAVIT OF SERVICE

I, MARCUS GREGORY, do hereby declare:

1. I am employed in the position of SERGEANT with the Sacramento County Sheriff's Department.

2. On SEPTEMBER 12, 2016, at approximately 1505 a.m./(p.m.) at [redacted] (location) I personally served a copy of the attached proposed disciplinary action upon DEPUTY MATT WHITE, by handing such a copy to (him)/her.

3. I declare under penalty of perjury that the foregoing is true and correct.

Executed on SEPTEMBER 12, 2016, at [redacted] California.

#150
(Signature)

UPON SERVICE RETURN AFFIDAVIT TO LEGAL AFFAIRS

POST Administrative Interview
Advisement and Transcription Cover Page

POST CASE NUMBER: POST2507337

SUBJECT OFFICER NAME: Matt White

Administrative Interview Advisement

Following is the record of an Administrative Interview conducted by the Professional Conduct Northern Bureau on 12/18/2025 with Officer Matt White, who is the subject of this investigation. The interview was recorded and a true and correct copy of the recording is being maintained by the Professional Conduct Northern Bureau. The recording reflects all relevant statements and conversations occurring during the course of the interview. The interview was also transcribed by AXON AI Transcription. This transcript was prepared by Analyst II Tiana Yen, Professional Conduct Northern Bureau.

Parties Present:
Law Enforcement Consultant Rick Collins, Professional Conduct Northern Bureau, Primary Investigator
Officer Matt White, Sacramento County Sheriff's Department, Subject Officer
Joseph Hoffman, Mastagni and Holdstedt Law Firm, Representative for Subject Officer

**********Start of transcription**********

[00:01]

Rick Collins: All right. I have started the recorder. So you guys know, uh, the date is Thursday, December 18th, 2025. The time is approximately 1:53 PM. This is an, an administrative interview concerning Matt White, who is employed by the Sacramento County Sheriff's Department. This interview is being conducted and recorded at the California Peace Officer Standards and Training POST Headquarters, specifically, we are in Training Room C. I am Law Enforcement Consultant Rick Collins, and I'm in charge of this interview. There's nobody assisting me today, so I'll cross that out. Also present is Matt White and his representative Joe Hoffman of Mastagni and Holtstedt. Each person present is required to identify themselves on the recording by giving their name, title, and or classification and place of employment. Um, Matt, do you want to go ahead and start?

[00:58]

Matt White: I am Matt White. I work at the Sacramento County Sheriff's Department as a Deputy Sheriff.

[01:01]

Rick Collins: And Joe?

[01:02]

Joseph Hoffman: My name is Joseph Hoffman. I am a Senior Associate with Mastagni and Holtstedt Law Firm.

[01:09]

Rick Collins: Okay. And my name is Rick Collins. I'm a Law Enforcement Consultant with, uh, POST in the Professional Conduct Northern Bureau. Matt, you are being questioned as part of an official Peace Officer Standards and Accountability Division investigation. You are hereby directed to answer all questions honestly and completely. Your refusal to answer any question or any type of evasion, deception, dishonesty, or lack of cooperation on your part could constitute serious misconduct and result in further actions concerning your certification up to and including revocation of your per POST Certification. Neither your statement nor any information or evidence which is gained by reason of such statements can be used against you in criminal proceedings. That's what we were talking about in the hallway. Uh, no other promise will be made as any as an inducement for the answer to any question. This recorded interview is authorized by Commission Regulation Title 11, Section 1206 paren a paren four of the California Code of Regulations. You may record any portion of this in interview or have access to POST's recording if any further proceedings are contemplated or prior to any subsequent interviews, you have the right to be represented by an individual of your choice who may be present at all times during your interview. Provided the person chosen is not a witness or subject of this inquiry. POST is not your subject. POST is not your employing agency. Therefore, this interview is not subject to the Peace Officer Bill of Rights Act, including, but not limited to Sections 3303 through 3312 of the Government Code. Although you as a representative are present to assist, the subject officer, POST is only interested in hearing the officer's account of the matter under investigation. You may participate during the interview when appropriate, but you may not interfere with or cause unnecessary delay to the orderly course of

the interview. You will be given the opportunity to make clarifying statements and ask clarifying questions. If you need to take a break to use the restroom or attend to personal necessities, you may do so upon requests. However, before making a request, you must answer the any pending questions. To maintain the integrity of the investigation, you must not discuss the questions asked or facts discussed in this interview with anyone other than your legal counsel or as otherwise required required by law. Do you both understand and agree to proceed in accordance with these instructions?

[03:54]
Joseph Hoffman: Yes.

[03:54]
Matt White: Yes.

[03:55]
Rick Collins: Okay. And this is where we begin.

[03:59]
Matt White: Okay.

[04:00]
Rick Collins: Question number one. Uh, it's been almost a year and a half since your arrest by the Folsom Police Department. Have you been sober since then? If so, what methods and resources do you rely on to remain sober?

[04:11]

Matt White: You know, I appreciate that question because, uh, when I was arrested in August, um, uh, it was pretty, uh, uh, sobering idea. And I knew I wanted to get sober and I struggled with it. I, from August to December, I had two drinks. Um, and that last drink was on, uh, on Christmas. And I remember, uh, being baffled why I was struggling with this. Uh, I had just gone through a pretty traumatic incident of being arrested and the potential of losing my job. And here I was still drinking. And, uh, I was attending AA during that time, immediately from after my arrest. And I, uh, was, uh, well, the first time I really a answered myself, what am I doing? So I started to look at, um, uh, outpatient programs, uh, the first of the year. And I remember being kind of profound that all they offered was, uh, alcohol counseling. And I remember thinking on the humorous side, boy, I think I know enough about alcohol already. I need something further. So that was the first time I actually looked into a rehab.

[05:11]

Rick Collins: Mm-hmm <affirmative>.

[05:11]

Matt White: Uh, so I had my last drink on January 12th of, uh, would be, uh, 11 months ago.

[05:17]

Rick Collins: Okay.

[05:18]

Matt White: Um, um, so, uh, with, with that, with that, [redacted] And I, uh,

approached my employers about it. I, uh, had a sick leave balance. They, uh, they approved that sick leave, uh, with the doctor's note. So I, I think I earned something like 300 hours of sick leave. [redacted]

[05:47]

Rick Collins: Mm-hmm <affirmative>.

[05:47]

Matt White: [redacted].

[05:51]

Rick Collins: Okay.

[05:52]

Matt White: And that was one of the first things I really kind of connected and wanted to resolve. Why am I drinking? Why am I having these problems? [redacted] And I'm happy to say that counselors, I, since then, I, since April, I, I still speak with every, every week.

[06:13]

Rick Collins: Okay.

[06:13]

Matt White: Um. So I don't know how, uh, but it, but, and I also attend AA and I see my counselor AA, uh, once a week. And, uh, yes, I've been able to remain sober since January 12th.

[06:28]

Rick Collins: So just to ensure that I heard you correctly, every, you still meet with [redacted] Do you still meet with that person?

[06:38]

Matt White Every week.

[06:39]

Rick Collins: Every.

[06:39]

Matt White: Week, uh.

[06:39]

Rick Collins: Per.

[06:40]

Matt White: On Zoom.

[06:40]

Rick Collins: On Zoom.

[06:41]

Matt White: On Zoom, yeah. And I, uh, of course I have a AA sponsor and going through the rehab, um, there was a lot of things that exposed, uh, uh, insecurities, weaknesses, uh, at my fault. And I also met a lot of great, uh, uh, employees that I have at the Sheriff's Department that I rely on.

[06:57]

Rick Collins: Okay.

[06:57]

Matt White: To this day. Um, so I have a great, uh, program, I think working for me right now.

[07:05]

Rick Collins: Do you maintain a log or possess records that document your AA meetings and or therapy sessions?

[07:11]

Matt White: Uh.

[07:12]

Rick Collins: If, if you do, can you provide that to POST?

[07:14]

Matt White: Uh, I have not. Uh, and I would not be able to because I, not because I knew that that was actually addressed. Uh, going to, I thought about doing that in the, uh, IA investigation and working 12 hours and being a new father, um, working days of 15 hours. It was tough to get to meetings here and there, so it was very sporadic. I would do it on Zoom, but I can tell you with the most honesty that I have consistently gone, I've never gone with a meeting without probably three weeks.

[07:43]

Rick Collins: Okay.

[07:44]

Matt White: Um, so, but I've always been in contact with somebody in some form of that. But to answer your question, no, I don't have documentation of that.

[07:50]

Rick Collins: Okay.

[07:50]

Matt White: I can give you my word for what it's worth.

[07:53]

Rick Collins: Uh, you've answered that question already. And the question was, in your administrative interview with Sergeant Haynes, you stated that you had not drunk alcohol since January 12th, 2025. Is that still true today?

[08:05]

Matt White: Yes.

[08:05]

Rick Collins: The answer to that question is yes.

[08:07]

Matt White: Yes.

[08:07]

Rick Collins: Okay. When you were pulled over by the Folsom Police Department in August of 2024, what was the status of your driver's license?

[08:16]

Matt White: Valid <pause>. You, you know, if I could add just one other thing, um, through the criminal side of, uh, of my, uh, criminal probation was to attend, uh, a, uh, treatment, but also the DUI program. So I, I meet with a counselor once a week also and attend a group meeting.

[08:39]

Rick Collins: Okay.

[08:39]

Matt White: Um, once every week since August.

[08:41]

Rick Collins: Is that part of the 18th month?

[08:43]

Matt White: It is.

[08:43]

Rick Collins: Okay. I have a question for.

[08:45]

Matt White: Okay sorry.

[08:45]

Rick Collins: That later on. We'll get to that, uh, what are your.

[08:48]

Joseph Hoffman: What are your counseling separate from that?

[08:49]

Matt White: Separate, yeah.

[08:50]

Rick Collins: Yeah.

[08:50]

Joseph Hoffman: Okay.

[08:51]

Rick Collins: Uh, what is your current driver's license? Lattice <laugh>, your driver's license status now?

[08:57]

Matt White: It is a, what they would call a restricted, uh, I am able to operate a vehicle as long as I have a alcohol breathalyzer in my vehicle.

[09:05]

Rick Collins: Okay. With breathalyzer. And do they still have you in a non-driving, uh, status at work?

[09:13]

Matt White: Yes, they do.

[09:14]

Rick Collins: Okay. If push came to shove, would you be able to drive a Sacramento County vehicle?

[09:24]

Joseph Hoffman: He may not know the legal nuance, because there is a special DMV form that we submit for police officers and firefighters who have a

re a, a restricted license or provisional license that requires an IID. And if the employer chooses to sign the disclosure, then our clients in his, with his driver's license status can operate a, uh, county police or fire vehicle without an IID, but his employer would have to sign the DMV form first.

[09:59]
Rick Collins: Okay.

[10:00]
Matt White: That was my understanding also.

[10:01]
Rick Collins: Yeah. And I remember listening to that during his IA interview.

[10:05]
Joseph Hoffman: Oh, okay.

[10:06]
Rick Collins: You stepped in and said, yeah, I was just wondering if that, I guess I should have asked a better question. Does Sacramento, have they signed that form in case of an emergency or is that, if, if it came to it, would you still have to present that form to admin to get you to drive a county vehicle?

[10:26]
Matt White: I'm gonna say yes, I believe that would be the case.

[10:28]
Rick Collins: Okay. Okay.

[10:31]

Matt White: But right now I'm in an assignment where I don't think that's gonna be brought up. Just here.

[10:35]

Rick Collins: Okay. Um, and you've answered the question. You've signed up for the 18 month DUI completion program. What is the current status of that? How much longer do you have to go?

[10:45]

Matt White: I have until probably, uh, well, I would love to have an exact date, uh, date, but any time there's a flexible in the schedule, I will say approximately Feb, end of February of next year.

[10:58]

Rick Collins: Okay. So you anticipate February of 2026 is your completion date?

[11:03]

Matt White: Uh, 27.

[11:05]

Rick Collins: 27?

[11:05]

Matt White: Yeah. I have 18 months program.

[11:08]

Rick Collins: Okay. <pause> That makes sense.

[11:19]

Matt White: But they've only, they only schedule it out a year in advance.

[11:25]

Rick Collins: And you've answered that question, you continue to meet with your counselor from [redacted] weekly.

[11:31]

Matt White: Mm-hmm <affirmative>. Yeah.

[11:31]

Rick Collins: Via Zoom, correct.

[11:32]

Matt White: Yeah.

[11:33]

Rick Collins: And that is in conjunction with the AA, uh, meetings?

[11:37]

Matt White: Uh, yeah. Okay. Neither, uh, it's not required. I meet with the therapist, but it's something I voluntarily did.

[11:44]

Rick Collins: Absolutely.

[11:44]

Matt White: Yeah.

[11:44]

Rick Collins: Okay. <pause> At the time of the second incident in August of 2024, what was your assignment with the Sheriff's Department?

[11:55]

Matt White: I was in our Sheriff's North Patrol as a Field Training Officer.

[11:58]

Rick Collins: So you were in North Patrol?

[12:00]

Matt White: Yeah.

[12:09]

Rick Collins: <pause> And at the time of your IA interview, what was your assignment?

[12:15]

Matt White: I was assigned to the Rio Consumes, uh, Correctional Center of the jail. They had <pause> reassigned me.

[12:26]

Rick Collins: So just at, just to clarify, at the time of your arrest in August, you were working North Patrol?

[12:31]

Matt White: Mm-hmm <affirmative>.

[12:33]

Rick Collins: At the time when you were interviewed for, as part of your IA, you were in the, uh.

[12:36]

Matt White: Correctional facility.

[12:38]

Rick Collins: Correctional facility.

[12:38]

Matt White: Correct. Correctional facility, yep.

[12:39]

Rick Collins: Okay. And in your interview with Sergeant Haynes, you mentioned you found ways, and this is not verbatim, but you found ways to counter your internal problems with alcohol. My question to you is, what are the ways that you counter your internal struggles with alcohol? And I have this transcript here it is on page eight, line three eighteen if you need to.

[13:07]

Matt White: Uh, I would love to thank you. You said 18?

[13:11]

Rick Collins: Yeah, three sixteen. It's in that general.

[13:15]

Matt White: Okay. <pause> Yeah. Kind of similar to what I touched on before, like I, I always, alcohol for me was, uh, there was a bigger issue. I, I always, I'm kind of the first to say, uh, I don't even like to drink. If there was another vehicle to it, I would've probably, uh, but I like being drunk and, uh, being drunk to me was a intoxicating feeling that resolved. So, to answer your question, uh, through therapy,

mostly at the, um, uh, first responders to wellness, I learned that I had, uh, suffered from depression. And, uh, I was really, uh, negligent in the idea that I could spend 22 years in law enforcement and not have some form of, uh, PTSD. Uh, I, I really had a heart heartburn with that, but I did find that there was some things that was troubling me. And, uh, um, and I also had a lot of shame in the way I was living. And I had to, uh, correct that through, through therapy and speaking with, uh, candid with my wife and, uh, honesty with my family members of how I was hiding alcohol. And so, to answer your question of what I'm doing now is I can live an open and honest, uh, candid relationship without having alcohol. And, uh, I think, uh, I think I've lost my train of thought there where I was going. But, um, I think the power of communication and, uh, I'm very ashamed, uh, to have, be someone that has two DUIs in this profession. But I've never shied away from that. I've talked to a lot of people, uh, and I'm open about that, and I find that when I'm open about that, I don't feel that shame or that desire to drink. And I'm, uh, I found it very empowering to be very open about that and any other aspects of my life. And I, I hope that answers your question.

[15:22]

Rick Collins: It, it absolutely does. And just to, uh, kind of close this, what I'm getting from you is since January 12th, 2025, you have not had a sip of alcohol.

[15:32]

Matt White: Yeah.

[15:32]

Rick Collins: Uh, you abstain and you continue to do things to remain in that status.

[15:38]

Matt White: Yeah. And I think I would like to add that not only do my, am I like, uh, I really wanted to sh to rebound from this. This was not something I wanted to settle and ride out my career and just say a class, I want to rebound from this. I wanted to project and make something positive from this. And I think what shows that mostly is we wrapped this IA up in July.

[16:00]

Rick Collins: Mm-hmm <affirmative>.

[16:00]

Matt White: I thought that was the end of it. But here I am, almost six, seven months, still sober, still going, still meeting with the therapist.

[16:06]

Rick Collins: Mm-hmm <affirmative>.

[16:07]

Matt White: You know, it's not hopes that, yeah, I hope that I live a good life and I know I, I love my Sheriff's Department. I love what it's done for me. It's given me every other thing I have in my life, but also it's given me character and integrity, and I hope to show that. And I've spoken in briefings, I speak at our academy, I, I be open about my

own struggles with it. And, um, I hope I close with that, that I want to give back, give back to my department and give, uh, make a positive out of, out of this experience for me.

[16:37]

Rick Collins: Okay.

[16:37]

Matt White: Yeah.

[16:38]

Rick Collins: Well, that concludes the interview. Um, I thank you both for your time and your cooperation and your patience. Um, please don't hesitate to reach out to me if you have any questions. Um, as you guys are, are pretty, I think I've shown pretty clearly that I'm pretty transparent.

[16:56]

Matt White: Of course. Yeah.

[16:57]

Rick Collins: I, I don't, I don't want to hide anything away from you. Um, when I present this to the EXO and they say, okay, we're going to get the letter and give the recommendation, I'll reach out to you. You can reach out to Joe and let them know, okay, here's the, here's what's happening. Here's what you can expect next.

[17:13]

Matt White: I don't think I'm completely understand what an EXO is.

[17:16]

Rick Collins: Um, like we, we were downstairs talking about, hold on, let me, I'm gonna stop this. Yes, it is 2:10 and the interview is complete.

**********End of transcription**********

I have used all reasonable diligence in reviewing this transcription and to the best of my knowledge the information contained herein is true and complete.

_____ _____

Investigator Date

AGENDA ITEM REPORT

Title: POST2322062 - HECTOR VICTORIO (POST ID: C87-Q51)
**LAST EMPLOYING AGENCY: SAN BERNADINO POLICE DEPARTMENT (CURRENT) **

REPORT PROFILE

MEETING DATE 04/15/2026	**BUREAU SUBMITTING THE REPORT** Professional Conduct Southern Bureau	
RESEARCHED BY Michael Marshall		**REVIEWED BY** Christine Ford
REPORT DATE	**APPROVED BY**	**DATE APPROVED**
PURPOSE		**FINANCIAL IMPACT** No

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE: The matter is before the Peace Officer Standards Accountability Advisory Board (POSAAB) for review and recommendation regarding the subject peace officer's certification status.

BACKGROUND: The Respondent began his employment with the San Bernardino Police Department on 3/14/2022, as a full-time Police Officer. This position is defined as a peace officer under Penal Code section 830.1(a). At the time of these events, the Respondent was employed as a Peace Officer with the San Bernardino Police Department. The Respondent is not currently employed as a peace officer in the state of California.

At the time of this incident, the Respondent held a peace officer position as defined under California Penal Code 830.1(a) and was required to be certified pursuant to California Penal Code 13510.1(a).

On November 27, 2023, the Respondent was involved in a vehicle pursuit of a suspect. Upon completion of the vehicle pursuit, the suspect exited his patrol vehicle, laid face down on the ground with his hand extended above his head and his palm face down on the pavement. The Respondent approached the suspect and struck the suspect at least six times in the head with a closed fist and struck him four times in the head with his knee. As a result to the assault, the suspect sustained a fractured orbital socket, abrasions to his face, and

broken teeth.

The Respondent was investigated by the DA's Office but not charged with a crime. The Respondent was later demoted to a Community Service Officer for other policy violations.

Video Evidence Links:

- **BR05 POST2322062 Victorio Attachment B Pursuit BWC**
- **BR06 POST2322062 Victorio Attachment C Witness Video**
- **BR07 POST2322062 Attachment I Victorio 10 08 25 POST Respondent Interview**
- **BR08 POST2322062 Attachment J Victorio 10 07 25 POST Rodriguez Interview**
- **BR09 POST2322062 Victorio Attachment O BWC Burglary**

ANALYSIS:

The Division determined that there was clear and convincing evidence that Respondent engaged in serious misconduct as defined in California Penal Code §13510.8(b)(3) and Commission Regulation 1205(a)(3), physical abuse, including the use of excessive or unreasonable force. Specifically, the Division determined that Respondent engaged in excessive force when the Respondent physically assaulted the Victim, whom he was trying to take under arrest following a vehicle pursuit. The Division determined there was clear and convincing evidence that the Respondent's use of force was unreasonable and excessive.

RECOMMENDATION:

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

ATTACHMENT(S):

BR01_POST2322062_Victorio_Hector_ISF_Final.pdf
BR02_POST2322062_Executive_Review_Division_Recommendation.pdf
BR03_POST23022062_EDI_Profile_Victorio (1).pdf
BR04_POST2322062_Attachments_A_D_E_F_G_H_K_L_M_N_P_Q_R_S_T.pdf



INVESTIGATIVE SUMMARY AND FINDINGS

PEACE OFFICER NAME: Hector Victorio

POST ID NUMBER: C87-Q51

EMPLOYING AGENCY: San Bernardino Police Department

POST CASE NUMBER: POST2322062

WRITTEN BY: Michael Marshall

DATE: 3/12/2026

Contents

I. Executive Summary and Findings 3

II. Investigative Methodology 3

III. Respondent's Background 3

A. Respondent's Peace Officer Certificates and Employment 3

B. Respondent's Service Record 4

IV. Factual Background 5

V. Analysis and Findings 19

A. Does the alleged conduct violate Commission Regulation 1205(a)(3) – Physical Abuse. 19

B. Commission Regulation 1213 Factors. 21

VI. Supporting Evidence 24

I. Executive Summary and Findings

The San Bernardino Police Department submitted this case alleging that Officer Hector Victorio (hereinafter "Respondent") engaged in serious misconduct by using excessive force during an arrest. The Respondent and his partner, Officer G. Rodriguez (hereinafter "Rodriguez"), initiated a traffic enforcement stop that escalated into a vehicle pursuit when the driver failed to yield. The pursuit ended when the suspect's vehicle crashed. The suspect (hereinafter "Victim") exited the vehicle and assumed a prone position on the ground. The Respondent approached the Victim and delivered multiple punches and knee strikes to the face, neck, and head area. These actions formed the basis of the allegation that the Respondent used force beyond what was reasonably necessary.

The department determined that the Respondent used excessive force. As a result, he received a 40-hour unpaid suspension, with 20 hours held in abeyance pending his completion of 40 hours of Use of Force training within one year from the date of the signed settlement agreement.

II. Investigative Methodology

This report summarizes the findings related to allegations of serious misconduct. This investigation was conducted in accordance with the regulations and policies of the Commission on Peace Officer Standards and Training (POST). The investigation included a review of the San Bernardino Police Department's administrative investigation, which included videos and interviews of witnesses and the subject officer, as well as a criminal investigation conducted by the San Bernardino County District Attorney's Office.

The information obtained in this investigation was analyzed using the clear and convincing evidence standard. For purposes of this report, clear and convincing evidence means "evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true. The evidence need not establish a fact beyond a reasonable doubt."

This report is necessarily summary in nature and does not include every fact or issue that might be found in the underlying investigation and attachments. It does, however, contain reference to that evidence that establishes the requisite facts and proves the serious misconduct charged by clear and convincing evidence.

III. Respondent's Background

A. Respondent's Peace Officer Certificates and Employment

The table below sets forth Respondent's employment history:

Dates	Rank	Agency
09/16/2021 – 03/14/2022	Trainee	San Bernardino Police Department
03/14/2022 – 11/05/2025	Police Officer	San Bernardino Police Department
11/05/2025 – present	Community Service Officer	San Bernardino Police Department

Respondent is assigned POST ID C87-Q51. He received the following peace officer certificates from POST:

Certificate Type	Certificate Number	Date Issued
Basic	209271	03/22/2023

B. Respondent's Service Record

When evaluating whether suspension or revocation is appropriate, Penal Code section 13510.8(c)(5) and Commission Regulation section 1213(a)(5) provide that the Commission must consider Respondent's prior conduct, discipline, and service record. The relevance and weight the Commission may choose to assign to a peace officer's prior conduct and service record will depend on the facts in each case.

Prior to the alleged unreasonable use of force, the Respondent had taken the following training related to the use of force:

Defensive Tactics / Arrest & Control	8 hours	April 5, 2022
Strategic Communication	2 hours	April 5, 2022
Use of Force	4 hours	April 6, 2022
Tactical Firearms	5 hours	April 7, 2022

The Respondent has not been the subject of any other internal affairs investigations regarding the use of force, nor does he have any prior history of allegations of unreasonable use of force being filed against him. However, on February 22, 2024, the San Bernardino Police Department received a complaint from the San Bernardino District Attorney's Office about an incident that occurred on October 28, 2023,

concerning Respondent's discourteous treatment of an arrestee during a burglary investigation. In addition, in May 2025, the San Bernardino Police Department received a complaint that was submitted by mistake to the San Bernardino Sheriff's Department about a vehicle stop and residential search that occurred on April 28, 2025. As a result of these incidents, Respondent agreed to a demotion to a non-peace officer position as a Community Service Officer on November 5, 2025. Further details about these incidents are provided in Section V(b), below.

IV. Factual Background

On November 27, 2023, the Respondent was on patrol with Officer Rodriguez in the city of San Bernadino.[1] The Respondent, who was driving, observed a Kia without a front license plate, which is a violation of the California Vehicle Code (CVC) section 5200(a). The Respondent got behind the Kia and observed the driver of the vehicle, the Victim, make an unsafe left turn, which is a violation of CVC section 22107. The Respondent initiated a traffic stop by activating the lights and sirens on his marked police vehicle, at which time the driver failed to yield, and a pursuit ensued.

The pursuit lasted roughly six minutes. Throughout the incident, the Victim operated the vehicle in a reckless manner by driving on the wrong side of the roadway, disregarding stop signs and traffic signals, nearly colliding with several vehicles at various intersections, and accelerating to speeds of up to 100 miles per hour on city streets and through a school zone. The pursuit terminated when the Victim collided with a telephone pole. Following the collision, he exited the vehicle and immediately positioned himself prone on the ground, with his hands extended above his head, palms down.

The Victim had his cell phone and a single cash bill in his right hand. The Respondent exited the driver's seat of his patrol vehicle, immediately yelled, "Get on the fucking ground," and ran towards the Victim. The Victim immediately responded by saying, "I'm on the ground, I'm on the ground, bro. I'm not resisting." [2]

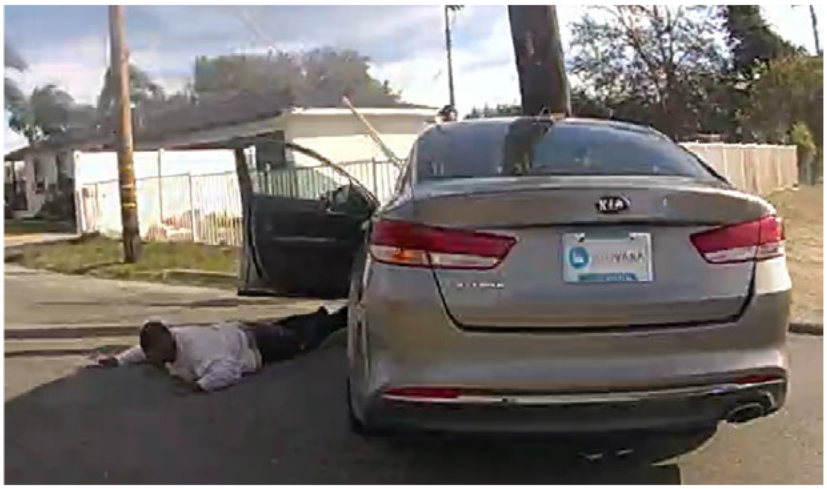
<u>Still images taken from Attachment B – Body Worn Camera video, X60A4550P, Pursuit</u>

The times noted below are from the time stamp on Respondent's BWC video.

05:23: The Victim exited his vehicle and lay face down on the ground, extending his hands outward at shoulder width.

[1] Attachment A, San Bernardino Police Department Report, Case No. 2023-00134638, November 27, 2023.

[2] Attachment B, Body Worn Camera video, X60A4550P, Pursuit, November 27, 2023.



The Respondent approached the Victim from the left as he lay on the ground. At the same time, Rodriguez moved around the front of the disabled vehicle and approached the Victim from the right, positioning himself on the Victim's back in a mounted position. Upon reaching the Victim, the Respondent placed his left hand on the Victim's head and his right hand on his back. The Respondent then delivered two closed fist strikes with his right hand to the back of the Victim's head and neck while shouting, "Stop, stop resisting."

05:26: First closed fist punch.



05:27: Second closed fist punch.



The Victim responded, stating, “I’m not moving, c’mon, I’m not moving, I’m not moving.” The Respondent then delivered two (2) strikes to the Victim’s face with his right knee.

05:31: First knee strike.



Still image taken from Attachment C – Witness Cell Phone Recording[3]

[3] A witness who lived nearby saw the incident and recorded it on her personal iPhone.

00:00: First knee strike.



The Respondent followed the knee strikes by delivering three (3) additional punches with his right hand to the left side of the Victim's face. After being struck, Victim placed his left hand on top of his head as if to protect himself.

<u>Still images taken from Attachment B – Body Worn Camera video, X60A4550P, Pursuit</u>

05:32: Third closed fist punch.



After the first punch, the Respondent gained control of the Victim's left wrist and delivered an additional punch to the left side of the Victim's face.

05:34: Fourth closed fist punch.



The Respondent released control of the Victim's left wrist and delivered one final punch with his left closed fist to the left side of the Victim's face.

05:35: Fifth closed fist punch.



At one point, Officer Rodriguez appears to attempt to stop the Respondent from striking the Victim, as shown by Officer Rodriguez using his hand to push the Respondent's hand away and placing his right arm in front of the Respondent while positing his right shoulder to shield the Victim.

05:35: Rodriguez using his hand to push Respondent's hand away.



05:35: Rodriguez using his shoulder to shield the Victim.



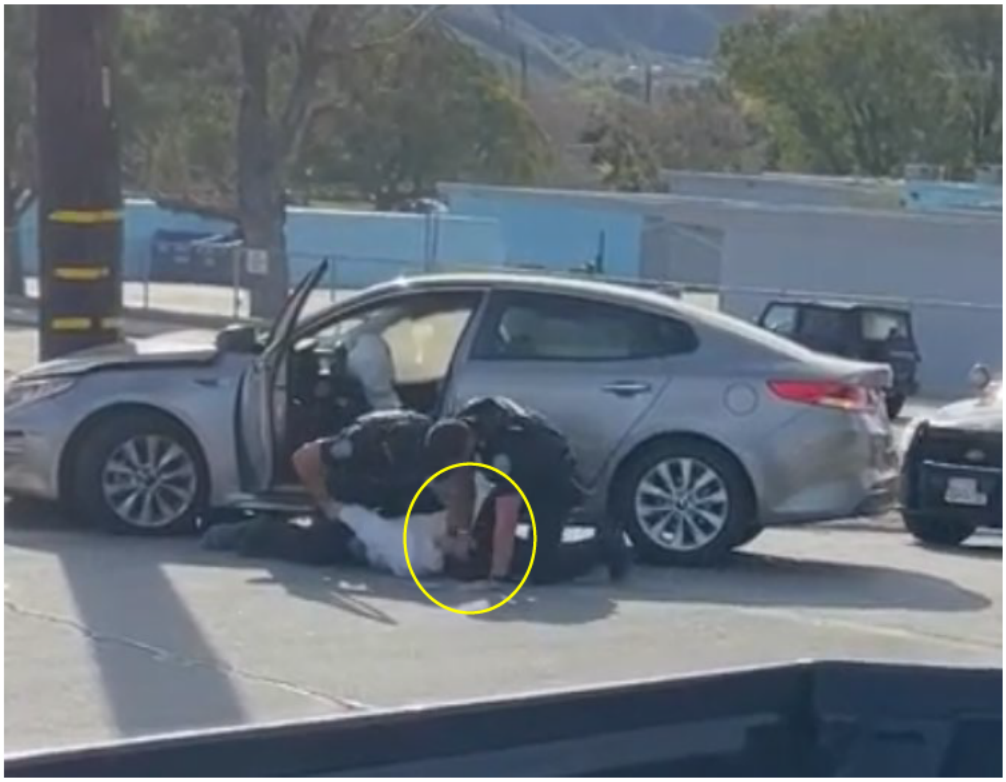
After being blocked, the Respondent transitioned to knee strikes, using his right knee to strike the Victim's face two (2) times. The Respondent placed his right hand on the Victim's face to guide the knee strikes, while Rodriguez maintained control of the Victim's right arm.

05:37: Third knee strike.



Still image taken from Attachment C – Witness Cell Phone Recording

00:07: Third knee strike.



Officer Rodriguez is observed maneuvering the Victim's right arm behind his back as

the Respondent delivered a second knee strike to the Victim's face.

00:08: Fourth knee strike.



After the two (2) knee strikes, the Respondent ended with one more punch. It appears the Respondent used his left hand to hold the Victim's face onto the ground and used his right closed fist to hit the Victim on the right side of his face.

Still images taken from Attachment B – Body Worn Camera video, X60A4550P, Pursuit

05:39: Sixth closed fist punch.



Officer Rodriguez was attempting to detain the Victim, while Respondent was striking the Victim to gain compliance.

On the BWC, the Respondent and Officer Rodriguez could be heard yelling, “Stop,” and, “Give me your hands,” and, “Stop resisting,” multiple times, with the Victim responding, “I’m done,” and, “I’m sorry,” multiple times and moaning in pain. Once a supervisor arrived on scene, the Respondent stopped punching the Victim, and held his head onto the ground until Officer Rodriguez was able to place the Victim in handcuffs.

The Respondent’s physical action on the Victim lasted less than 25 seconds before a supervisor arrived on scene. In that time, the Victim was punched at least six (6) times and kneed at least four (4) times in the face, head, and neck area. The Victim sustained a left orbital eye fracture, multiple broken teeth, and abrasions (road rash) on his face and lips.

Attachment D – Photograph of Victim’s Left Eye.



Attachment E – Photograph of Victim's Left Eye 2.



Attachment F – Photograph of Victim's Mouth.



Attachment G – Photograph of the Right Side of Victim's Face.



Attachment H – Photograph of Victim's Chipped Teeth



The vehicle pursuit and subsequent use of force were recorded on the Respondent's body-worn camera, and a portion of the incident was also captured by a bystander on a cell phone following the accident. Officer Rodriguez's body camera fell off while exiting the patrol car.

The Victim was arrested for CVC section 2800.2(a) (Evading a Peace Officer: Reckless Driving) and CVC section 2800.4 (Evading a Peace Officer: Wrong Way Driver).

The Respondent indicated in his report that he saw the Victim on the ground with a blunt object in his right hand. The Respondent also believed the Victim was attempting to get back onto his feet to run away. The Respondent stated he approached the Victim and struck him to disorient him. While the Respondent was striking the Victim, he believed the Victim was trying to stand up. The Respondent saw Officer Rodriguez struggling to detain the Victim and he thought Officer Rodriguez was being overpowered, which is why he used his knees to strike the Victim. The Respondent documented two (2) sets of knee strikes.

The case was originally assigned to a different Law Enforcmeent Consultant, who conducted an interview with the Respondent. The Respondent provided a similar reasoning for punching and kneeing the Victim as he did in his report. The Respondent initially said he was trying to effect an arrest until he felt resistance from the suspect when the Victim's left arm pulled away from him. The Respondent continued to strike the Victim to gain compliance.

The Respondent approached the Victim and attempted to keep his weight down on him to prevent him from getting on his feet. The Respondent said, "Like I previously stated, I felt his left arm immediately began to pull away from me and then at that point, I delivered my first strike to the intended area was his upper back. But I think the first two struck his neck and then from there the third one again, he continued to actively pull his arms away from us, not giving it his back and complying with my partner's commands to place his hands behind his back. So, in order to gain pain compliance and just overall compliance from [the Victim]. In general, I delivered an additional strike which struck him in the face."[4]

While watching the video, the Respondent indicated he only remembered one set of knee strikes on the Victim, although he documented two sets of knee strikes in his report. "The two knee strikes that we just saw are the only two knee strikes that I recall happening that day."[5]

The Respondent was asked about having control of the Victim's arm with both of his hands and if it was necessary to release control to deliver another punch.[6] The Respondent replied, "I - I believe it's necessary. Yes, ma'am. At that point in time, I see

[4] Attachment I, Division's October 8, 2025 Interview of Respondent, at 15:32.

[5] *Id.,* at: at 40:26.

[6] Attachment B, at 05:35.

that my partner is on – on a – fully mounted on his back and is still unable to bring [the Victim]'s arm back to his lower back. And at that point, yes, I'm able to pull his arm off, but I'm not able to bring it directly down to his back. In order to place him into handcuffs, I do believe it was necessary."[7]

When asked about the second set of knee strikes and if they were reasonable, the Respondent replied, "Because the punches before that were not effective, and in order to effect an arrest quickly and get the use of force over with and effect an arrest. And prevent escape and overcome resistance. I felt it was necessary to use a high level of force because my partner and I collectively were not able to effect an arrest up to this point."[8]

When asked why he delivered the final punch, after the Victim was saying, "I'm done, I'm done," the Respondent replied, "I mean, I – I don't recall him saying that ma'am, but I mean, I – I hear it now and I see it now. I could have already been in the process of delivering that additional punch and by the time he said it, I was already in that motion. But I – I honestly don't recall him saying that I could see. I could clearly see and hear it now, but at that moment in time, I – I don't recall it. I don't recall that, but it – I do notice that they're effective because he clearly shifts his body away from me. And then at that point, we're able to control both of his arms and place him into handcuffs."[9]

The Respondent was asked if he believed the punches and knee strikes helped or hindered Officer Rodriguez's attempt to put the Victim in handcuffs. The Respondent replied, "At that point in time I believe that they were necessary in order to effect an arrest. I think looking back at it now with all the discipline that I've the disciplinary process and learning from the classes that I've attended and just maturing as an officer. You know, in – in the two years after that incident, I think that there are other methods and other things I could have done too. I guess easily. Put him into handcuffs a little bit more effectively."[10]

The Respondent was asked if the Victim presented an imminent threat to himself or Officer Rodriguez. The Respondent replied, "As soon as he got out of the vehicle again, we didn't know if he was armed or not. The only thing that I saw was the upright position in my head because he's already exited the vehicle. I'm thinking that he's either going to confront my partner and I or continue to flee again. He had not been patted down, so I don't know if he's armed or not until we can deem it that he's not armed. I have to assume that he is armed for our safety and the safety of everybody in that community."[11]

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[7] Attachment I, at 44:40.

[8] *Id.*, at 49:48.

[9] *Id.,* at 52:21.

[10] *Id.,* at 58:34.

[11] *Id.*, at 1:01:36.

The Respondent was asked, what he would do differently today, after receiving additional training, if he encountered the same set of circumstances. The Respondent replied, “I believe I've, I've learned a lot from this incident, not just in use of force, but report writing and articulation and communication with my partners. But I think we probably could have slowed things down a little bit like how you mentioned earlier, right, taking a position, a cover, I guess what we call that is like a felony traffic stop, right? I could have given more times in between strikes to allow possibly some compliance communicated better with my partner. That way we know exactly what we're each doing, and I think honestly a lot of what happened that day could have been solved with better communication between my partner and I.”[12]

Officer Rodriguez was also interviewed by the Division. Officer Rodriguez was focused on detaining the Victim and admitted he felt resistance from the Victim as he was trying to detain him. Officer Rodriguez believed the strikes from the Respondent were helping gain compliance. When shown the video of Officer Rodriguez blocking the Respondent from striking the Victim, Officer Rodriguez did not think he was trying to stop the Respondent. Officer Rodriguez believed he was only trying to control the Victim’s hands.[13]

The San Bernardino County District Attorney’s office initiated a criminal investigation against the Respondent for a violation of California Penal Code (PC) section 149 (Officer Unnecessarily Assaulting or Beating Another Under Color of Authority) on November 30, 2023. On January 17, 2024, after reviewing the materials, Deputy District Attorney Lisa Crane concluded that the available evidence was insufficient to prove a violation of Penal Code section 149 beyond a reasonable doubt. As a result, she declined to file charges against the Respondent.[14]

The San Bernardino Police Department conducted an administrative investigation into the Respondent’s use of force during the arrest of the Victim. At the conclusion of the investigation, the department determined that the Respondent used unreasonable force. The department noted, however, that the excessive force appeared to result from the Respondent’s lack of experience, as he had been employed by the SBPD for only 14 months at the time of the incident.[15] The Respondent waived his right to the discipline appeal process and accepted the department’s findings.

On March 11, 2024, the SBPD entered into a settlement agreement with the Respondent in which he received a 40-hour suspension, 20 of which was to be served without pay while the remaining 20 hours were held in abeyance upon successful completion of forty hours of de-escalation techniques and use of force training within

[12] Attachment I , at 1:10:57

[13] Attachment J, Division’s October 7, 2025 Interview of Officer Rodriguez.

[14] Attachment K, San Bernardino County District Attorney’s Office Memorandum, dated January 17, 2024.

[15] Attachment L, San Bernardino Police Department, Manager’s Review, Case No. 23PSB-082.

one year from the date of the signed agreement.[16] On January 29, 2025, the Respondent completed his training hours.

On July 2, 2024, the Victim signed a Settlement Agreement with the City of San Bernardino awarding him $450,000.[17] The Settlement Agreement compensated the Victim for injuries he sustained during the November 27, 2023 incident.

V. Analysis and Findings

On December 8, 2023, the San Bernardino Police Department reported allegations of serious misconduct as defined in Penal Code section 13510.8(b)(3) and Commission Regulation 1205(a)(3), Physical Abuse, against the Respondent to POST pursuant to California Penal Code Section 13510.9(a)(2). On March 20, 2024, the San Bernardino Police Department provided the completed internal affairs investigation, along with the March 11, 2024 Settlement Agreement between the Respondent and the City of San Bernardino (Attachment M) regarding the November 27, 2023 incident. As stated in the March 11, 2024 Settlement Agreement, the San Bernardino Police Department found Respondent violated several internal policies, including, but not limited to, the department's policy prohibiting excessive use of force (Policy No. 300.3) and requiring the use of de-escalation tactics before engaging in uses of force "as time and circumstances reasonably permit…" (Policy No. 300.3.4). As a result of this incident, Respondent received a 40-hour suspension, which consisted of a 20-hour suspension without pay and 20-hour suspension held in abeyance pending the successful completion of de-escalation of use of force techniques within one (1) year.

A. Does the alleged conduct violate Commission Regulation 1205(a)(3) – Physical Abuse.

The Serious Misconduct category of Physical Abuse in Section 1205(a)(3) is defined as follows:

Physical abuse, including, but not limited to, the excessive or unreasonable use of force.

In California, "[a]ny peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance." (Pen. Code § 835a, subd. (b).) "[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

[16] Attachment M, Settlement Agreement in Case No. 23PSB-082 between the City of San Bernardino and Hector Victorio, dated March 11, 2024.

[17] Attachment N, Victim's Settlement Agreement with City, dated July 31, 2024.

circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force." (Pen. Code § 835a, subd. (a)(4).)

After reviewing the facts and circumstances of the case, the Division determined, by the clear and convincing evidence standard, that the Respondent engaged in physical abuse, including the use of excessive and unreasonable force, which constituted serious misconduct as defined in Penal Code 13510.8(b)(3) and Commission Regulation section 1205(a)(3) as the force used by Respondent was not "objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance…" of the Victim. (See Pen. Code § 835a, subd. (b).) Specifically, the Respondent applied force against the Victim that was excessive and unreasonable because:

- Based on a review of the BWC video and cell phone video that captured the custody phase, there was no visible indication that the Victim was uncooperative with Respondent or Officer Rodriguez.
- At the conclusion of the vehicle pursuit, the Victim exited his vehicle and laid flat on the ground with his palms face down above his head.
- As the Respondent exited the driver's seat of his patrol vehicle, he immediately yelled, "Get on the fucking ground," as he ran towards the Victim, despite the Victim being already prone on the ground with his hands above his head.
- Upon hearing the Respondent's commands, the Victim immediately responded, "I'm on the ground, I'm on the ground, bro, I'm not resisting."
- Upon arriving at the Victim's position, the Respondent immediately applied physical force.
- The Victim remained on the ground and exhibited no attempt to flee or evade officers prior to the Respondent making physical contact.
- The Victim was struck by the Respondent at least six (6) times with punches and four (4) times with knee strikes.
- During the altercation with officers, it appeared as if Officer Rodriguez attempted to block the Respondent from continuously striking the Victim by placing his hand in the way of a fist punch and positioning his body over the Victim to stop further uses of force.
- The Victim's actions suggest he was attempting to protect his head and face rather than engage in resistance.
- The Victim sustained a fractured orbital socket, chipped teeth, and abrasions (road rash) to his face.
- The Victim was unarmed and not found to be under the influence of alcohol or drugs.
- The Respondent justified his actions because the Victim had an unknown object in his right hand, which turned out to be a cell phone and a cash bill.

- Based on the video, the Respondent delivered a punch to the Victim before he ever attempted to gain control of his hands, which contradicted his statement to the Division that he was trying to detain the Victim, and that the Victim pulled his hand away.
- The Respondent was hindering Officer Rodriguez's ability to gain control of the Victim because by striking the Victim while the Victim was attempting to protect his face.
- Approximately one (1) month prior to this incident, the Respondent had a suspect run from him on a scooter. When the Respondent caught up to the suspect, he told him, "You're so fucking lucky there's people here, I'd beat the fuck out of you for taking away from me." One month later, after a suspect "took off from him" during a vehicle pursuit, he assaulted the Victim.

Clear and convincing evidence indicates that the force used by the Respondent was excessive. The Respondent punched the Victim at least six (6) times and kneed him at least four (4) times in the head, neck, and shoulder areas. This level of force was unreasonable and excessive, given that the Victim was lying face down with his hands palm down above his head, in a position of surrender.

B. Commission Regulation 1213 Factors.

Under Commission Regulation section 1213, "[i]n considering whether to take action against a peace officer's certification, and in considering whether a revocation or suspension is appropriate in light of the facts of the particular case…" several factors must be considered. These factors include: (1) "[t]he nature and severity of the act or omission[;] (2) "[t]he circumstances surrounding the conduct and the extent to which the act or omission caused any actual or potential harm to or impact upon the victim, the public, other peace officers, the employing agency, or the law enforcement profession[;] (3) [w]hether the involved peace officer is currently employed as a peace officer[;] (4) whether the alleged conduct was committed under the color of authority or while the peace officer was acting in the capacity of a peace officer; (5) [t]he peace officer's prior conduct, discipline and service record, an any prior instances of misconduct[;] (6) [t]he proximity or remoteness in time since the conduct occurred[;] (7) [a]ny mitigating or aggravating factors and/or evidence of rehabilitation[;] (8) [t]he degree of accountability and cooperation with the investigation evidenced by the peace officer[;] (9) [t]he extent to which discipline, or forbearance from discipline, would impact the best interests of the public, the public service, the employing agency, and/or the law enforcement profession[;] (10) [t]he motives of the peace officers that resulted in the conduct[;] (11) [c]onsistency of the penalty with those imposed upon other peace officers for the same or similar offense[;] (12) [t]he clarity with which the peace officer was on notice of any rules that were violated in committing the offense[;] (13) [t]he extent to which the act or omission was done intentionally, willfully, or maliciously[;] (14) [t]he likelihood of recurrence[; and] (15) [a]ny other aggravating or mitigating factors relevant to

the…determination."

Following the above incident, Respondent was involved in two additional, unrelated incidents, each of which resulted in significant disciplinary action. These separate matters further reflect a pattern of conduct that required corrective measures. A summary of these incidents is provided below as part of the consideration of the Commission Regulation section 1213 factors. Specifically, the Respondent's discipline and service record and any mitigating or aggravating factors and/or evidence of rehabilitation.

One month prior to the use of force incident, on October 28, 2023, SBPD officers were dispatched to a commercial burglary. Surveillance footage showed multiple suspects burglarizing the building. Officers arrived and located all but one suspect, who remained outstanding.

The Respondent observed an individual matching the description of the suspects riding an electric scooter. He stopped his vehicle with emergency lights activated, exited his vehicle, and verbally instructed the suspect to stop and return. The suspect continued fleeing. Another officer arrived on scene, caught up to the suspect, and detained him.

The Respondent then arrived at the location where the suspect was detained and confirmed that the individual was the one who had fled from him. During a search of the suspect's pockets, the Respondent stated, "You're so fucking lucky there's people here, I'd beat the fuck out of you for taking away from me."[18]

After his comments to the suspect, the Respondent took possession of the suspect's backpack. Inside the backpack was a white substance, which officers suspected was methamphetamine or cocaine, a greenish substance that officers suspected was marijuana, "1More" brand earphones, two (2) cell phones, hygiene, alcohol, an empty wallet, lighters, a screwdriver, a USB cord, a black sock, a floral print pouch, a white unknown electronic device, hand sanitizer, body wash, and some small boxes. The headphones were identical to the ones stolen and recovered in the commercial burglary. The Respondent ended up discarding the backpack without booking the backpack into evidence. Respondent did, however, book the suspect's extra shirt, which was used as a face covering, into evidence.[19]

This incident was brought to SBPD's attention by the San Bernardino County Assistant District Attorney, who expressed concern about the comment the Respondent made to the suspect while reviewing body camera footage. During an administrative investigation, the Respondent admitted he discarded the backpack because it was "disgusting" from what was believed to be alcohol leaking onto the backpack causing a

[18] Attachment O – Body Worn Camera video, X60A4550P, Burglary: at 02:48

[19] Attachment P - San Bernardino Police Department Internal Affairs Investigation Case No. 24PSB-006, dated August 1, 2024

wet and sticky residue.[20] The Respondent acknowledged that he was not thinking at the time and recognized that he made a mistake. The Respondent's internal affairs investigation concluded with sustained findings for Unbecoming Conduct, Neglect of Duty, and Improper Tactics. As a result, he was suspended without pay for 40 hours and placed on a Performance Improvement Plan (PIP) from November 1, 2024, through April 30, 2025.[21] The PIP required him to correct deficiencies in his reporting, improve his driving practices, and comply fully with the agency's code of conduct and applicable policies.[22]

On April 28, 2025, the Respondent and another officer conducted a vehicle stop on a solo female driver.[23] A records check revealed she was driving on a suspended driver's license. In conversation, she admitted she had been arrested in Nevada for a firearm related charge. The Respondent told her to step out of her vehicle so he could make sure there was nothing illegal in the car. The driver stepped out of the vehicle for the Respondent to search. After searching the vehicle, the Respondent and the other officer deactivated their body cameras and Respondent made some sort of agreement with the driver that if she let him search her house, in exchange he would not tow her vehicle or arrest her.

The driver complied and the Respondent placed her in handcuffs in the rear of his patrol vehicle and drove her back to her house. The Respondent left the driver inside his patrol vehicle while he searched the house for ammunition she told him was in her dresser. The Respondent located 16 live rounds of ammunition and took the driver back to her vehicle. The Respondent issued the driver a citation for driving on a suspended driver's license and released her.

The driver filed a citizen's complaint regarding the interaction. During the administrative investigation, the Respondent admitted his actions and also that he failed to book the ammunition into evidence, which was still in his beat bag. He booked the evidence and SBPD sustained findings for Unbecoming Conduct, Neglect of Duty, and Improper Tactics. The Respondent was suspended for 40 hours without pay and was demoted to a Community Service Officer for failing to complete his PIP.[24]

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[20] Attachment P - San Bernardino Police Department Internal Affairs Investigation Case No. 24PSB-006, dated August 1, 2024

[21] Attachment Q - Settlement Agreement in Case No. 24PSB-006 between the City of San Bernardino and Hector Victorio, dated October 24, 2024.

[22] Attachment R - San Bernardino Police Department Performance Improvement Plan, Case No. 24PSB-006, dated October 28, 2024

[23] Attachment S – San Bernardino Police Department Internal Affairs Investigation Case No. 25PSB-093, dated September 17, 2025.

[24] Attachment T - Settlement Agreement in Case No. 25PSB-093 between the City of San Bernardino and Hector Victorio, dated November 4, 2025

Based on the above, reasonable grounds exist to submit this case to the Peace Officer Standards Accountability Advisory Board and the POST Commission for consideration of revocation or suspension pursuant to California Penal Code section 13510.85(a).

VI. Supporting Evidence

- Attachment A – San Bernardino Police Department Report, Case No. 2023-00134638, November 27, 2023.
- Attachment B – Body Worn Camera video, X60A4550P, Pursuit, dated November 27, 2023.
- Attachment C – Witness A. Menchaca Cell Phone Recording, dated November 27, 2023.
- Attachment D – Photograph of Victim's Left Eye, dated November 27, 2023.
- Attachment E – Photograph of Victim's Left Eye 2, dated November 27, 2023.
- Attachment F – Photograph of Victim's Mouth, dated November 27, 2023.
- Attachment G – Photograph of the Right Side of Victim's Face, dated November 27, 2023.
- Attachment H – Photograph of Victim's Chipped Teeth, dated November 27, 2023.
- Attachment I – Division's October 8, 2025, Interview of Respondent.
- Attachment J – Division's October 7, 2025, Interview of Officer Rodriguez.
- Attachment K – San Bernardino County District Attorney's Office Memorandum, dated January 17, 2024.
- Attachment L – San Bernardino Police Department, Manager's Review, Case No. 23PSB-082, February 7, 2024.
- Attachment M – Settlement Agreement in Case No. 23PSB-082 between the City of San Bernardino and Hector Victorio, dated March 11, 2024.
- Attachment N, Victim's Settlement Agreement with City, dated July 31, 2024.

- Attachment O – Body Worn Camera video, X60A4550P, Burglary, dated October 28, 2023.

- Attachment P – San Bernardino Police Department Internal Affairs Investigation Case No. 24PSB-006, dated August 1, 2024.

- Attachment Q – Settlement Agreement in Case No. 24PSB-006 between the City of San Bernardino and Hector Victorio, dated October 24, 2024.

- Attachment R - San Bernardino Police Department Performance Improvement Plan, Case No. 24PSB-006, dated October 28, 2024.

- Attachment S – San Bernardino Police Department Internal Affairs Investigation Case No. 25PSB-093, dated September 17, 2025.

- Attachment T – Settlement Agreement in Case No. 25PSB-093 between the City of San Bernardino and Hector Victorio, dated November 4, 2025.

Commission on Peace Officer Standards and Training
860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1603
(916) 227-3909 • www.post.ca.gov

EXECUTIVE REVIEW & PEACE OFFICER STANDARDS ACCOUNTABILITY DIVISION RECOMMENDATION

DATE: 1/29/2026

CASE #: POST2322062

PEACE OFFICER: Hector Victorio

POST ID#: C87-Q51

AGENCY: San Bernardino Police Department

POST CONSULTANT / BC: LEC Michael Marshall / Chief Christine Ford

ALLEGATION(S):

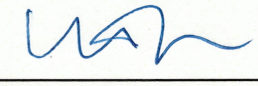
California Code of Regulations Title 11 § 1205(a)(3) – Abuse of power/Excessive or Unreasonable Use of Force

The San Bernardino Police Department submitted this case, alleging that Officer Hector Victorio (hereinafter "Respondent") engaged in serious misconduct involving in physical abuse by using excessive force during an arrest. The Respondent and his partner attempted to conduct a traffic enforcement stop which led to a vehicle pursuit. At the conclusion of the vehicle pursuit, the vehicle crashed and the suspect exited the vehicle and laid flat on the ground with his hands, palm down on the ground above his head. The Respondent approached the suspect and began punching and kneeing the suspect multiple times (10 times) in the face and head. During the administrative investigation, the department determined the Respondent used excessive force. The Respondent received a 40-hour unpaid suspension, 20 of which was held in abeyance pending completion of 40 hours of Use of Force training within one year of the date of the signed settlement agreement.

The Peace Officer Standards Accountability Division, Certification Executive Review Panel has reviewed the above referenced case involving alleged serious misconduct and has determined the following:

☒ There are reasonable grounds for suspension or revocation of a peace officer's certification.

POST determined clear and convincing evidence exists to show Respondent committed serious misconduct as defined in Penal Code §13510.8(b)(3) and Title 11, California Code of Regulations 1205(a)(3) - Physical abuse when he used force after the suspect had already surrendered and was lying prone on the ground.

William Darden Chief Legal Counsel	 Signature	2/11/24 Date
Annemarie Del Mugnaio Assistant Executive Director	 Signature	2-11-2026 Date
Manny Alvarez Executive Director	 Signature	02/12/2026 Date

cc: Bureau Chief _____

cc: Jason Morlock

cc: Chandler Knapp

cc: _____

POST PROFILE NAME:

VICTORIO, HECTOR A.

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

AKA: N/A

DATE: 03/17/2026

PERSONAL IDENTIFICATION

POST I.D.	Agency	Birth Date	Gender	Race/Ethnicity
C87-Q51		[redacted]	[redacted]	[redacted]

CERTIFICATES AWARDED

Cert No.	Type	Awarded	Education	T	T+	Comments
209271	B	[redacted]		[redacted]	0.00	

Total Number of Certificates: 1

PROOF OF ELIGIBILITY

POE	Agency Name	Agency	Issued	Status
P0011412	SAN BERNARDINO PD	36100	03/14/2022	Expired

Total Number of Proof of Eligibility: 1

EMPLOYMENT

Hired From	To	R*	Rank	Rank Date	Agency	Agency Name	F/P	P/U	Seas
09/16/2021	03/14/2022	6	TRN	09/16/2021	36100	SAN BERNARDINO PD	F	P	
03/14/2022	11/05/2025	1	PO	03/14/2022	36100	SAN BERNARDINO PD	F	P	

***Reason for Separation: 1 = Resigned, 6 = Other**

POST CERTIFIED TRAINING

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
02/01/2022	K	2330-32075-21-010	16		Y	36100	S BRNDO SD		FIREARMS/TACTICAL RIFLE
03/10/2022	A	2330-00100-21-002	927		Y	36100	S BRNDO SD		BASIC COURSE-INTENSIVE
04/05/2022	K	2280-29503-21-004	8	X	Y	36100	SANBER PD	*	ARSTCTL(PSP)
04/05/2022	K	2280-29540-21-004	2	X	Y	36100	SANBER PD	*	STRATEGIC COMMUNICATIONS (PSP)
04/06/2022	K	2280-29580-21-004	4	X	Y	36100	SANBER PD	*	USE OF FORCE (PSP)
04/06/2022	K	2280-29000-21-288	2	X	Y	36100	SANBER PD		BIAS AND RACIAL PROFILING
04/07/2022	K	2280-21135-21-004	5		Y	36100	SANBER PD	*	DRIVER AWARENESS UPDATE
04/07/2022	K	2280-32095-21-004	5		Y	36100	SANBER PD	*	FIREARMS/TACTICAL HANDGUN
12/21/2022	K	6860-29490-22-001	6		Y	36100	RIVERSDEDA		ADVANCED FIREARMS TRAINING
01/26/2023	G	7290-22451-22-007	16		Y	36100	D-PREP		OFFICER INVOLVED SHOOTING/FIELD SUPERVISORS
03/03/2023	K	1225-24261-22-006	8		Y	36100	LACLEAR		SEARCH WARRANT-PATROL
05/26/2023	K	2280-32075-22-003	16		Y	36100	SANBER PD		FIREARMS/TACTICAL RIFLE
10/20/2023	K	2330-23000-23-001	120		Y	36100	S BRNDO SD		SPECIAL WEAPONS & TACTICS
02/07/2024	K	1487-20185-23-222	4	X	Y	36100	PLI		DE-ESCALATION AWARENESS AND COM-SELF PACED
02/07/2024	K	1487-20186-23-222	4	X	Y	36100	PLI		ADV DE-ESCALATION AWARENESS AND COM-SELF PACED
07/30/2024	K	1788-23214-24-001	8	X	Y	36100	G&ALLC		GANG AWARENESS, BASIC
09/24/2024	K	8004-21653-24-002	8	X	Y	36100	LODD	*	USE OF FORCE: CRIMINAL AND CIVIL PROCEEDINGS
10/07/2024	K	2280-29503-24-004	8	X	Y	36100	SANBER PD	*	ARSTCTL(PSP)
10/07/2024	K	2280-29540-24-004	2	X	Y	36100	SANBER PD	*	STRATEGIC COMMUNICATIONS (PSP)
10/08/2024	K	2280-21135-24-004	5		Y	36100	SANBER PD	*	DRIVER AWARENESS UPDATE
10/08/2024	K	2280-29580-24-004	4	X	Y	36100	SANBER PD	*	USE OF FORCE (PSP)
10/09/2024	K	2280-22306-24-004	8		Y	36100	SANBER PD		ACTIVE SHOOTER RESPONSE
10/09/2024	K	1417-22642-24-010	8	X	N	36100	RWCINV		SUICIDE BY COP
10/10/2024	K	2280-32095-24-004	5		Y	36100	SANBER PD	*	FIREARMS/TACTICAL HANDGUN
10/17/2024	K	1417-22642-24-011	8	X	N	36100	RWCINV		SUICIDE BY COP

POST PROFILE NAME:

VICTORIO, HECTOR A.

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

AKA: N/A

DATE: 03/17/2026

POST CERTIFIED TRAINING *continued*

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
11/14/2024	K	2490-23201-24-001	24	X	Y	36100	SAPD		GANG INVESTIGATION, ADV.
01/29/2025	K	1534-22419-24-005	24	X	Y	36100	HPTC		OFFICER SAFETY/FORCE ENCOUNTERS ANALYSIS
05/06/2025	K	9260-22020-24-022	8		Y	36100	DOJ		ELECTRONIC SURVEILLANCE

***Meets Perishable Skills**

FOOTNOTES

NO FOOTNOTE ON FILE.

PLEASE REFER TO THE ENCLOSED EXPLANATION SHEET FOR ADDITIONAL INFORMATION.

COMMISSION ON POST – PROFILE REPORT

The Profile Report contains confidential information.

EXPLANATION SHEET

PERSONAL IDENTIFICATION: Subject's personal information as indicated in POST database (EDI system)	
POST ID:	Unique identification number assigned to subject by POST.
Agency:	Indicates the agency (or one of the agencies) where subject is currently employed. An "*" indicates that the subject is employed in more than one position within the same agency.
Birth Date/Gender:	Self-explanatory.
Race/Ethnicity:	**A** = Asian **B** = African American (Black) **N** = Native American **S** = Spanish/Hispanic **W** = White **O** = Other

CERTIFICATES AWARDED	
Cert:	Certificate serial number.
Type:	**B** = Basic **I** = Intermediate **A** = Advanced **S** = Supervisory **M** = Management **E** = Executive **R** = Reserve **D** = Public Safety Dispatcher **SX**= Specialized X (example: SA = Specialized Advanced)
Awarded:	Date certificate was issued.
Education:	Educational points or degree used for earning a certificate.
T:	Training points used for awarding the certificate.
T+:	Additional training points.
Comments:	Comments regarding training or institute(s) where subject received education.
Total Number of Certificates:	Number of certificates awarded to subject as indicated in POST database.

EMPLOYMENT: Subject's employment history as indicated in POST database	
Hired From:	Date subject was hired or sworn into the agency.
To:	Date subject left agency (if applicable).
R*:	Reason for separation as indicated by number in the Report description.
Rank / Rank Date:	Indicates rank as translated by POST database and date subject made rank.
Agency / Agency Name:	Agency code number and name where subject is currently working or previously worked.
F/P:	Time base: **F** = Full time **P** = Part time
P/U:	Wage status: **P** = Paid **U** = Unpaid
Seas:	Provisional or seasonal employment.

POST TRAINING: Courses attended or completed as indicated in POST database	
Comp Date:	Date course ended.
Cat:	General course category (for POST use only).
CCN:	Course Control Number.
Hrs:	Hours completed in course.
Rmb:	Reimbursement indicator: **R** = Reimbursed *(before FY 83/84 reimbursable agency not necessarily reimbursed)* **J** = Job specific * = Job specific, SALARY NOT PAID **Blank** = None or no data available
Cmp:	Completion indicator: **Blank or Y** = Course completed **N** = Course not completed **?** = Prior to 1979
Agency:	Agency where subject was employed at time of course enrollment.
School:	Training institute offering the course.
Course Name:	Course name as shown in POST database.

NON-CERTIFIED COURSES

This section will only appear if applicable.

FIELD TRAINING

This section tracks field training progress and will only appear if applicable.

FOOTNOTES

This section reserved for additional information.

Attachment A
San Bernardino Police Department Report,
Case No. 2023-00134638, November 27, 2023

CASE CONTAINS	SAN BERNARDINO POLICE DEPARTMENT	1. CASE NUMBER
FOLLOW UP ☐ WRITTEN ☐ TAPED ☐ TYPED ☐ EVIDENCE ☐ PROPERTY SHEET ☐ SUSPECT ☐ DIAGRAM ☐ CITATION # _____	CA0361000 710 N. D STREET (P.O. BOX 1559) SAN BERNARDINO, CA 92401 (909) 384-5742	2023-00134638 2. DATE / TIME REPORTED 11/27/2023 13:38

3. LOCATION OF OCCURRENCE	4. FROM DATE / TIME	5. TO DATE / TIME	6. AREA
W HIGHLAND N E	11/27/2023 13:38	11/27/2023 13:38	

7. CODE SECTION(S)		8. CRIME(S)
2800.2(A) VC-F	☐ ATTEMPT	EVADING A PEACE OFFICER: RECKLESS DRIVING
2800.4 VC-F	☐ ATTEMPT	EVADING A PEACE OFFICER: WRONG WAY DRIVER

VICTIM / WITNESS / INVOLVED PARTY

9. PERSON OR FIRM NAME (LAST, FIRST, MID.)	10. SEX	11. RACE	12. AGE	13. DOB	14. EMAIL ADDRESS	15. CODE
STATE OF CALIFORNIA,						VIC

16. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

17. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

18. PERSON OR FIRM NAME (LAST, FIRST, MID.)	19. SEX	20. RACE	21. AGE	22. DOB	23. EMAIL ADDRESS	24. CODE

25. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

26. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

27 PERSON OR FIRM NAME (LAST, FIRST, MID.)	28. SEX	29. RACE	30. AGE	31. DOB	32. EMAIL ADDRESS	33. CODE

34. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

35. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

36. PERSON OR FIRM NAME (LAST, FIRST, MID.)	37. SEX	38. RACE	39. AGE	40. DOB	41. EMAIL ADDRESS	42. CODE

43. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

44. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

45. PERSON OR FIRM NAME (LAST, FIRST, MID.)	46. SEX	47. RACE	48. AGE	49. DOB	50. EMAIL ADDRESS	51. CODE

52. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

53. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

54. PERSON OR FIRM NAME (LAST, FIRST, MID.)	55. SEX	56. RACE	57. AGE	58. DOB	59. EMAIL ADDRESS	60. CODE

61. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

62. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

63. PERSON OR FIRM NAME (LAST, FIRST, MID.)	64. SEX	65. RACE	66. AGE	67. DOB	68. EMAIL ADDRESS	69. CODE

70. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

71. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

72. PERSON OR FIRM NAME (LAST, FIRST, MID.)	73. SEX	74. RACE	75. AGE	76. DOB	77. EMAIL ADDRESS	78. CODE

79. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

80. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

81. PERSON OR FIRM NAME (LAST, FIRST, MID.)	82. SEX	83. RACE	84. AGE	85. DOB	86. EMAIL ADDRESS	87. CODE

88. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

89. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

90. REPORTING OFFICER	91. ID #	92. DATE	93. OTHER INVOLVED OFFICERS	94. RECORDS BAR CODE
Victorio	51391	11/27/2023		

95. REVIEWED BY	96. DATE	97. FURTHER ACTION	98. RECORDS PROCESSING BY
Blackwell, Mark	11/27/2023	☐ NO ☒ YES	

ASSIGNMENT/OBSERVATIONS:

On Monday, November 27th, 2023, Officer G. Rodriguez and I were working uniformed patrol in the city of San Bernardino. I was the driver and Officer Rodriguez was my front passenger. We wore an approved San Bernardino Police Department uniform which identified us as Police Officer's. I drove a fully marked San Bernardino patrol unit, with functioning overhead lights and sirens.

At about 1338 hours, we were conducting proactive patrol enforcement in the area of N. E Street and W. Highland Avenue. I was making a southbound turn onto the number one lane of N. E Street from W. Highland Avenue when I observed a gold Kia Optima in the number one lane of N. E Street. The Kia was stopped at the intersection of N. E Street and W. Highland Avenue at a red light. The Kia did not have a front license plate, I looked through my rear view mirror as I was driving southbound and noticed it also did not have a rear license plate.

I conducted a U turn and got into the number two lane of N. E Street to position myself for a traffic stop on the Kia for being in violation of California Vehicle Code 5200 (a) - Display of license plates. The signal for northbound traffic on N. E Street turned green and instead of the Kia proceeding northbound on the number one lane of N. E Street the vehicle made an unsafe turn (CVC 22107 - unsafe turn) into the left hand turn lane (to go westbound) of N. E Street.

I made a westbound turn onto W. Highland Avenue and initiated a traffic stop by activating my overhead lights and sirens. The Kia at this point was in the number two lane of W. Highland Avenue and failed to yield. My over head lights and sirens remained on during the entire pursuit and my department issued body worn camera was on during the pursuit.

Based on my experience with vehicle pursuits, suspects that fail to yield either have firearms, narcotics, stolen vehicles or outstanding warrants. Based on my physical encounters with subjects that are under the influence of alcohol or narcotics they tend to be abnormally strong and resistant to pain. Not once have I been able to control someone under the influence of alcohol or narcotics without the assistance of another Officer.

INVESTIGATION:

The suspect, later identified as, Victim (DOB: PII - Civ. Code sec. 1798.24) was approaching the intersection of W. Highland Avenue and N. G Street which had multiple vehicles stopped at a solid red light. Victim attempted to squeeze in between the vehicle in the number two lane and the north curb line of W. Highland Avenue almost striking the vehicle in the number two lane. As a result of Victim squeezing in between the vehicle stopped at the red light, the Kia Victim was driving scraped against the north curb line of W. Highland Avenue.

Victim made a northbound turn onto N. G street without signaling (CVC 22108 - failing to signal 100 feet prior) going approximately 30 miles per hour on the number one lane of N. G Street. Victim continued on N. G Street until making an eastbound turn onto W. 27th Street. Victim then made a southbound turn onto N. F Street and immediately made an eastbound turn onto W. Courtland Drive without signaling (CVC 22108 - failing to signal 100 feet prior). Victim continued

REPORTING OFFICER	ID #	DATE	FURTHER ACTION	REVIEWED BY	DATE
Victorio	51391	11/27/2023	Y - YES	Blackwell, Mark	11/27/2023

on W. Courtland Drive until failing to stop at the stop sign at the intersection of W. Courtland Drive and N. E Street (CVC 22450 (a) - stop sign violation) making a northbound turn (CVC 22108 - failing to signal 100 feet prior) onto N. E Street.

Victim continued northbound on N. E Street switching in and out of the number one and number two lane of N. E Street. Victim 's speeds varied from 50 miles per hour to 80 miles per hour while traveling on N. E Street. Once Victim got to the intersection of N. E Street and W. 30th Street, Victim blew past the solid red light (CVC 21453 (a) - failure to stop for red signal) and continued northbound on N. E Street.

Once Victim reached the intersection of N. E Street and W. Marshall Blvd, Victim once again failed to stop at the red signal (CVC 21453 (a)) and was driving approximately 60 miles per hour being in violation of CVC 22350 - Basic speed. Once Victim reached the intersection of N. E Street and W. Kendall Drive, Victim went into opposing lanes of travel (CVC 2800.4 - Evading officers, wrong way driver) for a brief second almost causing a collision on the southbound lanes of W. Kendall Drive. Victim then merged back into the northbound lanes of W. Kendall Drive and continued at approximately 70 miles per hour (CVC 22350 - Basic speed) as the road began to curb.

Once Victim arrived to the intersection of W. Kendall Drive and N. H Street, Victim drove past another solid red signal (CVC 21453 (a) - failure to stop for red signal) going approximately 90 miles per hour. Victim continued westbound on W. Kendall Drive until running a the red signal (CVC 21453 (a) - failure to stop for red signal) at N. Shandin Hill Circle still going approximately 90 miles per hour (CVC 22350 - Basic speed).

Victim continued driving westbound on W. Kendall Drive going approximately 100 miles per hour (CVC 22350 - Basic speed) for approximately 1.86 miles until slowing down at the intersection of W. Kendall Drive and N. University Parkway. Victim drove past the intersection and drove into opposing lanes of traffic on W. Kendall Drive at which point he began making erratic turning movements in what I believe was an attempt to deceive Officers.

Victim made a northbound turn into the parking lot of Farmer Boys (1766 Kendall Drive) and CVS (5200 University Parkway) going approximately 40 miles per hour. Victim drove through the backside of the businesses in the Campus Crossroads shopping center and made a northbound turn onto N. University Parkway for southbound traffic (CVC 2800.4 - Evading officers, wrong way driver). Victim continued on opposing lanes of N. University Parkway for approximately 1,000 feet while oncoming traffic was moving out of our way.

Once Victim approached the intersection of N. University Parkway and W. Northpark Blvd, Victim made an eastbound turn onto the westbound lanes of W. Northpark Blvd. Once again Victim was on opposing lanes of travel (CVC 2800.4 - Evading officers, wrong way driver). Victim continued eastbound on the opposing lanes of travel and ran the red signal (CVC 21453 (a)) at the intersection of N. Little Mountain Drive and W. Northpark Blvd going approximately 90 miles per hour (CVC 22350 - Basic speed).

Victim continued eastbound on the westbound lanes of W. Northpark Blvd going approximately 100 miles per hour until slowing down at the intersection of W. Northpark Blvd and N. Electric Avenue. Victim drove on the opposing lanes of travel on W. Northpark Blvd for approximately 2.4 miles while vehicles were continuously moving out Victim 's. Victim made a southbound turn onto N. Electric Avenue and quickly made an eastbound turn onto W. 50th Street and collided into electrical pole (#827391E) on the south curb line of W. 50th Street just east of N. Electric Avenue.

I believed Victim was either under the influence of alcohol or narcotics based on him having no

due regard for the public. Victim demonstrated this by his excessive speeds, not stopping at multiple stop signs, not stopping at solid red traffic signals, almost causing multiple traffic collisions with his erratic driving and driving on the opposing lanes of traffic for approximately 2.4 miles. Victim posed a serious threat to the community and based on all the factors just listed, I believed him to be possibly armed and dangerous.

I immediately came to a stop and observed the driver side door of Victim's vehicle come open. I believed Victim was attempting to flee the scene so I immediately exited my unit and began to sprint to the vehicle. As soon as I began to approach the driver side door, I observed Victim on the floor with a blunt object in his right hand.

Victim's head was in an upright position and his knee's were slightly bent in which I believed he was attempting to get back onto his feet. I immediately went down onto a knee and attempted to disorient Victim by placing my hand on his head and striking Victim in his upper torso area and inadvertently struck him in the head.

I observed Victim's arms on the top of his head and his elbows pressed off the ground, I believed he was trying to create space between the ground and him to possibly stand up. In an attempt to prevent that from happening, I struck his upper back twice with my right hand. I observed Officer Rodriguez attempting to gain control of Victim's left wrist he was unable to so, I delivered an additional strike to Victim's upper back area with my right hand. I then observed Officer Rodriguez attempting to gain control of Victim's right wrist and was unable to. In fear Victim was over powering Officer Rodriguez, I attempted to strike Victim with my right knee in the left shoulder and inadvertently struck Victim twice in the head due to Victim continuously pulling his arms away.

The strikes appeared to be ineffective due to Officer Rodriguez still being unable to control Victim's left arm. In an attempt to gain compliance from Victim I struck Victim with my right hand in the facial area but it was ineffective due to Officer Rodriguez still not being able to control Victim's right arm. I then struck Victim in the left shoulder but my punched slipped past his shoulder and nicked the top of his head. Once again the strikes appeared to be ineffective due to Officer Rodriguez being unable to place Victim's right arm behind his back.

I observed Officer Rodriguez gain possession of Victim's right arm but was unable to control it so I delivered two knee strikes to Victim's head. The strikes appeared to be ineffective due to Officer Rodriguez being unable to control Victim's right arm. I delivered an additional strike with my right hand to Victim's facial area and it appeared to be effective due to Victim placing his left hand his back and finally allowing Officer Rodriguez to place handcuffs on Victim Officers escorted Victim to the back of the unit.

Officers conducted a records check on the vehicle and it came back stolen out of Yucaipa. Officers attempted to contact the owner of the vehicle and were unable to get a hold of them.

See Officer Wilcox report for the traffic collision. See Forensic's report for photographs of the vehicle and scene. Paramedics arrived on scene and evaluated Victim for his injuries. Officers transported Victim to Arrowhead Regional Medical Center to be further evaluated for his injuries (for further details see Officer Rodriguez for further details.)

Sgt. M. Blackwell was notified of the incident.

This would conclude my investigation.

ARREST:

Victim was transported to the Central Detention Center where he was booked and lodged for being in violation of California Vehicle Code 2800.2 (a) - reckless evading, California Vehicle Code 2800.4 - evading Officer wrong way driver, California Vehicle Code 10851 (a) - vehicle theft and Penal Code 496D(A) - possession of a stolen vehicle.

SUSPECT STATEMENT:(Victim (DOB:PII - Civ. Code sec. 1798.24)

On 11-27-2023, at about 1721 hours, I interviewed the suspect (Victim I began the interview by advising Victim of his Miranda rights from my SBPD issued Miranda waiver rights card. When asked if he understood his rights, Victim said “yeah”.

Victim stated he fled from Officers because he was trying to get gas. Victim also stated he was aware he did not stop at stop signs. At this point in time Victim stated he no longer wanted to talk about the incident.

I was going to ask about about the stolen vehicle but Victim refused to answer anymore questions. This concluded my interview with Victim

Attachment D
Photograph of Victim's Left Eye,
dated November 27, 2023


PHOTOGRAPHED BY
CASE#

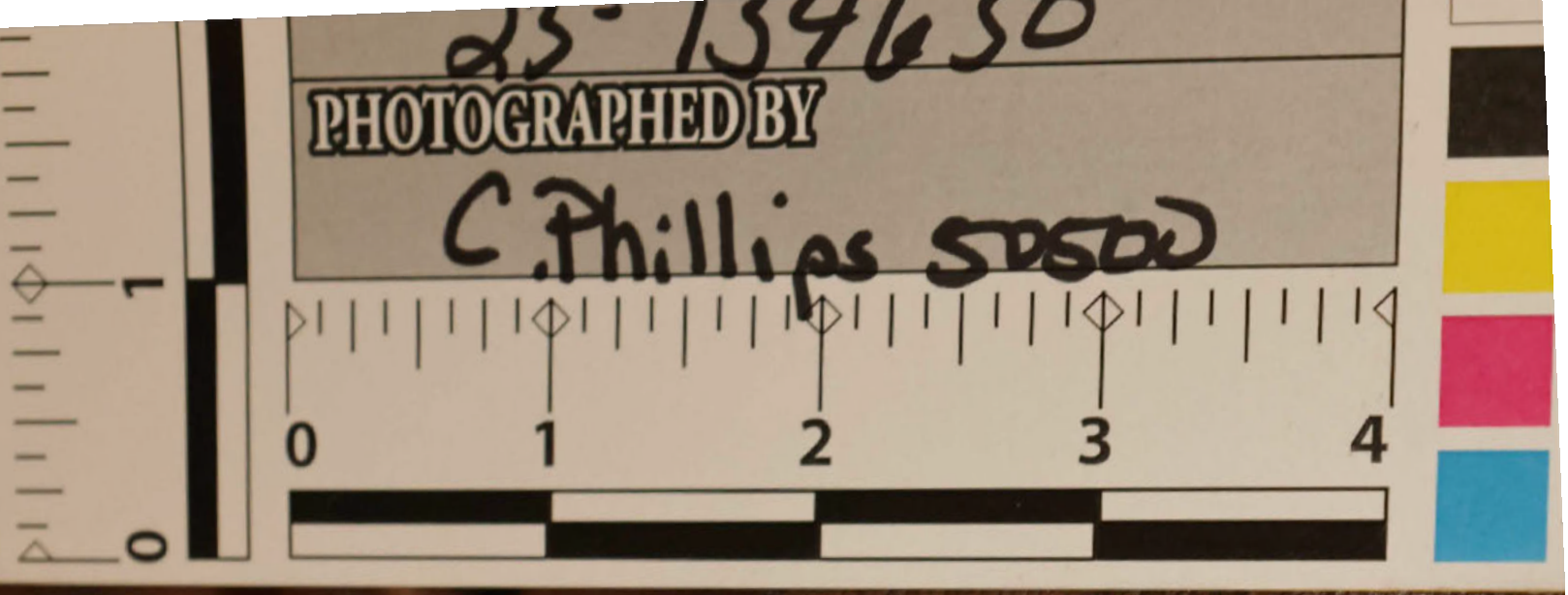
Attachment E
Photograph of Victim's Left Eye 2,
dated November 27, 2023

1
2
3
4
Cyan
Magenta
Yellow

Attachment F
Photograph of Victim's Mouth, dated November 27, 2023



Attachment G
Photograph of Right Side of Victim's Face,
dated November 27, 2023


25-134650
PHOTOGRAPHED BY
C. Phillips SDSO
0
1
2
3
4
1
0

Attachment H
Photograph of Victim's Chipped Teeth,
dated November 27, 2023


1
2
3

Attachment K
San Bernardino County District Attorney's Office Memorandum, dated January 17, 2024

CONFIDENTIAL
INTERAGENCY MEMORANDUM

DATE: 01/17/2024

FROM: Lisa Crane
Deputy District Attorney
San Bernardino Office

TO: Bureau of Investigation
ATTN: Investigator R. Hellstrom

NOTICE-CRIMINAL CHARGES NOT FILED

Suspect(s): Hector [redacted] Victorio
Report No: 2023-12-173SI
DA Case No: 2024-00-0001344
Victim(s): Victim [redacted]
Charges: PC149

I have reviewed this case submitted by your agency, and based upon the information submitted, I am of the opinion that criminal charges should not be filed for the following reason(s):

B - Lack of Sufficient Evidence
01: Insufficient evidence to prove guilt beyond a reasonable doubt.

Additional Comments:

If you have any questions, call me at 9093823800.

Should additional information come to your attention, and you desire to resubmit this case, please return it to me for further consideration. Please attach a copy of your investigation report, the additional information, your agency report number, and the District Attorney number.

Attachment L
San Bernardino Police Department, Manager's Review, Report, Case No. 23PSB-082, February 7, 2024

CITY OF SAN BERNARDINO
POLICE DEPARTMENT
INTEROFFICE MEMORANDUM

TO: Captain Adam Affrunti

FROM: Lieutenant Albert Ramirez

SUBJECT: Manager's Review 23PSB-082

DATE: February 7, 2024

COPIES:

Allegations:

Unreasonable Force
-Officer Hector Victorio

Improper Tactics
-Officer Hector Victorio

Unbecoming Conduct
-Officer Hector Victorio

Summary:

On November 27, 2023, Officer Hector Victorio and Officer Gabriel Rodriguez were patrolling the area of North "E" Street and West Highland Avenue, when Victorio observed a KIA with no front plate which is a violation of CVC 5200(a) (two plates required) through his rear-view mirror. Victorio got behind the KIA and observed the driver (Victim) make an unsafe left turn which was a violation of 22107. Victorio initiated a traffic stop by activating the lights and sirens on his marked police vehicle, and the driver failed to yield, and a pursuit ensued.

The pursuit came to an end when the driver crashed into a telephone pole at a high rate of speed. Officers contacted Victim and used force against him. Victim was arrested for CVC 2800.2(a) (Evading a Peace Officer: Reckless Driving) and CVC 2800.4 (Evading a Peace Officer: Wrong Way Driver).

The San Bernardino District Attorney investigators initiated a criminal investigation against Officer Victorio for California Penal Code 149 (Color of Authority). On January 17, 2024, Deputy District Attorney Lisa Crane reviewed the case and decided not to file the charge of PC 149 against Officer Victorio because the case lacked sufficient evidence.

Findings:

Officer Victorio:

Personnel File:

I reviewed Officer Victorio's personnel file and training file. I learned that the San Bernardino Police Department employed Officer Victorio as a Law Enforcement Trainee on September 16, 2021, and as a police officer on March 14, 2022.

Training File:

Victorio participated in the field training program from March 14, 2022, until September 8, 2022. Victorio had been assigned to patrol for approximately one year and two months, when the incident occurred on November 27, 2023.

Department Training:

Victorio has attended over twenty-five hours of use-of-force-related training that was provided by the San Bernardino Police Department, for further details see chart.

Date Completed	Training	School Attended	Hours
April 5, 2022	Defensive Tactics	San Bernardino Police Department	8
April 5, 2022	Strategic Communication	San Bernardino Police Department	2
April 6, 2022	Use of Force	San Bernardino Police Department	4
April 7, 2022	Tactical Firearms	San Bernardino Police Department	5
February 6, 2024	De-Escalation Awareness and Communication	Perfomix Course # 1487-20185	4
February 6, 2024	Advanced De-Escalation Awareness and Communication	Performix Course # 1487-20186	4
		Total	27 Hours

District Attorney's Office Investigation:

I obtained the County of San Bernardino, Office of the District Attorney Investigator's report, and the district attorney's turndown letter. The assigned investigator was Investigator Ralph Hellstrom.

Investigator's Report:

I reviewed Investigator Hellstrom's report and found that he provided a summary of Victorio's report, a summary of his investigation which included interviews with Witness [redacted] (Eye Witness), Sergeant Mark Blackwell, and Victim [redacted] (Suspect). Additionally, Hellstrom's report included a review of Victorio's file with POST and the San Bernardino Police Department, where he found that Victorio had no history of allegations of excessive force against him. Hellstrom reviewed Officer Victorio's, Officer De LA Cruz', and Sergeant Blackwell's BWC. Officer Rodriguez' BWC was not activated and fell off his person at the time of the incident. Hellstrom also reviewed the mobile video footage that Witness [redacted] recorded.

Investigation:

On December 6, 2023, at about 1208 hours, Hellstrom requested training records and any possible records of misconduct for Officer Victorio, from the California Commission on Peace Officers Standards and Training (POST). For further details reference request #R000406-120623. Hellstrom found POST had no records indicating a complaint, charge, or allegation of conduct against a peace officer employed by the agency that could render a peace officer subject to a suspension or revocation of certification by (POST) pursuant to Penal Code §13510. Additionally, he had Investigators Chavez and Blanco review Victorio personnel files for any misconduct similar to the crime that was being investigated and found there were no additional excessive use of force complaints in Victorio's file.

Hellstrom BWC analysis of Victorio's BWC Footage:

Hellstrom reviewed the BWC footage and provided his rendition of his observations of the BWC analysis.

Witness **Mobile Phone Video Review:**

Hellstrom observed both officers were wearing their police uniforms and when the video began Victim was on the ground on his stomach, while Rodriduez was on top of Victim and Victorio was on the left side of Victim trying to control his left arm.

Hellstrom observed Victorio deliver a knee strike to the upper torso/head area of Victim He delivered a strike with his right hand in the same area. Victorio delivered a right-hand strike that struck the left side of Victim 's upper back/shoulder area. Finally, Victorio delivered a right-hand strike to the back of Victim 's head. Rodriguez gained control of Victim 's right arm as he leaned forward and incidentally blocked one of Victorio's strikes.

Victorio delivered two knee strikes to the left side of Victim 's head which caused Victim to raise his head and turn his face to the right. Victorio delivered a right-hand strike to the right side of Victim 's head. At that point, Rodriguez and Victorio were able to gain control of Victim 's arms and place handcuffs on him.

Statements:

Hellstrom attempted to interview Witness ; however, she refused to provide a statement. Hellstrom interviewed Sergeant Mark Blackwell and Victim .

Mark Blackwell Interview:

On December 5, 2023, at about 0806 hours, Sergeant Mark Blackwell was interviewed by Hellstrom at the District Attorney's office (303 West 3rd Street, Officer 412, San Bernardino, California). Blackwell informed Hellstrom that he was the supervisor who responded to the incident and advised Hellstrom that an administrative investigation

would be conducted and ultimately forwarded to the Professional Standard Bureau. Blackwell informed Hellstrom that he did not use force against Victim and he did not witness the force used by Rodriguez and Victorio. Blackwell did not provide any further details relevant to this investigation.

Victim Interview:

On December 12, 2023, at about 0730 hours, Hellstrom and Investigator Wolfe interviewed Victim at the District Attorney's officer (303 West 3rd Street, San Bernardino, California). The following is a summary of Victim's statement to Investigators.

Victim indicated the pursuit concluded when he crashed into a telephone pole. Victim retrieved his cellular phone and a five-dollar bill because he did not want to lose it. Victim said he laid on the ground on his stomach because he knew he was going to be detained for not stopping his vehicle (failure to yield). Victim said his chest was flat on the ground with his arms parallel to his head, and his hands were flat on the ground. Victim said he wanted to make it easy for the officers to detain him. Victim told investigators he was "giving up" because he was done.

The officers approached him without saying anything to him and struck him. Victim believed the strike was delivered by the driver of the police vehicle (Victorio). Victim indicated he was struck several times before officers attempted to control his arms and before they began to give him commands. Victim could not identify who delivered each strike.

District Attorney Turndown:

A memorandum was drafted on January 17, 2024, advising Investigator Hellstrom that charges of Penal Code 149 would not be field against Officer H. Victorio because the investigation lacked sufficient evidence to prove guilt beyond reasonable doubt.

BWC Review:

I reviewed Officer H. Victorio's BWC video footage. There was no other BWC footage recorded that was relevant to this investigation.

Officer H. Victorio's BWC:

Officer Victorio was involved in a lengthy pursuit that involved unsafe driving movements during daylight hours. The pursuit concluded when the suspect vehicle collided with a telephone pole.

Victorio exited the police vehicle and said, "get on the fucking ground." Victorio approached the vehicle and Victim 's body was facing the ground, the tips of his toes

were touching the ground, his arms were touching the ground; however, his head was upright, and his palms were off the ground. The vehicle was against the telephone pole. Victim was holding a cellular phone and money in his right hand. As Victorio closed the distance, Victim advised officers, "I'm on the ground. I'm not resisting." Victorio placed his left on the back of Victim 's head and Victim grunted and placed his left hand against his face. Victorio then placed his right hand on Victim 's back while maintaining his left hand on the back of Victim 's head.

Commented [AA1]: Left what?

Rodriguez placed his hands on Victim 's lower back and transitioned to a top mount position, attempting to gain control of Victim 's right arm with his hands. As this occurred, Victorio delivered a strike with his right fist. It impacted the back of Victim 's neck. At this point of the altercation, Victim was moving and appeared to be covering up from the strike.

Rodriguez moved his left hand and placed it on Victim 's left wrist as Victorio delivered another strike with his right fist to Victim 's left shoulder. Victorio moved his left hand and attempted to gain control of Victim 's left wrist as well. Victorio placed his right hand on Victim 's left wrist. Victorio momentarily pinned Victim 's left arm against the ground.

Victorio transitioned, using a pressure point technique by placing his right thumb against Victim 's left ear. Rodriguez transitioned his hands to focus on controlling Victim 's right arm. Victorio moved his right hand and placed it on Victim 's back. At this point, Victim had his hands against his head.

Victorio placed his left hand on Victim 's left wrist and delivered a right-hand strike to the left side of Victim 's head where Victim 's hand was located, as he moved his left hand from Victim 's left wrist. Rodriguez was able to gain control of Victim 's right arm and Victorio was able to move Victim 's left hand from his face. As Victorio removed Victim 's left hand from his face, Victorio delivered a closed right fist strike against the left temple of Victim 's head.

Victorio moved his left hand from Victim 's left wrist to the back of Victim 's head, held it momentarily, and released it as he delivered another closed right fist strike to Victim 's head. Victorio placed his right hand on the back of Victim 's head and placed Victim 's left hand on the ground. Victorio delivered two knee strikes to Victim 's head that caused him to raise his head and face it to the right.

At this point, Rodriguez had control of Victim 's right arm. Victorio placed his left hand on the back of Victim 's head and Victorio struck the right side of Victim 's head with his closed right fist. Rodriguez lost control of Victim 's right arm. Victim immediately moved his right hand against the right side of his head. Rodriguez re-gained control of Victim 's right arm. Sergeant Blackwell arrived on scene and Victim was taken into custody.

Throughout the encounter, officers repeatedly told Victim to stop resisting and to place his hands behind his back. Also, throughout the encounter, Victim advised officers he was not moving, and he was done. Victim apologized once the officers gained control of his arms and placed handcuffs on him.

Witness **Video Recording:**

I reviewed Witness's cellular phone video recording, and it was consistent with Hellstrom's analysis.

Officer Victorio's Report:

I reviewed Victorio's report, and it was consistent with the BWC footage. The following is an excerpt from Victorio's police report related to the use of force.

> *I immediately came to a stop and observed the driver side door of* Victim's *vehicle come open. I believed* Victim *was attempting to flee the scene so I immediately exited my unit and began to sprint to the vehicle. As soon as I began to approach the driver side door, I observed* Victim *on the floor with a blunt object in his right hand.*
>
> Victim *'s head was in an upright position and his knee's were slightly bent in which I believed he was attempting to get back onto his feet. I immediately went down onto a knee and attempted to disorient* Victim *by placing my hand on his head and striking* Victim *in his upper torso area and inadvertently struck him in the head.*
>
> *I observed* Victim *'s arms on the top of his head and his elbows pressed off the ground, I believed he was trying to create space between the ground and him to possibly stand up. In an attempt to prevent that from happening, I struck his upper back twice with my right hand. I observed Officer Rodriguez attempting to gain control of* Victim *'s left wrist he was unable to so, I delivered an additional strike to* Victim *'s upper back area with my right hand. I then observed Officer Rodriguez attempting to gain control of* Victim *'s right wrist and was unable to. In fear* Victim *was over powering Officer Rodriguez, I attempted to strike* Victim *with my right knee in the left shoulder and inadvertently struck* Victim *twice in the head due to* Victim *continuously pulling his arms away.*
>
> *The strikes appeared to be ineffective due to Officer Rodriguez still being unable to control* Victim *'s left arm. In an attempt to gain compliance from* Victim *I struck* Victim *with my right hand in the facial area but it was ineffective due to Officer Rodriguez still not being able to control* Victim *'s right arm. I then struck* Victim *in the left shoulder but my punched slipped past his shoulder and nicked the top of his head. Once again the strikes*

appeared to be ineffective due to Officer Rodriguez being unable to place Victim *'s right arm behind his back.*

I observed Officer Rodriguez gain possession of Victim *'s right arm but was unable to control it so I delivered two knee strikes to* Victim *'s head. The strikes appeared to be ineffective due to Officer Rodriguez being unable to control* Victim *'s right arm. I delivered an additional strike with my right hand to* Victim *'s facial area and it appeared to be effective due to* Victim *placing his left hand his back and finally allowing Officer Rodriguez to place handcuffs on* Victim *.*

Officer Rodriguez' report:

I reviewed Rodriguez' report, and it was consistent with the BWC footage. The following is an excerpt from Rodriguez' police report related to the use of force.

I began to look in the immediate area for Victim *however, I did not observe him. I heard Officer H. Victorio giving* Victim *commands not to move. I ran around the pole the vehicle had collided into. As I continued to run towards Officer H. Victorio I observed* Victim *on the ground in between the opened driver side door and the vehicle itself.* Victim *was laying on his stomach with his hands on the ground near his head. I observed* Victim *to be holding an unknown object clinched into his right hand. In fear* Victim *was going to use that object as a weapon. I ran towards* Victim *and placed my hands onto his back and pushed his body down towards the ground while placing my knee against the right side of his body. This was effective as* Victim *was not able to get up and he no longer had the object in his hand. At this point* Victim *had placed his right hand underneath his face and his knees were slightly bent, in fear* Victim *was going to begin to push himself up and off of the ground. I grabbed* Victim *'s right hand with my right hand as I placed my left leg over* Victim *'s body to obtain a top mount position, this would give me the position of advantage to use my body weight to keep* Victim *pinned against the ground. I used my left hand to grab* Victim *'s left wrist and placed my right forearm against* Victim *'s back in order to obtain a firm grip of his hand, however, I was unable to maintain control his hand due to him pulling away from me.*

Officer H. Victorio grabbed Victim *'s left wrist and I observed* Victim *'s right hand was free, in fear* Victim *was going to be able to strike Officers I grabbed* Victim *'s right wrist with my left hand. I shifted my body weight forward and placed my left forearm onto the ground to the right side of his head while forcing* Victim *'s right wrist towards the ground to limit his ability to move it. I used my elbow to push* Victim *'s head to the left as I used my right hand to extend* Victim *'s right arm away from his body and pinned it towards the ground. I commanded* Victim *multiple times to give*

me his hand and to place them behind his back, however, he refused and continued to pull away from me. I grabbed Victim *'s right wrist with my right hand and placed my left hand onto his back and pushed it towards the ground. I pulled* Victim *'s right hand towards his lower back and attempted to pin it against his lower back with both of my hands.* Victim *was extremely strong and was able to pull his arm away from me even though he was only using one arm and I was using two. Based on my training and experience those that are extremely strong and are able to pull away from multiple Officers are under the influence of a controlled substance. Subjects under the influence of a controlled substance or substances do not feel pain and are able continue to fight or resist for an extended amount of time.*

Victim *began to place his right hand onto the ground near his head, I once again feared* Victim *was going to attempt to push himself off the ground in order to gain a position of advantage. It should be noted due to the tight quarters and close proximity between me and my partner, I felt the use of a taser, OC spray, or a baton would not be reasonable in this circumstance.*

I commanded Victim *to stop resisting and I placed my left forearm on his upper back and grabbed his right arm with my left hand. I shifted my weight forward onto* Victim *'s back and pulled his hand behind his back and pinned it against his lower back.* Victim *brought his right hand to his lower back and I was able to place handcuffs onto* Victim *'s wrist. At this point I observed Sergeant blackwell had arrived on scene.*

Statement:

Witness's **Interview**

On December 1, 2023, at about 1302 hours, I interviewed Witness by telephone. The interview was recorded with her knowledge. I advised her that I was conducting an administrative investigation. The following is a summary of Witness's statement.

Witness was leaving her residence to go to the store. Witness was going to place her daughter in her car seat when she heard what sounded like a vehicle accident. Witness picked up her cellular phone from the passenger seat. Witness began to record the incident. Witness would not provide further because she said everything was in the recording. Witness added that she did not know if the suspect was strong, if he was resisting, or any details about what occurred during the arrest. Witness believed based on her observation of the incident, the officer should not lose his job. Further, Witness was adamant that she did not want to speak to anyone about the incident because the incident was overwhelming.

Policy Review:

San Bernardino Policy

§300.2.2 FORCE OPTIONS

(a) Persuasion

1. The presence of a confident uniformed police officer displaying professional demeanor coupled with good verbal communication will generally convince a resistant subject to submit to your authority without the necessity of an escalation in force. Good verbalization may be advising, admonishing, warning, or persuading a subject to submit to your authority without the use of profanity or derogatory language. Officers should use verbal techniques to deescalate confrontations.

(b)Compliance Control Techniques

1. Compliance techniques consist of the physical application of force in the form of joint manipulations, blocks, pain compliance, and take-downs. These empty handed techniques should be coupled with a police officer's verbal commands.

(c) Intermediate Force

1. Chemical Agents (Policy Manual § 308)

(a)Police personnel may use chemical agents as an intermediate level of force for controlling or subduing combative persons. Chemical agents are defensive control weapons used to control or subdue subjects who are physically resisting arrest. Chemical agents should not be used indiscriminately and should not be used against non-combative persons. Chemical agents should not be used against a subject who is under restraint unless that subject is physically assaulting officers or others.

2. Conducted Energy Device (Policy Manual § 309)

(a) The Conducted Energy Device (CED) is a device which may be used to subdue physically combative persons in violent or potentially violent situations, when the suspect poses an immediate threat to officers or other persons. The CED may be used if other apprehension methods or restraints have failed or are deemed impractical and there is a reasonable expectation that it would be hazardous for personnel to approach and physically contact the subject/s, thus lessening potential for injury to the subject/s or officers involved.

(d) Impact Weapons

(a) Impact weapons are methods of subduing physically combative persons or immediately impeding the threatening actions of a violently resistant subject with physical strikes to the subject's body. These physical strikes shall be directed to those areas which are easily accessible, effective for quickly subduing the subject/s, and unlikely to cause serious injury. Other self-defense techniques, kicks or arm strikes, could be used at this level in lieu of a baton. Other authorized police equipment may be used as an impact weapon in exigent circumstances.

§300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved or authorized tools, weapons, or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

§300.3.4 ALTERNATIVE TACTICS - DE-ESCALATION

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, officers should consider actions that may increase officer safety and may decrease the need for using force:

(a) Summoning additional resources that are able to respond in a reasonably timely manner.
(b) Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention.
(c) Employing other tactics that do not unreasonably increase officer jeopardy.

In addition, when reasonable, officers should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)). Such alternatives may include but are not limited to:

(a) Attempts to de-escalate a situation.

(b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

§340.3.2 Conduct

(k) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.

§340.3.5 Performance

(m) Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. The Department shall make this manual available to all employees. Employees shall familiarize themselves with this manual and be responsible for compliance with each of the policies contained herein.

(aa) Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.

§340.3.6 SAFETY

(f) Violating departmental safety standards or safe working practices.

San Bernardino Policy and Procedure:

§3.01 General Behavior

Employees shall at all times act in a manner so as to reflect credit to the Department. Any conduct which adversely affects the morale or efficiency of the

department and any conduct which has a tendency to adversely affect, lower, or destroy public respect and confidence in the department and the employee shall be considered unbecoming conduct. Conduct unbecoming an employee shall include any conduct which brings the Department into disrepute or reflects discredit upon the employee or the Department. It also includes any conduct which impairs the operation or efficiency of the Department or of any employee.

3.02 Obedience to Laws, Regulations, and Orders

B. Employees shall conform to and abide by the following: Charter of San Bernardino, rules and regulations of Civil Service, and the rules and regulations of the Department.

C. When assigned to duty with other personnel of the Department, employees shall be jointly responsible for compliance with rules and regulations and proper performance of duty.

D. Employees who violate any rule, regulation, or policy of the Department shall be subject to disciplinary action. The commission or omission of any other act contrary to good order and discipline shall also be the subject of disciplinary action.

§3.03 Conduct Towards Others

All personnel shall observe the following rules of conduct:

B. Personnel when issuing citations, conducting investigations and interrogations or handling other official business shall proceed in a courteous, fair, and impartial manner. They shall scrupulously avoid displaying an officious or overbearing attitude and shall not use coarse, profane or insulting language designed to belittle, ridicule, or embarrass an individual or group.

§4.01 Performance of Duty

While on duty employees shall:

1. *Devote their time and attention to the service of the City and shall direct and coordinate their efforts in a manner which will establish and maintain the highest standards of conduct.*

§4.02 Neglect of Duty

Employees may be deemed incompetent and subject to discipline when they: fail to properly perform their assigned duties; act in a manner tending to bring discredit to themselves or the Department; or fail to assume responsibility or exercise diligence, intelligence, and interest in the pursuit of their duties.

Conclusion:

On November 27, 2023, Officer H. Victorio and Officer G. Rodriguez were involved in a high-speed pursuit where the suspect made several unsafe driving movements including driving on the opposite side of the road during daylight hours, driving through a school zone area at a high rate of speed. After the pursuit, officers used force to apprehend the suspect.

An investigation was conducted and what was uncovered was the lack of experience by the officers. The lack of experience between Rodriguez and Victorio was evident. When Victorio authored his report he wrote he believed the suspect was a danger to them; however, Victorio's actions did not prove this because he could have initiated a felony traffic stop and gathered additional resources to de-escalate the situation. Instead, Victorio immediately closed the distance and began to give commands.

Victorio observed Victim on his stomach facing the ground with arms extended in a non-threatening manner holding a blunt object. Victorio perceived Victim to be a threat and decided to strike Victim without deploying hand control techniques, bypassing the force options outlined in the policy; therefore, the strike was unreasonable. Additionally, Victorio's lack of experience did not allow him to accurately access the threat. Further, Rodriguez recognized the threat, and he deployed hand control holds to overcome Victim 's resistance.

Victorio deployed hand and knee strikes to Victim 's head, which is against policy. It was evident that the techniques used by Victorio were improper and ineffective. These strikes used by Victorio could have led to injury and could have created a dangerous situation for himself and Rodriguez. Moreover, it was evident that Victorio's misinterpretation of Victim 's actions was attributed to Victorio's lack of experience because Victorio described Victim 's actions as resistance when in fact Victim was reacting to the strikes he received.

Although these policy violations are serious, these violations occurred because of Victorio's lack of experience (14 months since the date of hire as a police officer), and training. Further, this incident was investigated by the District Attorney's office which found the act was not criminal. Moreover, Victorio has no history of allegations of excessive force against him.

In this case, Victorio's actions were not malicious, intentional, or acting under the color of authority; instead, he acted in a manner where he made a bad decision and used bad

judgment, which can be corrected through training and experience. Since the incident, Victorio has attended 8 hours of de-escalation technique training.

Victorio violated Department Policy §300.2.2 (b), §300.2.2(c), §300.2.2(d), §300.3, §300.3.4(a), §300.3.4(b), §300.3.4(c), §340.3.2(k), §340.3.5 (m), §340.3.5,(aa), §340.3.6 (f), and Policy and Procedures, §3.01, §3.02 (B), §3.02(c), §3.02 (D), §3.03(B), §4.01, and §4.02.

Recommendations:

I recommend the allegation of **Improper Tactics** against **Officer Hector Victorio** be **Sustained.**

I recommend the allegation of **Unbecoming Conduct** against **Officer Hector Victorio** be **Sustained.**

I recommend the allegation of **Unreasonable Force** against **Officer Hector Victorio** be **Sustained.**

I recommend Officer Victorio receive a forty-hour suspension with no pay and that he attends forty hours of formal training related to the subject matter of de-escalation techniques and use of force. Further, the Professional Standards Bureau will audit Officer Victorio's use of force incidents for a twelve-month period.

Attachment M
Settlement Agreement in Case No. 23PSB-082
between the City of San Bernardino and
Hector Victorio, dated March 11, 2024

SETTLEMENT AGREEMENT

This Settlement Agreement and Appeal Waiver ("Agreement") is entered into as of March 11, 2024, by and between the City of San Bernardino ("City") and Hector Victorio ("Employee") (collectively, the "Parties").

RECITALS

WHEREAS:

A. On September 16, 2021, Employee was hired by the City in the position of Police Officer within the City's Police Department ("Department");

On December 1, 2023, the Employee was notified about an internal investigation regarding his actions of unreasonable force, unbecoming conduct, and improper tactics, after an arrest on November 27, 2023 (San Bernardino Case #2023-134638).

Subsequently, the employee through his legal representation, advised that he wanted to bypass the disciplinary appeal process. Further, the Employee indicated he was willing to admit to unreasonable force, unbecoming conduct, and improper tactics on November 27, 2023, when he failed to follow the department's policy during an arrest of a citizen.

B. Specifically, the employee admits to violating San Bernardino Policies §300.3, §300.3.4(a), §300.3.4(b), §300.3.4(c), §340.3.2(k), §340.3.5 (m), §340.3.5,(aa), §340.3.6 (f), and Policy and Procedures, §3.01, §3.02 (B), §3.02(c), §3.02 (D), §3.03(B), §4.01, and §4.02.

C. As a result, the Parties have since agreed to disciplinary action as follows: An imposition of a (40) forty-hour suspension, which consists of (20) twenty-hour suspension without pay and (20) twenty-hours held in abeyance upon successful completion of forty hours of de-escalation techniques and use of force training within one year from the date of signed agreement. Further, the Professional Standards Bureau will audit Officer Victorio's use of force incidents for a twelve-month period. This is done with the understanding that Employee waive any right he may otherwise have had to contest, or appeal this instant discipline.

AGREEMENT

NOW, THEREFORE, in consideration for the mutual promises and undertakings of the Parties as set forth below, the City and Employee hereby enter into this Agreement and agree as follows:

1. Incorporation of Recitals. The recitals set forth above are true and correct and are hereby fully incorporated into this Agreement by this reference.

2. No Admission of Liability. This Agreement shall in no way be construed as an admission by the City that it, the Department, or any officer, employee, or agent thereof, has acted wrongfully with respect to Employee. The City specifically disclaims any liability to or wrongful

acts against Employee on the part of the City, the Department, or any officer, employee, or agent thereof.

3. No Precedent. This Agreement is in no way intended, and shall in no way be construed, to restrict any rights guaranteed to the City under local, state, or federal law, rule, or policy or by private agreement, or to establish a precedent in this or any other matter, now or in the future.

4. Pending Disciplinary Action. The City and Employee agree that in return for valuable consideration—i.e., the City's non-adversarial, early and efficient resolution of this disciplinary action, and the Employee's non-adversarial, early and efficient resolution of this disciplinary action, that the Employee agrees to accept and abide by all of the terms specified in this Agreement.

5. Employee's Promises.

a) Concurrent with the execution of this agreement, Employee agrees that he will not file any appeal, claim, or lawsuit relating to the subject incident or acts referenced in this agreement **(23PSB-082).**

b) Employee agrees to an imposition of a (40) forty-hour suspension, which consists of, (20) twenty-hour suspension without pay and (20) twenty-hours held in abeyance upon successful completion of forty hours of de-escalation techniques and use of force training within one year from the date of signed agreement. Further, the Professional Standards Bureau will audit Officer Victorio's use of force incidents for a twelve-month period. Any noted deficiencies will be reviewed/investigated independent of this Agreement.

c) Employee agrees to waive any and all pre-discipline rights and any and all post-discipline rights that he may have to appeal, grieve, litigate, or otherwise contest the imposition of the discipline set forth in subdivisions a, b, c, and d of this section, above, under any provision or principle of local, state, or federal law, or under any contract or agreement written or oral, express or implied, including but not limited to, a collective bargaining agreement, a MOU, or any future "for cause" provisions of any employment agreement with the City, as may be further applicable, in any forum whatsoever, to the fullest extent permitted by law;

d) Employee agrees to comply with each and every one of the rules, regulations, and/or policies applicable to employees of the City in the Department, including from the date of the execution of this Agreement through the duration of the Employee's employment with the City;

6. Employee's Misconduct and/or Unsatisfactory Behavior. Employee admits to failing to perform his duties while arresting a citizen on November 27, 2023, as specified in department policy. Employee agrees and acknowledges that the aforementioned misconduct and unsatisfactory behavior constitute(s) a violation(s) of §300.3, §300.3.4(a), §300.3.4(b), §300.3.4(c), §340.3.2(k), §340.3.5 (m), §340.3.5,(aa), §340.3.6 (f), and Policy and Procedures, §3.01, §3.02 (B), §3.02(c), §3.02 (D), §3.03(B), §4.01, and §4.02.

7. Not a Limit on Future Actions. This Agreement in no way limits the City's ability to discipline Employee for other conduct by him that may violate City rules, policies, or regulations and/or terms of any applicable Memorandum of Understanding or standards of behavior. Moreover

a) Nothing in this Agreement shall limit the City's right to use or make reference to matters described in this Agreement, as a basis, in whole or in part, to justify a decision to discipline or to discharge Employee for any conduct arising or newly discovered subsequent to the execution of this Agreement, except to the extent limited by a City rule or policy or by a negotiated agreement or MOU with the employee's authorized and recognized representative; and

b) The City may place a copy of this Agreement in Employee's official personnel file, and Employee hereby consents to the City doing so and waives any and all rights to respond to and/or appeal the placement of this Agreement in his personnel file.

7. Voluntariness. Employee acknowledges that, prior to signing this Agreement, he was provided with an opportunity to consult with a representative and/or attorney of his own choosing and that he is voluntarily, knowingly, and intelligently entering into this Agreement with sufficient awareness of the relevant circumstances and likely consequences of this Agreement, on the advice of his own chosen counsel, and without reliance on any representations made by the City, the Department, or any officer, employee, or agent thereof, except as provided in this Agreement. Employee further acknowledges that he was given reasonable and sufficient time and opportunity to negotiate the terms of this Agreement and to consider the execution thereof under the terms set forth herein

8. Entire Agreement. The Parties acknowledge that this Agreement constitutes a signed integrated agreement expressing the entire agreement between the Parties and fully superseding any and all prior or contemporaneous oral or written agreements, understandings, promises, or representations between the Parties pertaining to the subject matter of this Agreement. Moreover, no subsequent agreement concerning the subject matter of this Agreement or modification to this Agreement shall be binding unless it is signed by both Parties.

9. Governing Law and Venue. This Agreement shall be governed by and interpreted under the laws of the State of California applicable to contracts made and to be performed within the State. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, California.

10. Interpretation and Severability. The Parties agree that the customary rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. The Parties further agree that, should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable for any reason, such determination shall not affect the validity of the remaining parts, terms, or provisions hereof, or of the offending provision in any other circumstance.

11. Authority. The persons signing this Agreement on behalf of the Parties hereto hereby warrant and represent that they are duly authorized to execute this Agreement on behalf of said Parties and that, by doing so, the Parties hereto are hereby formally bound to the provisions of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR SETTLEMENT AGREEMENT AND APPEAL WAIVER

PLEASE READ THIS AGREEMENT CAREFULLY. IT INCLUDES A WAIVER OF DISCIPLINE APPEAL RIGHTS AND A RELEASE BY THE CITY EMPLOYEE OF ANY AND ALL KNOWN AND UNKNOWN CLAIMS THAT HE MAY HAVE AGAINST THE CITY, THE DEPARTMENT, OR ANY OFFICER, EMPLOYEE, OR AGENT THEREOF. IN REFERENCE TO THE SUBJECT INCIDENT OR ACTS REFERENCED IN 23PSB-082.

IN WITNESS HEREOF, the Parties have executed this Agreement as of the date first written above.

CITY:

Approved By:

Darren Goodman
Chief, San Bernardino Police Department, City of San Bernardino

EMPLOYEE:

Approved By:

Officer Hector Victorio

Attachment N
Victim's Settlement Agreement with City,
dated July 31, 2024

Docusign Envelope ID: BEA665C6-6610-4122-9A25-F2C06F2BBAA8

SETTLEMENT, MUTUAL AGREEMENT AND GENERAL RELEASE OF CLAIMS

THIS SETTLEMENT, MUTUAL AGREEMENT, AND GENERAL RELEASE OF CLAIMS ("Agreement") is made and entered into by and between Victim [redacted] ("Claimant"), the City San Bernardino, Officer Hector Victorio, and Officer Gabriel Rodriguez (collectively "San Bernardino"). Claimant and San Bernardino are referred to collectively at times herein as the "Parties."

RECITALS

A. Claimant served a claim for damages against the San Bernardino on or about January 12, 2024 (the "Dispute");

B. The Dispute arises out of a high-speed pursuit involving Claimant occurring on or about November 27, 2023, in the City of San Bernardino;

C. Recognizing the costs and uncertainties involved in any litigation, the Parties now desire to settle fully and finalize all differences between them arising from the Dispute;

D. The Parties intend, by this Agreement, to settle any and all claims in connection with the Dispute, or otherwise existing between the Parties as of the execution of this Agreement, whether alleged or unalleged, for the total sum of Four Hundred and Fifty Thousand Dollars ($450,000);

E. This Agreement does not constitute an admission of any liability or wrongdoing whatsoever on the part of any of any of the Parties hereto.

AGREEMENT AND RELEASE

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Payment. Payment is contingent upon the execution of this Agreement. San Bernardino, shall make best efforts, within 15 days of receipt of this fully executed Agreement by all parties and a W-9 from Claimant's counsel, Joseph L. Richardson, make the settlement payment of Four Hundred Fifty Thousand ($450,000), made payable to Claimant's counsel of record as follows: "MCCUNE LAW GROUP, CLIENT TRUST ACCOUNT." The check shall be mailed to Mr. Joseph L. Richardson, via overnight mail to McCune Law Group, 31 W. Stuart Avenue, Suite 300, Redlands, CA 92374, signature required.

2. Notice. All notices to be given pursuant to this Agreement, shall be in writing and shall be delivered to the following addresses, or such other addresses as the Parties may later designate in writing:

Docusign Envelope ID: BEA665C6-6610-4122-9A25-F2C06F2BBAA8

If to Claimant: Such notice shall be mailed to Mr. Joseph L. Richardson, Esq., at 31 W. Stuart Avenue, Suite 300, Redlands, CA 92374.

If to San Bernardino: Such notice shall be mailed to James R. Touchstone, Esq., at Jones Mayer, 3777 N. Harbor Blvd., Fullerton, California 92835.

3. Release by Claimant. Claimant, individually, and on behalf of himself, his heirs, successors, grantees, assigns, principals, agents, employees, consultants, representatives, attorneys, bonding companies, lien holders, and insurers fully and forever release and discharge the City San Bernardino, Officer Hector Victorio, and Officer Gabriel Rodriguez, as well as their respective successors, heirs, assigns, principals, agents, departments, employees, former employees, the City's elected officials, appointed officials, consultants, vendors, representatives, attorneys, bonding companies and insurers from any and all liability in connection with all claims, damages, attorney's fees, costs, liens, expenses, losses, suits, demands, rights, liabilities and allegations arising from or in any way related to the City of San Bernardino or its employees, officers or elected officials existing at the time of execution of this Agreement, whether made or unmade, known or unknown, asserted or unasserted, stated or unstated or that could have been stated, and of any kind whatsoever.

4. Claimant Responsible for All Liens: Claimant and Claimant's counsel represent and acknowledge that they bear full responsibility for any and all liens that may exist, such as attorney liens, medical liens, Medi-Cal liens, Medicare liens, or any other liens in connection with the Dispute. Claimant and Claimant's counsel shall be solely responsible for any and all liability associated with any such liens and shall indemnify and defend all defendants for any lawsuits, demands, claims or other legal actions of any sort whatsoever attempting to collect on said liens.

5. Civil Code section 1542 Release. The Claimant are aware of all rights that may be granted to them pursuant to Civil Code section 1542, which section reads, in pertinent part, as follows:

> **"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."**

Claimant nevertheless waives all rights granted to him by Section 1542, and any similar statute, code, law or regulation of any state of the United States, or of the United States, and assumes all risks for claims arising in the Dispute, heretofore or hereafter arising, known or unknown, from the subject matters of this release. Furthermore, Claimant agrees that the facts on which the release under which this Agreement is based, may turn out to be different from the facts now known or believed to be true in respect to the matters referred to above. Nevertheless,

Docusign Envelope ID: BEA665C6-6610-4122-9A25-F2C06F2BBAA8

the Claimant accepts and assumes the risk that such facts may turn out to be different and agrees that the terms of the release in this Agreement shall in all respects be effective and not subject to termination, rescission, modification by an such difference in the facts.

6. Competency. In consideration of the above-described settlement and as an inducement therefore, Claimant represents, covenants and agrees that Claimant is competent to sign on his behalf.

7. No Admission of Liability. The Parties understand and agree that this Agreement is not to be construed as an admission of liability whatsoever on the part of the City of San Bernardino, or any other San Bernardino employee or department, and that this Agreement is made solely for the purpose of avoiding the burden that would be imposed upon the Parties by further litigating the Dispute.

8. No Assignment. Claimant represents and warrants that he has not assigned or transferred, or purported to assign or transfer, and shall not hereafter assign or transfer, any obligations, liabilities, demands, claims, costs, expenses, debts, controversies, damages, actions, and causes of actions released under this Agreement.

9. Consultation With Attorney. Each Party declares that prior to the execution of this Agreement, he/she/it has consulted with his/her/its attorney in order that he/she/it may intelligently exercise his/hers/its own judgment in deciding whether to execute this Agreement.

10. Authority to Execute Agreement. Each Party declares that he/she/it has read this Agreement and understands and knows the contents thereof, and represents and warrants that each of the Parties executing this Agreement is empowered to do so and hereby binds the respective Party, and all of its successors, assigns, principles, agents, employees, consultants, representatives, attorneys, bonding companies and insurers to the terms hereunder.

11. Counterparts. This Agreement may be executed in counterparts, and all so executed shall constitute an agreement binding on the Parties hereto. The Parties further agree that a facsimile and/or scanned copy of the executed counterparts shall have the same force and effect as an original.

12. Enforcing Agreement. This Agreement shall in all respects be interpreted, enforced and governed under the laws of the United States or the State of California, as applicable, and this Agreement is fully enforceable pursuant to California Code of Civil Procedure section 664.6, or its federal counterpart. The Parties agree that the Court shall retain jurisdiction to enforce the terms of this Agreement.

13. Jurisdiction and Venue. This Agreement is intended to be construed pursuant to the laws of the State of California. Each Party hereto agrees that the proper venue for any action arising out of the breach or the interpretation of this Agreement or other documents delivered pursuant to any provision thereof, shall be the San Bernardino County Superior Court of the State of California.

Docusign Envelope ID: BEA665C6-6610-4122-9A25-F2C06F2BBAA8

14. Entire Agreement. This Agreement constitutes the entire understanding between and among the Parties hereto. Each Party acknowledges that no Party, agent or representative of the other Party has made any promise, representation or warranty, express or implied, not expressly contained in this Agreement, which induced the other Party to sign this document. Both Parties agree that this Agreement shall not be amended or modified, except in writing signed by each Party, and shall not be construed against any Party because that Party's representative drafted the Agreement or any portion of it.

15. Additional Acts. The Parties agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary or appropriate to carry out this Agreement.

16. No Other Promise or Warranty. No promise or warranty shall be binding on any Party except as expressly contained in this Agreement.

17. Not Binding on Any Third Party. This Agreement is not for the benefit of any person or party who is not a signatory hereto or specifically named or referred to herein.

18. If Any Provision Is Void. If any provision of this Agreement shall be determined to be invalid, void or illegal, such provision shall be construed and amended in a manner which would permit its enforcement, but in no event shall such provision affect, impair or invalidate any other provision hereof.

19. Agreement Binding on Successors. It is agreed that this Agreement, together with the releases, shall be binding upon and inure to the benefit of the heirs, executors, administrators, personal representatives, successors in interest and assigns of the respective Parties hereto.

20. Attorneys' Fees. The Parties shall each bear their own attorney's fees and costs incurred in litigation of the Dispute. However, should either Party initiate any action at law or in equity to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees and costs.

21. Gender and Number. Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

Docusign Envelope ID: BEA665C6-6610-4122-9A25-F2C06F2BBAA8

22. Effective Date. This Agreement shall be effective as of the last date set forth below.

WHEREFORE, the undersigned having read the foregoing Settlement and Release Agreement, and fully understanding it, and agreeing to its terms, hereby execute this Agreement and make it effective on the date of the last signature hereto.

DATED: July 31, 2024

CITY OF SAN BERNARDINO

By: _____
Rochelle Clayton
Acting City Manager for CITY OF SAN BERNARDINO

DATED: July ___, 2024

Victim 7/2/2024

APPROVED AS TO FORM AND CONTENT:

DATED: July 3, 2024

MCCUNE LAW GROUP

By: _____,
Joseph L. Richardson, Esq.
Attorney for Asa Carraway

DATED: July 3, 2024

JONES MAYER

By: _____
James R. Touchstone, Esq.
Attorney for City of San Bernardino

Attachment P
San Bernardino Police Department Internal Affairs Investigation Case No. 24PSB-006, dated August 1, 2024

CITY OF SAN BERNARDINO
POLICE DEPARTMENT
INTEROFFICE MEMORANDUM

TO: Captain A. Affrunti

FROM: Detective J. Vega

SUBJECT: Internal Complaint Investigation (24PSB-006)

DATE: August 1, 2024

COPIES:

SYNOPSIS:

On Thursday, February 22, 2024, I was assigned to investigate this Internal Complaint (24PSB-006). I was made aware that San Bernardino County Assistant District Attorney Robert Brown had concerns regarding a statement captured on body-worn camera (BWC) footage for San Bernardino Police Department (SBPD) case number 2023-0122237. Officer H. Victorio was captured on BWC telling the suspect, Arrestee (DOB: PII - Civ. Code sec. 1798.24), "Your so fucking lucky there's people here, I'd beat the fuck out of you for taking away from me." Officer 1, who was standing near Officer Victorio and Arrestee, covered his BWC with his hand and muted his BWC within seconds of Officer Victorio's comment. No force was used during the detention and subsequent arrest of Arrestee

The arrest of Arrestee stemmed from a burglary investigation. On Saturday, October 28, 2023, at about 0720 hours, San Bernardino Police Dispatch received a transfer call from the Riverside County Sheriff's Department regarding a suspicious circumstance call at Incident location (Incident location.) in the City and County of San Bernardino. The reporting party (RP) was watching a live surveillance stream of the business and could see subjects taking property from the business.

This call generated a significant police response. A total of 3 Sergeants, 2 Corporals, 13 Officers, a Forensic Specialist, and a San Bernardino County Sheriff's Department helicopter (40 King) responded to the call. Three suspects (including Arrestee were arrested for burglary during the investigation.

During a review of BWC footage, Arrestee was observed being detained by Officer 1 while riding an electric scooter and wearing a black backpack on his back. Arrestee also had a black shirt in his possession when detained. The shirt was resting on Arrestee shoulder and not worn.

During a search of Arrestee Officer 1 removed a clear plastic bag from Arrestee which contained a white substance he suspected was methamphetamine.[1] During the detention, Officer 1 also removed some suspected marijuana[2] from Arrestee Officer Victorio was observed on BWC placing the clear plastic bag containing the suspected narcotics inside the backpack. Officer 1 was observed placing the suspected marijuana in the backpack. An additional clear zip lock bag containing suspected marijuana was observed in the backpack when Officer Victorio searched the backpack.

While Officer Victorio searched the backpack, some "1MORE" brand earphones were observed inside the backpack. The same brand of earphones in a similar box was observed on Officer R. Navarro-Garcia's BWC footage when he and the victim inventoried some of the stolen/recovered property at the victim's warehouse.

The backpack also contained other miscellaneous personal property which included cell phones, a USB cord, a screwdriver, lighters, and a wallet (which had no visible contents). During the investigation, the victim identified the scooter as belonging to him. The scooter was returned to the victim. Officer Victorio determined that Arrestee black shirt had been used as a mask during the burglary. Officer Victorio placed the black shirt in evidence.

Arrestee was arrested and jailed on felony charges. San Bernardino County Sheriff's Department booking records did not show Arrestee was booked with a backpack, any cell phones, or a wallet. No record of the backpack being tagged as evidence or safekeeping at the SBPD was found. No record of the narcotics was found indicating they were submitted for analysis or destruction.

A review of police reports found that neither the backpack, its contents, nor the narcotics were mentioned. BWC footage shows the last officer to have the backpack with evidence and narcotics was Officer Victorio. The BWC footage captured Officer Victorio placing the backpack with evidence and narcotics in the backseat floorboard of Unit #5.

Sergeant F. Fuentes (Witness Officer) was directed to complete a memorandum during the investigation. Sergeant Fuentes was on the initial burglary call and was the next officer assigned to use Unit #5 after Officer Victorio. He recalled responding to the call and assisting with clearing the building. Sergeant Fuentes did not recall encountering Arrestee or taking possession of his property. He was "confident" that he conducted a pre-shift inspection of Unit #5 as part of his routine. Sergeant Fuentes did not locate any property, backpack, or narcotics in Unit #5 during the pre-shift vehicle inspection.

[1] The substance Officer 1 recovered will be referred in this investigation as "suspected methamphetamine" because it was not laboratory tested.

[2] The marijuana Officer 1 recovered will be referred in this investigation as "suspected marijuana" because it was not laboratory tested.

Officer V. Trejo (Witness Officer) was interviewed during the investigation. Officer Trejo assisted with the burglary investigation by transporting the suspect Arrestee to jail. Officer Trejo was asked if she was provided a backpack that Arrestee had when he was detained. She replied, “That I recall, no.” Officer Trejo was asked if she knew what happened to the backpack and any of the additional property that he had. Officer Trejo replied, “I do not know.” She was asked if she was aware if Arrestee had any narcotics when he was contacted and detained. Officer Trejo replied, “I do not recall.”

Officer R. Navarro-Garcia (Witness Officer) was interviewed during the investigation. He recalled that on 10/28/2023, he responded to Rialto Street and E Street as part of a burglary investigation and conducted the infield lineup with the victim, Victim and that the line-up was conducted for the suspect, Arrestee Officer Navarro-Garcia was asked if he recalled the victim identifying his scooter during the line-up. He replied, “Yes.” I asked Officer Navarro-Garcia if any other property, including headphones, was shown to the victim. Officer Navarro-Garcia said he could only recall the “scooter” that the suspect had.

Officer Navarro-Garcia was asked if he was aware of what happened to a backpack, suspected narcotics and other property Arrestee had in his possession. He replied that he did not recall any other property Arrestee had other than the scooter. I asked Officer Navarro-Garcia again if he was aware of any suspected narcotics Arrestee had in his possession. He replied, “Until now, no sir” and added he did not know anything about narcotics. I asked Officer Navarro-Garcia if he had taken possession of any of Arrestee property, other than the scooter Victim took possession of. He replied, “No, only the scooter, nothing else sir.”

Officer 1 (Focus Officer) was interviewed during the investigation. Officer 1 was assisting with a burglary investigation at Incident location when he heard Officer Victorio broadcast that a suspect was fleeing from him on a scooter. He said he detained Arrestee who was riding a scooter and had a backpack at the Transit Center. Officer 1 said he located what he believed was methamphetamine in Arrestee pocket and placed the methamphetamine on top of a wall. During a secondary search, he located marijuana on Arrestee and believed he put the marijuana on the roof of his unit.

Officer 1 said he did not complete a report for the investigation. Officer Victorio told him that he (Officer Victorio) was going to “cover it” referring to documenting the incident because it was the end of Officer 1’s shift. Officer 1 said the scooter and backpack Arrestee possessed had been placed in the back of Officer Victorio’s unit. Officer 1 did not take any evidence or property with him when he left the scene. Officer 1 said he was not responsible for going to the station to tag any evidence.

Officer 1 initially said he was not sure what happened to the suspected methamphetamine and suspected marijuana because when he went back, both were gone. After reviewing BWC footage during the interview, Officer 1 said he was

confident that he was not responsible for tagging in any evidence and that the narcotics remained with Officer Victorio.

Officer Victorio (Focus Officer) was interviewed during the investigation. Officer Victorio stated he had not initially been dispatched to the burglary call but was listening to the radio and heard there was an ongoing “459” and that two possible suspects had not been accounted for. Officer Victorio observed a Hispanic male suspect near Rialto Avenue and E Street. The subject matched the suspect's description that officers at the burglary scene had provided. Officer Victorio said he was wearing a department-approved uniform. He exited his marked police vehicle and turned on his overhead lights. Officer Victorio yelled to the suspect; the suspect looked back at him. Officer Victorio tried to call the suspect to him, but the suspect began to flee on a scooter. Based on the suspect description provided by his partners, Officer Victorio believed the subject was “involved with the commission of the crime.”

Officer Victorio said Officer 1 arrived on the scene and he told Officer 1 what direction the suspect was going. Officer 1 went in that direction while Officer Victorio tried to catch up. Officer Victorio said the suspect was riding westbound, through the train station. Officer 1 detained the suspect, and Officer Victorio later confirmed it was the person who had fled from him.

Officer Victorio said Arrestee had a black backpack that contained hygiene products, an alcoholic beverage, lighters, and some tools including a screwdriver. Officer Victorio remembered Officer 1 locating suspected cocaine on Arrestee that was in a clear plastic bag. Officer 1 placed the suspected cocaine on the ledge of a wall. Officer Victorio said he collected everything that was on the ledge of the wall and placed the items inside the backpack.

When asked what happened with the backpack, Officer Victorio said, “Looking back at it now” and after reviewing all the documents that had been provided to him, he thought he had tagged the backpack in for evidence because that is what he would typically do. He continued and said after reviewing the “PR1” he noticed he did not tag it in. Officer Victorio then said, “I know” that he had “tossed it.” Officer Victorio said he believed he threw away the backpack and its contents, including the possible cocaine, at the police station.

Officer Victorio said he recognized the substance as suspected cocaine from his training and experience, but that the substance was not tested. Officer Victorio did not remember the suspected marijuana being in the backpack.

Officer Victorio collected evidence during the case and placed a shirt in evidence. Officer Victorio completed a report during the investigation and said he did not mention the backpack and cocaine in his report. Officer Victorio said since he had the suspect on a felony charge and was not going to charge the misdemeanor, he “got rid of it” referring to the suspected cocaine.

When asked why would have tagged the t-shirt and not the backpack, Officer Victorio remembered the backpack was “disgusting” and was not sure if the alcoholic beverage had “leaked” in the backpack. Officer Victorio continued and said the first time he checked the backpack was a “safety sweep” to ensure no weapons were inside. Officer Victorio said the second time he went through the backpack he had gloves on. Officer Victorio described the backpack as having an odor and being “sticky.” Officer Victorio continued and stated that we (officers) do not tag in lighters or alcoholic beverages. Officer Victorio then said, “I just didn’t see me tagging it for like safekeeping or evidence.”

Officer Victorio was shown his BWC footage during the interview. Officer Victorio confirmed the backpack and possible cocaine seen in the footage were the items being referred to during the interview.

Officer Victorio was asked if it was “common practice” to throw items of evidence or property belonging to citizens away. Officer Victorio replied, “No sir.”

Officer Victorio was asked in “hindsight,” what would have been the appropriate disposition of the property that Arrestee possessed. Officer Victorio replied, the “cocaine” even though he was not going to charge him with it, he could have tagged it in for “destruction.”

Officer Victorio continued and said he could have removed all the items he could not tag in from the backpack and thrown those items away. Officer Victorio said he could have tagged the personal belongings in the backpack as “safekeeping.”

FINDINGS:

BWC REVIEW (Tab 06)

I located a total of 34 BWC recordings for this incident. The following officers had BWC footage found not to be relevant to this investigation:

Sergeant A. Reyna (4) BWC clips of footage from the station and the initial crime scene.

Corporal J. Burgher (1) BWC clip of footage from the initial crime scene.

Corporal M. Valenzuela (1) BWC clip of footage from the initial crime scene.

Officer K. Birkett (1) BWC clip of footage from the initial crime scene.

Officer C. Oropeza (3) BWC clips of footage from the station, initial crime scene, and county jail (CDC).

Officer J. Ortiz (1) BWC clip of footage from the initial crime scene.

Officer J. Madrid (1) BWC clip of footage from the initial crime scene.

Officer R. Miars (1) BWC clip of footage from the initial crime scene.

Officer G. Rodriguez (3) BWC clips of footage from the station and the initial crime scene.

Officer J. Tubbs (1) BWC clip of footage from the initial crime scene.

Officer S. Wilcox (1) BWC clip of footage from the initial crime scene.

Officer M. Vuicich (1) BWC clip of footage from the initial crime scene.

The following Officers had BWC footage found to be relevant to this investigation:

Officers Officer 1, V. Trejo, and H. Victorio had direct contact with Arrestee. BWC footage for Officer Navarro-Garcia was also found to be relevant due to the footage showing property items (earphones) that the suspects stole and property (electric scooter) Officer Navarro-Garcia took possession of from Officer Victorio.

Officer H. Victorio had four BWC recordings for this investigation. The following is a summary of the footage:

Officer Victorio BWC #1 - Date: 10/28/2023 - Time: 07:42:18 - Length 17:19

The footage began with Officer Victorio driving north on E Street approaching Rialto Avenue. This was determined by visible street signs. At about 07:42:48, Officer Victorio exited a marked SBPD "Supervisor" vehicle (Unit #5) and stated to [redacted], "Hey bro, come here." Officer Victorio repeated, "Come here." [redacted] was visible in the footage and was riding an electric scooter. [redacted] did not comply and rode away from Officer Victorio on the scooter. The overhead emergency lights were activated on the police vehicle.

At about 07:43:12, Officer Victorio told another officer in a marked SBPD vehicle that [redacted] was "taking off," and directed the officer to "cut him off".[3] Officer Victorio (1Adam16) broadcasted to dispatch that [redacted] was taking off west through the train tracks. Officer Victorio drove his vehicle to the transit center and entered the transit center by driving south on F Street from Rialto Avenue. At about 07:44:32, Officer Victorio located [redacted] taking [redacted] into custody at the transit center. [redacted] had already handcuffed [redacted] when Officer Victorio arrived. Officer Victorio confirmed with [redacted] that [redacted] was the person who fled from him.

Officer Victorio assisted in searching [redacted] and was seen removing (07:44:49) a black, unknown make, touch screen cell phone from [redacted] right front pant pocket. Officer Victorio was also seen removing (07:44:54) a black wallet from [redacted] right rear pant pocket. These items were placed on top of a block wall. BWC footage (07:46:33) later showed the wallet did not contain any visible contents. At about 07:45:07, Officer Victorio told [redacted] "Your so fucking lucky there's people here, I'd beat the fuck out of you for taking away from me."

Officer Victorio searched [redacted] black backpack. Inside the backpack was a box of "1MORE" earphones (07:45:28).[4] A second black cell phone (07:45:49) was also seen in the backpack. Officer Victorio collected [redacted]' property from the block wall and placed the items inside the backpack. Officer Victorio collected a clear plastic bag tied in a knot that contained a white substance (suspected cocaine or methamphetamine) that [redacted] previously removed from [redacted] Officer Victorio placed the substance in the backpack. Officer Victorio secured the backpack in the backseat of his police vehicle.

At about 07:52:50, Officer Victorio removed the backpack from his backseat, placed the backpack on the ground, and again searched the backpack. Officer Victorio placed the contents back into the backpack which included the suspected narcotics and a zip lock back containing suspected marijuana. The backpack was again secured in the backseat of Officer Victorio's vehicle. This BWC footage ended as the scooter and a black shirt were placed in Officer Victorio's vehicle by both [redacted] and Officer Victorio.

[3] . [redacted] was determined to be the responding officer after further BWC review.
[4] The "1MORE" earphones were later found to match stolen earphones from the business.

Officer Victorio BWC #2 - Date: 10/28/2023 - Time: 08:04:17 - Length 6:30

This BWC footage captured Officer 1 driving away. Arrestee was left with Officer Victorio near Rialto Avenue and E Street. Per Officer Victorio's police report, officers relocated to this location to allow the train station to resume normal operations. Officer V. Trejo arrived within a minute of Officer 1 leaving. Arrestee was secured in the backseat of Officer Trejo's unit. Most of this BWC footage was muted.

Officer Victorio BWC #3 - Date: 10/28/2023 - Time: 08:43:40 - Length 4:16

This BWC footage began near the tail end of the infield line-up involving Arrestee Officer Victorio was assisted by Officer Trejo. After Arrestee was placed back into Officer Trejo's vehicle, Officer Victorio removed the electric scooter from his vehicle. The victim, whom Officer Navarro-Garcia transported, identified the scooter as his property. Officer Victorio photographed the scooter with a RIPA phone and placed the scooter in Officer Navarro-Garcia's vehicle with the victim. The backpack was seen on the floorboard behind the driver's seat in Officer Victorio's vehicle. Photographs of the scooter were found in DIMS.

Officer Victorio BWC #4 - Date: 10/28/2023 - Time: 08:49:29 - Length 3:50

This BWC footage began with Officer Victorio photographing Arrestee' tattoos with a RIPA phone. Photographs of Arrestee tattoos were found in DIMS. Officer Victorio read Arrestee his Miranda rights. Arrestee denied stealing anything during the interview.

Officer 1 had one BWC recording for this investigation. The following is a summary of the footage:

Officer 1 ***BWC - Date: 10/28/2023 - Time: 07:30:36 - Length 33:23***

This BWC footage began with Officer 1 assisting in clearing a vehicle that had been stopped during the investigation. Officer 1 assisted with establishing a perimeter of Incident location. At about 07:42:18, Officer 1 began running to his patrol car. Officer 1 drove his patrol vehicle, and then exited his vehicle at the transit center and ran after Arrestee Officer 1 pointed his duty weapon at Arrestee Arrestee dismounted the scooter and was handcuffed and detained by Officer 1. The audio on the BWC was muted during the detention of Arrestee

Officer 1 helped Arrestee stand up and escorted him to a nearby block wall. Officer 1 began searching Arrestee At about 07:44:54, Officer 1 turned on the audio to his BWC. At about 07:44:58, Officer 1 removed a bag of suspected narcotics (white substance) from Arrestee left front pant pocket. Officer 1 placed the substance on top of the block wall.

At about 07:45:07, Officer Victorio stated, “Your so fucking lucky there’s people here, I’d beat the fuck out of you for taking away from me.” At about 07:45:08, Officer 1 muted his BWC.

Officer 1 escorted Arrestee to his patrol vehicle. During another search of Arrestee Officer 1 located some US currency and a clear plastic bag containing suspected marijuana (07:46:26) in Arrestee right front pants pocket. It appeared that Officer 1 immediately placed the money back into Arrestee ’ pocket. The suspected marijuana was placed on top of his patrol vehicle. Officer 1 placed Arrestee in the backseat of his patrol vehicle. Officer 1 obtained Arrestee name and birth date and conducted a computer records search for Arrestee in his police vehicle.

At about 07:51:47, Officer 1 returned to the area Arrestee dismounted the electric scooter. Officer 1 collected the scooter and a black shirt, which was on the ground by the scooter, and he set the items by the SBPD patrol vehicles.

At about 07:55:20, Officer 1 retrieved the bag of suspected marijuana from the top of his vehicle. Officer 1 walked to Officer Victorio’s vehicle and placed the suspected marijuana inside a zippered portion of the backpack.

At about 07:59:19, Officer 1 assisted Officer Victorio in loading the scooter in the backseat of Officer Victorio’s patrol vehicle. Officer 1 left the black shirt in Officer Victorio’s vehicle.

Officer 1 drove his vehicle from the transit center and parked on Rialto Avenue, west of E Street. At about 08:03:59, Officer 1 turned off his BWC.

Officer V. Trejo had two BWC recordings for this investigation. The following is a summary of the footage:

Officer Trejo BWC #1 - Date: 10/28/2023 - Time: 08:43:02 - Length 00:52

This BWC footage began with the infield line-up involving Arrestee Officer Trejo assisted Officer Victorio with the line-up on Rialto Avenue, west of E Street. Officer Trejo turned her BWC off as Officer Victorio placed Arrestee in the backseat of Officer Trejo's police vehicle.

Officer Trejo BWC #2 - Date: 10/28/2023 - Time: 08:56:16 - Length 06:15

This BWC footage began as Officer Trejo was driving her police vehicle east on Rialto Avenue towards D Street.[5] Officer Trejo spoke with Arrestee while she was driving. Officer Trejo arrived at the intake parking lot of the county jail (CDC) and turned off her BWC while she was sitting in the driver's seat of her vehicle.

Arrestee nor any of his property were observed on this BWC footage.

[5] This was determined by street signs and landmarks.

Officer R. Navarro-Garcia (8) BWC clips of footage from the station, initial crime scene, and infield line-up of Arrestee. Most of his BWC footage was not relevant to this investigation. The BWC footage captured Victim taking possession of the scooter Arrestee was riding when he was detained.

Officer Navarro-Garcia BWC #3 - Date: 10/28/2023 - Time: 08:33:38 - Length 30:21

At about 08:40:03, Officer Navarro-Garcia admonished the victim regarding the infield line-up involving Arrestee During the infield line-up, the victim identified his scooter and the suspect's clothing. Officer Victorio told Officer Navarro-Garcia that he would photograph the scooter and put it in his (Officer Navarro-Garcia's) vehicle. At about 08:51:14, the victim exited the rear of Officer Navarro-Garcia's vehicle with the scooter. The backpack was not seen. Officer Navarro-Garcia continued with his investigation at the warehouse.

Officer Navarro-Garcia BWC #7 - Date: 10/28/2023 - Time: 10:23:43 - Length 21:38

This BWC footage captured Officer Navarro-Garcia continuing with his investigation at the warehouse. At about 10:29:10, Officer Navarro-Garcia was conducting an inventory of property the suspects removed from the warehouse. Some of the earphones "1MORE" brand appeared to be the same as the box of earphones Arrestee had in his backpack.

This concludes the BWC review.

REPORTS REVIEW (Tab 03)

I located a total of 14 police reports in Mobile Client for this incident.

- Officer Navarro-Garcia completed CR1.1, CR2, PR1, and PR1 Evidence reports. The CR1.1 referenced the suspect on the scooter. The CR2 identified the suspect who fled on the scooter as Arrestee [redacted]. Arrestee was identified via surveillance footage and an infield line-up. The scooter was identified as belonging to the victim and had been taken from inside the business. Officer Navarro-Garcia's report stated that Officer Victorio located Arrestee on the scooter.

- Officer Navarro-Garcia's PR1 Evidence report listed the item as a "CD" with footage of the burglary. The PR1 report listed (19) separate stolen and recovered items. Two of the items were listed as "1MORE" brand headphones/earphones, which was the same brand of earphones seen in Arrestee backpack.

- Officer G. Rodriguez completed CR2 and CR3 Arrest reports. The CR2 stated that one of the suspects arrived on a black scooter. The CR3 contained information for another suspect.

- Officer Victorio completed CR2 and PR1 Evidence reports. Officer Victorio described responding to the call and that one of the outstanding suspects was a bald Hispanic male wearing a white hoodie. Officer Victorio stated he located Arrestee who was a bald Hispanic male wearing a white hoodie and riding an electric scooter. Arrestee fled from him. He added Officer 1 [redacted] arrived on the scene and "intercepted" Arrestee at the train station and was detained. Officer Victorio's report stated Arrestee had a black shirt on his person.

- Officer Victorio's report also stated he viewed a brief portion of the video surveillance and noticed Arrestee used the shirt to cover his face during the crime. Officer Victorio stated Arrestee was identified during an infield line-up as one of the suspects. He added that the electric scooter was released to the reporting party at the scene. Officer Victorio had an "EVIDENCE" heading in his CR2 that listed the black shirt recovered, which was assigned tag number 23-12095. His PR1 Evidence report listed the same tag number and item as a "black shirt."

The following officers completed CR2 reports not relevant to this investigation: Officer C. Oropeza, Officer R. Miars, and Officer M. Vuicich.

Officer Oropeza also completed a CR3 Arrest report for another suspect. Officer Trejo completed a CR3 Arrest report for the suspect, Arrestee [redacted].

Laserfiche stored 6 sets of reports for this investigation. One set of records was a copy of the Booking Application and Probable Cause Declaration for Arrestee The other records were not relevant to this investigation.

- Forensic Specialist A. Lugo completed a Forensic Report. The report was not relevant to this investigation.

During a review of the police reports, there was no mention of Arrestee having any suspected narcotics or having a backpack that contained earphones. No reports indicated what happened to the backpack or the suspected narcotics.

This concludes the Report(s) review.

FOLLOW-UP INVESTIGATION

SBPD Property / Evidence Room

On Tuesday, 2/27/2024, I went to the SBPD Property Room after learning of the missing narcotics and backpack. Property Technician E. Sanchez researched case number 2023-122237 for any items that had been placed into evidence or safekeeping during the burglary investigation. Property Technician Sanchez informed me that only the following items had been tagged into evidence: A black shirt - Evidence Tag Number 23-12095 by Officer H. Victorio, and a CD – Evidence Tag Number 23-12125 by Officer R. Navarro-Garcia. Photocopies of the 2023 Evidence Tag Log for the Property Tagging Room and B-Building Bulk Storage were later made covering the date of 10/28/2023 (Tab 09).

Central Detention Center

On Tuesday, 2/27/2024, I went to the San Bernardino County Sheriff's Department (SBCSD) - Central Detention Center (CDC). A Custody Specialist located Arrestee [redacted] "Money and Personal Property Receipt" for when he was booked on 10/28/2023. I was provided a copy of the receipt (Tab 09) which indicated Arrestee was not booked with his backpack, any cell phones, wallet, or suspected controlled substances.

Scientific Investigations Division

On Tuesday, 2/27/2024, I went to the SBCSD – Scientific Investigations Division (SID). I was assisted by Property Technician Ceballos, who researched SBPD case number 2023-122237. The only items that had been submitted to SID under the case number were latent prints that had been lifted by Forensic Specialist A. Lugo. No narcotics had been submitted for analysis or destruction under the SBPD case number.

SBPD Narcotics Unit

On Tuesday, 2/27/2024, I went to the Narcotics Unit and was assisted by Criminal Investigation Officer (CIO) Officer 2 to review the Narcotic Unit logs. The date the suspected narcotics were located was on 10/28/2023 (Saturday). Any narcotics submitted to the SBCSD – SID for analysis or destruction would have been sent over on Monday, 10/30/2023.

The destruction log for 10/30/2023 contained case numbers 23-122449, 23-122566, and 23-121924. Case numbers 23-122449 and 23-121924 were found to be unrelated to this investigation. Electronic copies of the narcotics logs were obtained (Tab 09).

Case number 23-122556 contained a PR2 report that Officer E. Hill had completed. The PR2 indicates that 0.5 grams of suspected cocaine had been located on top of a marked San Bernardino police unit. The unit number is not identified in the report. The

location of the incident was listed as 205 S. Pershing Avenue (City fuel pumps). After interviewing Officer Victorio, the narcotics Officer Hill located will not be related to this investigation.

No narcotics destruction logs were found for 10/31/2023 or 11/1/2023. The narcotics analysis log ("LRN Log") for 10/30/2023 and 11/1/2023 did not contain the suspect name for this investigation. No narcotics analysis log was found for 10/31/2023.

SBPD Unit #5

On 2/27/2024, I located Unit #5 parked in its assigned parking space at the police station. I searched the vehicle and did not locate any narcotics or backpack in the vehicle. The Vehicle Inspection Log for Unit #5 (Tab 09) was in the Watch Commander's office. The log indicated that Officer Victorio used the vehicle on 10/28/23. Sergeant Fuentes was also listed on the log as using the vehicle on 10/28/23. The vehicle was not used on 10/29/23. Sergeant Passo used the vehicle on 10/30/23.

SBPD Station Cameras

On 2/27/2024, I searched the police station camera system (Genetec) for any footage from 10/28/2023. The earliest camera footage on the system was from 1/28/2024. All the previous (older) footage had been purged from the system.

Interview with [redacted] - Victim (Tab 05)

On 3/5/2024, at about 1142 hours, Sergeant M. Block and I responded to Incident location [redacted] and spoke with the victim, Victim [redacted] Victim was asked if he received a backpack when he was given the scooter. There was a slight language barrier and one of Victim's employees assisted me by translating to Victim what a backpack was. Victim replied in English, "I can't remember."

I told Victim that we were trying to find the backpack for the guy who was riding the scooter. I told Victim that I was aware his scooter had been returned to him. Victim said he had the scooter. However, he said no officers gave him a backpack. Sergeant Block and I told Victim that the backpack had headphones inside. Victim responded and said, "No, I don't have that one."

Victim said he found some headphones in the warehouse that he had already given to police officers. Victim also confirmed he had some headphones that the suspects tried to steal. I showed Victim two images of the headphones that had been seen in Arrestee [redacted] backpack and asked him, "They looked like this?" I obtained the images from BWC footage from Officer Victorio. After viewing the images, Victim stated, "Yeah, yeah, we have a lot of this."

Victim recalled and described conducting the infield line-up of the suspect. Victim saw the scooter and did not remember if the suspect had a backpack.

Transit Center Cameras – Dylan Firth (Omnitrans Security Specialist)

On 3/14/2024, Sergeant Block sent Firth an email requesting video footage of this incident. Firth replied to the email and indicated his system only retains footage for 90 days, and that he did not see any downloaded footage for the requested date. No video footage was obtained from Omnitrans.

CDC Cameras

On 3/14/2024, Lauren OdebraIski, a CDC employee, provided me with surveillance footage (Tab 08) that captured Arrestee booking process. Sergeant Block had requested the footage. I reviewed the footage and did not see Arrestee being booked with the black backpack. The footage did not capture Officer Trejo in possession of the backpack.

Review of Ring Camera Footage

On 4/25/2024, Sergeant Block obtained a CD that had been placed into evidence by Officer Navarro-Garcia under tag number 23-12125. The CD contained two Ring Camera video surveillance clips depicting the burglary. I reviewed the footage recorded on the CD, which recorded both audio and video. Below is a description of what the footage captured.

Ring Clip #1 - Date: 10/28/2023 - Time: 07:18:10 - Length 1:12

This footage captured an unknown suspect (suspect #1) removing some property from the business through an exterior door. The suspect can be heard talking to someone else who is out of camera view and presumably inside the building. The visible suspect is wearing a black baseball cap, a white face mask, a black long-sleeve shirt, light-colored jeans, red gloves, and white/black shoes. No officers were seen or heard contacting the suspect(s).

Ring Clip #2 - Date: 10/28/2023 - Time: 07:23:27 - Length 1:18

This footage captured a second burglary suspect moving property with suspect #1. This suspect is wearing a white hooded sweatshirt, a black T-shirt covering his face, dark gloves, blue jeans, and black and white shoes moving property. Based on the clothing, it is believed the second suspect is Arrestee No officers were seen or heard contacting the suspects.

DIRECTED MEMORANDUM (Tab 05)

On Tuesday, 3/26/2024, I notified Sergeant F. Fuentes he needed to prepare a memorandum in response to several questions regarding this investigation. Sergeant Fuentes was provided with all police reports for this investigation, a CAD report, and a copy of the Unit #5 Vehicle Inspection Log. Sergeant Fuentes was given until 4/15/2024 to complete the memorandum and was asked to answer the following questions:

1. How long have you been a police officer with the City of San Bernardino?

    a. Do you have any prior law enforcement experience? If so, with what agency and how many years of service?
    b. What is your current shift and assignment?
    c. In October 2023, what was your shift and assignment?

2. On 10/28/2023, at about 0751 hours, you responded to Incident location for a burglary call. During the burglary investigation, Arrestee was detained and subsequently arrested for burglary and conspiracy. Arrestee had in his possession a black backpack and electric scooter. Did you have any contact with Arrestee during the investigation? If so, did you take possession of any of his property?

3. Were you aware that suspected narcotics were recovered from Arrestee If so, do you know why no narcotic-related charges were listed on his booking application?
4. Are you aware of what happened to the narcotics Arrestee possessed?

5. Do you know what was done with the black backpack Arrestee possessed?

6. Do you know what was done with the property inside the black backpack Arrestee possessed?

7. In the evening hours (Graveyard Shift) of 10/28/2023, you were assigned San Bernardino Police Department Supervisor Vehicle Unit #5. Did you perform a pre-shift inspection of the vehicle?

8. As part of the vehicle inspection, did you search the interior of the vehicle before putting the vehicle in service? Why or why not?

9. Can you explain what the purpose of the search is?

10. Did you locate drugs or a black backpack in the vehicle? If so, what did you do with the property?

11. Are you aware of any additional information that may be relevant to this investigation? If so, please provide the additional information.

DIRECTED MEMORANDUM RESPONSES (Tab 05)
Sergeant F. Fuentes (Witness Officer)

On Monday, 4/15/2024, I received a memorandum from Sergeant Fuentes.

Sergeant Fuentes has been a police officer for about 16 ½ years with SBPD. Before becoming a police officer with SBPD, he was a Correctional Officer for about 7 years. Sergeant Fuentes is currently a patrol sergeant assigned to the dayshift weekend schedule. In October of 2023, he was assigned to the graveyard weekend schedule, working Friday to Sunday, from 1930 to 0800 hours.

Sergeant Fuentes recalled responding to a burglary call at Incident location and assisting with "clearing the building". He had no recollection of encountering Arrestee or taking possession of his property.

Sergeant Fuentes did not recall if any narcotics were recovered from Arrestee He added that "depending on the totality of a given circumstance" would determine if someone would be charged for having narcotics. Sergeant Fuentes said that depending on the amount of narcotics discovered would determine if it was consistent with possession or possession for sales. He also stated that the narcotics would be "articulated in the police report" and regardless of whether the subject was charged or not, the narcotics would be placed into evidence.

Sergeant Fuentes was not aware of any narcotics Arrestee possessed or any belongings he may have had.

Sergeant Fuentes said he was "confident" he would have conducted a pre-shift inspection of Unit #5 as part of his routine and before leaving the station. He inspects his assigned unit before his shift for unreported damage, that the equipment functions properly, that it contains necessary equipment, and that there is no property belonging to the prior operator, such as contraband, narcotics, weapons, or items of evidence. Sergeant Fuentes did not locate any property, backpack, or narcotics in Unit #5 during the pre-shift vehicle inspection.

Sergeant Fuentes was unaware of any additional information that may be relevant to the investigation.

INTERVIEWS (Tab 05)
Officer V. Trejo (Witness Officer)

On Thursday, 4/25/2024, at about 0702 hours, Sergeant M. Block and I interviewed Officer Trejo in the SBPD PSB Interview Room. The interview was audio recorded. The following is a summary of the interview. Officer Trejo did not have a representative with her. Officer Trejo reviewed her BWC and the documents I provided her before the interview. She was not aware of any additional recordings or documents that she had authored and wished to review.

At about 0705 hours, I read Officer Trejo her Miranda Rights. She said she understood her rights and was not willing to speak to me. At about 0706 hours, I read Officer Trejo the Lybarger Advisement and ordered her to provide a statement and answer questions.

Officer Trejo will reach her 5-year mark as a police officer with the City of San Bernardino in May of 2024. She does not have prior law enforcement experience. Officer Trejo is currently assigned to the “Patrol Division”, in the Adam District (Western Area). Officer Trejo works the 4 – 10 schedule, which consists of working Monday through Thursday, from 0600 hours to 1500 hours. In October of 2023, she was assigned to the “Patrol Division”, in the “David Beat” (Southern District) and worked the “three twelves”. Officers who work the 3 – 12 schedule work Friday through Sunday. In October of 2023, the dayshift start time began at 0700 hours and ended at 1930 hours.

I asked Officer Trejo if she received training regarding the chain of custody for evidence and she replied, “Yes.” I asked her to summarize her knowledge of how the chain of evidence is handled.

Officer Trejo said if someone is detained or arrested, their personal property, such as a phone or wallet that is small and will fit when booked, can be booked with the suspect at a detention center. Any items that do not fit are usually taken to the station and stored as “Safekeeping.” Officer Trejo said the items are tagged together, itemized, and placed into a locker. I confirmed with Officer Trejo that this was the process for the suspect's personal property.

I asked Officer Trejo what she would do with a gun used by a suspect during a robbery that had been recovered as evidence. Officer Trejo said, “ID” (Forensic Technicians) would take pictures and then she would take possession of it. The gun would be test-fired at the police station, and then taken to the evidence room. The gun and ammunition would be stored separately.

I used as an example of a ski mask or screwdriver as items used to commit crimes and asked Officer Trejo if she would store the items herself at the police station. She replied, “Yes, I would take that as evidence.” I asked if it was her experience that she completed both processes where someone had bulk property or she recovered crime evidence. Officer Trejo replied, “I’ve done it multiple times.”

I asked Officer Trejo how she assisted with the investigation after responding to Rialto Avenue and E Street on 10/28/2023 as part of the burglary investigation stemming from Incident location in San Bernardino. Officer Trejo replied that she responded because “transportation” was needed for the suspect in custody. She said when she arrived, she met with Officer Victorio, the suspect was in the backseat of Officer Victorio’s patrol unit. Officer Trejo said the investigation had not yet been completed. She waited there until the investigation was “fully done” to transport the suspect to “CDC.”

I asked Officer Trejo if it was “clear” to her that she was going there to be a transport officer. She replied, “Yes.” She also confirmed she was not responding to investigate the actual burglary. Officer Trejo stated she was only with Officer Victorio at Rialto Street and E Street, but that Officer Navarro conducted an infield line-up and brought the victim to the location.

Officer Trejo did not recall the suspect's name. I showed Officer Trejo the booking application and probable cause declaration (SBPD Case # 23-122237) for the suspect, Arrestee (DOB: PII - Civ. Code sec. 1798.24) to refresh her recollection. She viewed the booking application first and confirmed the form was completed in her writing. Officer Trejo confirmed that Arrestee was the suspect she transported. She confirmed that Arrestee was the suspect Officer Victorio had detained in his vehicle and Arrestee was the suspect viewed in the infield line-up.

Officer Trejo said she transported Arrestee to the “Central Detention Center”. I asked her what property she booked Arrestee with. Officer Trejo did not recall booking Arrestee with any property. I asked if Arrestee had a bicycle and she replied, “No.” I asked Officer Trejo if he had a backpack and she replied, "That I recall, no.”

Sergeant Block pointed out that the booking application listed Arrestee being booked with $1.28 and asked if she was inferring that he did not have any property or if she was inferring that he did not have any property that stood out that she could recall that would be unusual. Sergeant Block confirmed with Officer Trejo that the suspect's property goes into a small plastic bag. Sergeant Block began to state that if the suspect's property did not fit in the bag, Officer Trejo interjected and said she would have to take the property to the station and book it there. Sergeant Block then asked if the property could be left with a family member. Officer Trejo responded, “Yes.”

Sergeant Block asked Officer Trejo what property if any, including the $1.28, she booked Arrestee in with. Officer Trejo said she did not recall what items she booked Arrestee other than the money listed on the booking application.

I asked Officer Trejo if she was provided with a backpack that Arrestee had when he was detained. She replied, “That I recall, no.” I asked her if she knew what happened to the backpack and any of the additional property that he had. Officer Trejo replied, “I do not know.”

I asked Officer Trejo if she was aware if Arrestee had any narcotics when he was contacted and detained. Officer Trejo replied, “I do not recall.”

I asked Officer Trejo if she recalled having any conversations with Officer Victorio about any narcotics or backpack Arrestee may have had. She replied, “I do not recall.”

I stated to Officer Trejo that she had completed the booking application and probable cause declaration, and the forms stated Arrestee had been charged with burglary and conspiracy and then asked Officer Trejo if she knew why Arrestee had not been charged with a controlled substance charge. She replied, “I don’t.”

I asked Officer Trejo if it was fair to say that she was not made aware that he needed to be charged with that or if she just didn’t remember. Officer Trejo responded that the “lead investigator” of the case, advised her that Arrestee was only going to be charged with those two charges, burglary and conspiracy. She was not advised of any other charges as she did not have the “full investigation” of this case. She did not recall which officer gave her this information.

I asked Officer Trejo how she came up with the information needed to fill out the probable cause declaration. She stated that Officer Navarro was the lead investigator and that the information she obtained was from Officer Navarro. Officer Trejo did not have first-hand knowledge of the information and had to contact Officer Navarro. I asked her if it was a common practice to obtain information from someone else to book somebody. She replied, “Yes, when you’re not the lead investigator, yes.”

Sergeant Block asked Officer Trejo when she spoke with Officer Navarro, did she have any information that Arrestee at any time possessed controlled substances or stolen property. She replied, “Controlled substances, no.” She added that the stolen property information was obtained by Officer Navarro and Officer Victorio. Sergeant Block asked if she was aware that Arrestee had stolen property in his possession and she replied, “Yes.”

Sergeant Block asked Officer Trejo if she had ever seen Arrestee in possession of a controlled substance. She replied, “I don’t recall.”

I asked Officer Trejo if she recalled what specific stolen property Arrestee possessed. She replied that it was an “electric scooter.”

The recording was paused and we went off the record at 0719 hours. We went back on the record at 0721 hours. Officer Trejo was asked if anyone had asked her any questions while the recordings were stopped. She replied, “No.”

I summarized the interview with Officer Trejo. I stated to her that back in October or 2023, she was a “David Beat” officer working dayshift patrol and responded to Rialto Avenue and E Street. She assisted in transporting Arrestee to jail and had no part in the burglary investigation but was made aware that he had a stolen electric

scooter. I further stated that she was told what information to put on the probable cause declaration. I asked Officer Trejo if this was a fair summary of what we had discussed and she responded, “Yes.”

I showed Officer Trejo a San Bernardino County Sheriff's Department form titled, “Money and Personal Property Receipt.” The form contained the name of [redacted] Arrestee Officer Trejo said this was the “first time” she had this form. I explained to her that this is a form used by the county to itemize property for someone who was booked. I asked Officer Trejo to review the form. She then began nodding her head up and down and I asked her if this was an indication that she had read the form. Officer Trejo responded, “Yes” and added that she read it.

After reviewing the form, I read the items listed on the form for the listed property which included money, a necklace, a belt, paperwork, a watch, an earring, and a bracelet. I asked Officer Trejo, based on the form, if it was an accurate depiction of what she recalled and what property Arrestee was booked with. She responded, “I don’t recall” and added that it was due to the “timeframe.”

Officer Trejo did not have any questions for Sergeant Block and me.

The interview with Officer Trejo ended at 0726 hours.

Officer R. Navarro-Garcia (Witness Officer)

On Thursday, 4/25/2024, at about 0747 hours, I interviewed Officer Navarro-Garcia in the SBPD PSB Interview Room. The interview was audio recorded. The following is a summary of the interview. Officer Navarro-Garcia did not have a representative with him. Officer Navarro-Garcia reviewed his BWC and the documents I provided him before the interview. He was not aware of any additional recordings or documents that he authored and wished to review.

At about 0750 hours, I read Officer Navarro-Garcia his Miranda Rights. He said he understood his rights and was not willing to speak to me. At about 0751 hours, I read Officer Navarro-Garcia the Lybarger Advisement and ordered him to provide a statement and answer questions.

Officer Navarro-Garcia has been a police officer with the City of San Bernardino for almost 5 years and has no prior law enforcement experience. He currently works patrol on the 3 - 12 ½ shift on the weekend and is assigned to the David Beat (Southern District). Officer Navarro-Garcia's hours are from 0600 to 1830 hours Friday to Sunday. Every four weeks he works a "buy back" day on a Thursday. In October of 2023, his shift and assignment were also in the David Beat, on the same shift and days off.

I asked Officer Navarro-Garcia if he had received training for the chain of custody for evidence. He replied, "Yes sir." I asked him to explain what the chain of custody of evidence was. Officer Navarro-Garcia explained if he took "possession of something", he would maintain it in his possession. If he handed it to someone else, he would document that he transferred custody of the property to the other person.

I asked Officer Navarro-Garcia what the process would be if he collected a knife as evidence that had been used in a stabbing. He stated that he would maintain it in his possession and once done at the scene, he would take it to the San Bernardino Police Department and place it in evidence. In the evidence room, he would use envelopes to cover the blade due to the sharpness. Officer Navarro-Garcia would then put it in another envelope, seal it, and place his initials on the seal to show it wasn't tampered with. He would then place a tag on it to show it was tagged under a certain tag number.

Officer Navarro-Garcia said he had tagged in evidence before. I asked Officer Navarro-Garcia if it was a "normal practice" for evidence to be collected, maintained, and brought to the station to tag in. He replied, "From what I taught, yes sir."

Officer Navarro-Garcia said he has arrested suspects in his 5-years of experience. I asked him if it had been his experience that he arrested subjects with "bulk property" such as a bicycle, a laptop, or a large duffel bag that the jail would not accept. He replied, "Yes it has."

I asked Officer Navarro-Garcia what the procedure was for property that is not evidence of a crime but belongs to somebody. Officer Navarro-Garcia said "bulk property" is

something too large to put in with the subject in jail, it is “safekeeping” if it is not considered evidence. The subject would then have a number of days to collect it when released from jail.

I asked Officer Navarro-Garcia how “safekeeping” works in the field and used the example of someone having a bicycle. He said if he took possession of the bicycle, it would be a “chain of custody” and keep possession of it until arriving at the police department. He would put a tag somewhere on the bicycle so that it identifies that it belongs to a certain person who was arrested, based on a certain case number.

I asked Officer Navarro-Garcia if he recalled on 10/28/2023, he responded to Rialto Street and E Street as part of a burglary investigation and conducted the infield lineup with the victim, Victim , and that the line-up was conducted for the suspect, Arrestee He replied, “Yes sir.” I asked him if he recalled the victim identifying his scooter during the line-up. He replied, “Yes.”

I asked Officer Navarro-Garcia if any other property, including headphones, was shown to the victim. Officer Navarro-Garcia said he could only recall the “scooter” that the suspect had. I asked him if he could recall what officers were with the suspect at Rialto Avenue and E Street. He recalled Officer Victorio and Officer Trejo were there when he arrived with the victim.

I asked Officer Navarro-Garcia if he was aware of any other property, other than the scooter, that Arrestee had when he was contacted by officers. He stated during “pretrial” he was made aware that the suspect had a black shirt that was used as a face covering. I asked him how he learned of that information. Officer Navarro-Garcia stated he reviewed reports, and property reports before going to pretrial and learned of the other evidence. I asked him if he recalled seeing the black shirt at the scene. Officer Navarro-Garcia did not recall seeing it at the scene. Officer Navarro-Garcia confirmed that he saw the scooter at the scene.

I asked Officer Navarro-Garcia if he was aware of what happened to a backpack, suspected narcotics and other property Arrestee had in his possession. He replied that he did not recall any other property Arrestee had other than the scooter. I asked Officer Navarro-Garcia if he had spoken with Arrestee He replied, “No sir.” Officer Navarro-Garcia said he knew who Arrestee was, but only viewed him for infield purposes.

I asked Officer Navarro-Garcia again if he was aware of any suspected narcotics Arrestee had in his possession. He replied, “Until now, no sir” and added he did not know anything about narcotics.

I asked Officer Navarro-Garcia if he had taken possession of any of Arrestee property, other than the scooter Victim took possession of. He replied, “No, only the scooter, nothing else sir.”

I asked him if Victim had shown him what property the suspects had removed or tried to remove from the warehouse. Officer Navarro-Garcia recalled Victim showing him "box crates" of his merchandise in the backseat of the suspect's vehicle.

I asked Officer Navarro-Garcia if he had been shown what had been tampered with in the warehouse during his investigation. He said he walked through the warehouse with the victim who pointed out certain boxes on the floor, and the "entry point" where the suspects on a previous day had gone through, as well as additional boxes and crates that had been tampered with as well as moved toward the exit by the suspects. Officer Navarro-Garcia also mentioned he viewed a video during his investigation.

I asked Officer Navarro-Garcia if he had determined that earphones/headphones had been stolen during his investigation. He was aware that "a lot" of headphones and earphones were recovered from crates when looking at the crates with the victim. I asked him if any officer had shown him any box of earphones/headphones during the investigation. He did not recall being shown any type of earphones or headphones.

I asked him if he knew why Arrestee was not charged with possession of any controlled substances. Officer Navarro-Garcia replied, "No sir, I did not know there was any narcotics to begin with."

I stated to Officer Navarro-Garcia that Officer Trejo transported Arrestee to the jail, however, she was not part of the initial call and asked him if he talked to her and gave her a summary of what had occurred to book Arrestee He said it was "possibly" Officer Trejo whom he had given the information for the "PC Dec and booking app" and added it was a lengthy investigation. I asked Officer Navarro-Garcia if it was a common practice for an officer to tell the transport officer what information to include on the probable cause declaration. He replied, "I would say yes" and added the other officer might not have all the facts.

The recording was paused and we went off the record at 0804 hours. We went back on the record at 0806 hours. I asked Officer Navarro-Garcia if anyone asked him any questions regarding this case while the recordings were stopped. He replied, "No sir."

I summarized with Officer Navarro-Garcia what we had discussed and stated the following to him: In October of 2023 when he responded to the burglary investigation, he was the investigating officer. I asked him if that was correct and he replied, "Yes sir." I continued and added that at some point he was made aware that a suspect, Arrestee had been detained at Rialto Avenue and E Street. Officer Navarro-Garcia responded and said "Yes." I then asked Officer Navarro-Garcia how he was made aware of that. He recalled that before he made it to the scene, Officer Victorio already had a suspect in custody who was determined to be Arrestee

I continued and asked Officer Navarro-Garcia when he went to the burglary investigation that stemmed from Athol Street, where he went first. Officer Navarro-

Garcia said he was first on a perimeter at Athol Street and D Street and later contacted the victim. He also mentioned that this was near the suspect vehicle.

I asked Officer Navarro-Garcia how the determination to conduct the infield came about. He said after the scene was secure and everyone was in custody, from what he recalled it was "between us and the sergeants on scene." Officer Navarro-Garcia added that even though they had a video, they wanted to ensure the victim could "positively identify everybody."

I then stated that he went to Rialto Avenue and E Street to conduct the infield, and there he encountered Officer Victorio and Officer Trejo, who had the suspect, [redacted] Arrestee detained. Officer Navarro-Garcia stated, "Yes sir." I further stated that during the infield line-up, the victim saw Arrestee and at some point, Victim was shown the scooter the suspect had been using and that he observed that process. Officer Navarro-Garcia stated, "Yes", and added the victim identified it as belonging to him.

I confirmed with him that he had no part in detaining the suspect. I also confirmed with Officer Navarro-Garcia that during the line-up he was shown a scooter, but no additional property including a backpack and drugs. I asked Officer Navarro-Garcia if this was accurate. He responded, "Not that I can recall, no other property other than that scooter."

I then mentioned that we had discussed that he likely provided Officer Trejo with the information for the probable cause declaration and booking application because he was the investigating officer and that there was no mention of narcotics. I asked Officer Navarro-Garcia if it was because he was not aware of that at the time. He responded, "Yes sir, I was not aware of any narcotics."

I stated that later at "pre-trial" he learned the suspect had additional evidence, but that it was a black t-shirt as part of the case that had been tagged in. Officer Navarro-Garcia said this was how he recalled it.

Officer Navarro-Garcia did not have any questions for me. The interview concluded at about 0810 hours.

Officer 1 ***(Focus Officer)***

On Thursday, 4/25/2024, at about 1245 hours, I interviewed Officer 1 in the SBPD PSB Interview Room. The interview was audio recorded. The following is a summary of the interview. Officer 1 did not have a representative with him. Officer 1 reviewed his BWC footage and the documents I provided him before the interview. He was not aware of any additional recordings or documents that he authored and wished to review.

At about 1248 hours, I read Officer 1 his Miranda Rights. He said he understood his rights and was not willing to speak to me. At about 1249 hours, I read Officer 1 the Lybarger Advisement and ordered him to provide a statement and answer questions.

Officer 1 Pen. Code sec. 832.7 - peace officer personnel records

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I stated that on 10/28/2023, he responded to incident location in San Bernardino to assist with a burglary in progress call. During the call, he detained Arrestee. I asked Officer 1 what information led him to contact Arrestee. He stated that he heard "over the radio," Officer Victorio providing a description of a suspect fleeing from him on a scooter, going through the transit station on Rialto Avenue. I asked him if this caused him to respond to the general area. He replied, "Yes sir." Officer 1 said he responded from Athol Street.

I asked Officer 1 what happened when he arrived at the general area. Officer 1 said it was "broadcasted" that the suspect was going "westbound through the transit station," so he went to the main entrance off Rialto Avenue and observed the subject on the electric scooter riding westbound on the sidewalk/curb area. Officer 1 said he exited his patrol vehicle and detained the subject without further incident.

I asked Officer 1 what property Arrestee had in his possession, besides the scooter. He replied that he had a "large backpack on," which he believed was dark in color and that he could "see right away." Officer 1 detained Arrestee and placed handcuffs on him. He escorted Arrestee to a wall, removed a backpack from him, and searched his pockets.

I asked Officer 1 if he had located anything when he searched Arrestee. He replied, "I did." I asked Officer 1 what he found. He located a "small baggie" of what he suspected to be "possibly methamphetamine." I asked Officer 1 if in his training and experience, he had seen methamphetamine before. He replied, "Yes." Officer 1 also received training in the recognition of methamphetamine and other street drugs. Based on his experience and observation of the item, Officer 1 concluded the item was possibly methamphetamine.

I asked Officer 1 to describe how the methamphetamine was packaged and appeared. He stated if he could "recall correctly," that it was a "small bindle in a clear baggie." Officer 1 said it was a cellophane bag which he believed was removed from Arrestee left pant pocket. Officer 1 placed the methamphetamine on a brick wall that was in front of him. Officer 1 could see through the baggie and it was apparent to him it contained methamphetamine.

I stated to Officer 1 it appeared (this was based on BWC footage I reviewed) that he later pulled marijuana out of Arrestee right front pocket. Officer 1 said, "Yes." He believed it happened when he walked Arrestee to his unit. He explained that he commonly checks a partner's work before placing someone in his vehicle. Officer 1 said as he was searching the left side of Arrestee Officer Victorio searched Arrestee right side. Officer 1 said he removed another baggie that contained suspected marijuana. He suspected the substance was marijuana from his training and experience.

I asked Officer 1 if he knew what he did with the suspected methamphetamine and marijuana. He stated he placed the suspected methamphetamine on the wall where he did the initial search. Officer 1 said when he transported Arrestee to his unit, he removed the baggie from the right side and believed he placed the baggie on the roof of his patrol unit and then placed Arrestee in his unit. Officer 1 said when he came back out, he noticed both the substances were gone.

I asked Officer 1 if he knew what happened to the substances. He said, "No." He added it was common for partners to "pick up the slack" and look out for each other. When he did not see the methamphetamine on the wall, he assumed that his partner recovered it. Officer Victorio was the only other officer there at that time. I asked Officer 1 if he had conversations with Officer Victorio about the suspected methamphetamine, he had recovered that was now missing. He replied, "No," and added that the only conversation he and Officer Victorio had was that Officer Victorio intended on taking over the "in custody of the suspect" and transporting the suspect, "and everything else" because it was the end of his shift and beginning of Officer Victorio's shift.

I asked Officer 1 if he and Officer Victorio discussed what portions of the investigation needed to be documented and by whom. Officer Victorio told him that he was going to "cover it" due to it being the end of Officer 1 's shift.

I asked Officer 1 if Officer Victorio was "aware" of the suspected methamphetamine and it was "clear" that he (Officer 1) had located suspected methamphetamine on Arrestee Officer 1 said he was not too sure if it was "clear" and had not made a verbal announcement to Officer Victorio that there was suspected methamphetamine on the wall.

I asked Officer 1 what he and Officer Victorio determined would happen with the backpack and electric scooter. Officer 1 said he did not make any statements telling him what to do or how to handle his job. Officer 1 added that he assumed that if he was going to take over the investigation, Officer Victorio would do it in accordance with "policy." Officer 1 continued and included to tag in "bulk property" and "methamphetamine" or "narcotics." I stated to Officer 1 that it was his "assumption" that Officer Victorio was going to handle the arrest, any subsequent evidence found, and any property the suspect was in possession of. I asked Officer 1 if that was a fair statement and he replied, "Yes sir."

I asked Officer 1 if Arrestee property, including the narcotics, remained on scene when he left the call. Officer 1 said he recalled placing the scooter and the backpack in the back of Officer Victorio's unit. I stated, "You left the scene, didn't take anything with you." He replied, "Not that I recall, no." Officer 1 said he was not responsible for going to the station to tag in any property. I asked Officer 1 if he was aware of what happened to the suspected narcotics and he replied, "No sir."

I asked Officer 1 if he was aware of what charges Arrestee was ultimately charged with. He replied he would just "imagine the burglary." I asked him if he knew why no narcotics charges were added. Officer 1 replied, "No sir."

The recording was paused and we went off the record at 1302 hours. We went back on the record at 1316 hours. Officer 1 was asked if anyone asked him any questions regarding this investigation while the recordings were stopped. He replied, "No they did not."

I asked Officer 1 if methamphetamine was a dangerous substance in his opinion. He replied, "It can be, yes." I asked if marijuana was a dangerous substance in his opinion. He replied that it could be if it were laced with something, but "commonly no." I asked him if the transit center, where the incident occurred, was a well-used area with a lot of foot traffic and vehicle traffic. Officer 1 replied, "Absolutely yes."

I asked him if the suspected methamphetamine had been a gun, would he have placed the gun on the wall and "not safeguarded it." He replied, "No, I would have safeguarded the firearm."

I then informed Officer 1 that methamphetamine is dangerous, that it was a busy area, and that I wanted to cover the importance of safeguarding evidence. I continued and reminded him that earlier he said he wasn't sure if his partner had recovered the suspected methamphetamine, and he assumed his partner had taken it. I told Officer 1 that we have a duty and obligation to safeguard evidence.

I asked Officer 1 if he was required to complete a report for this investigation. He replied that "looking back," he probably should have completed a supplemental report, but he did not complete a supplemental report because Officer Victorio said he was "going to cover it."

I spoke with Officer 1 about Officer Victorio covering the arrest, and pointed out that he was not sure how much Officer Victorio knew of the "dope." He responded, "That's correct." I made the statement that for "court purposes, that's an issue." I used an example of shaved keys found in a stolen car but it never gets documented. I asked Officer 1 if he recognized that that was a problem and he replied, "Yes sir."

I asked Officer 1 if I showed him BWC footage, would it refresh his recollection of some of the events that occurred? He replied, "Yes sir."

Detective D. McCarthy entered the interview room and assisted me with the laptop and TV to show Officer 1 his BWC footage of Arrestee arrest.

I showed Officer 1 some of his footage and asked if he could see what he was retrieving from the roof of his patrol unit. Officer 1 replied that it was "Maybe the weed right there." As the footage played on, the bag of marijuana came into view again and Officer 1 stated, "Oh there it is."

I made Officer 1 aware that he was opening the backpack and putting the marijuana into the backpack. I asked Officer 1 if he recalled that now that we were viewing his BWC footage. He replied, "Yes sir." I asked Officer 1 if the black backpack on his BWC footage was the backpack that Arrestee had when he initially detained him. He replied, "Yes sir."

I showed Officer 1 another video clip from Officer Victorio's BWC footage. The footage showed the plastic bag on the wall containing the suspected methamphetamine. I asked Officer 1 if this was the bag he recalled "collecting." Officer 1 replied, "Yes sir." He then corrected me and said, "Removing," because I had said he collected it.

As I played additional footage from Officer Victorio's BWC, the footage showed Officer Victorio placing the suspected methamphetamine into the backpack, I asked Officer 1 if it looked familiar. Officer 1 replied, "Yes sir." I showed Officer 1 additional BWC footage from Officer Victorio which showed Officer Victorio conducting a secondary search of the backpack. The footage showed Officer 1 standing in front of Officer Victorio who was kneeling on the ground. I asked Officer 1 if he could see the bag (containing suspected methamphetamine) in Officer Victorio's hand and he replied, "That's correct, yes." I asked Officer 1 if he remembered any of that. Officer 1 replied that he did not remember Officer Victorio specifically pulling the suspected methamphetamine out of the backpack but did recall Officer Victorio searching the backpack. Officer 1 pointed out that he was distracted by his phone as seen on BWC.

After reviewing the BWC footage, I asked Officer 1 if he was "confident" that he was not responsible for tagging any evidence before clearing the scene. Officer 1 replied, "Yes, I'm confident."

The recording was paused and we went off the record at 1327 hours. We went back on the record at 1330 hours. Officer 1 was asked if any questions were asked while the recording was paused or when I stepped out of the room. He replied, "No."

I summarized the interview with Officer 1 and told him that I did not want a misunderstanding on what he told me. I stated that he had responded to a burglary on Athol Street and at some time during that heard a broadcast at Rialto Avenue and E Street from Officer Victorio that he had a potential suspect.

I continued and stated that he responded to the area and encountered Arrestee [redacted] riding a scooter and wearing a backpack at the Transit Center. I added that he detained him and found what he believed to be methamphetamine in Arrestee [redacted] left pocket and placed the suspected methamphetamine on a wall. I further said that he took him to his unit and during a secondary search, he located some suspected marijuana. Officer 1 [redacted] then stated, “Yes sir.”

I continued and stated that initially, he was not sure what happened to those items because when he went back, they were gone. After playing the BWC footage, he was confident that the suspected marijuana and suspected methamphetamine remained in Officer Victorio’s possession. I asked Officer 1 [redacted] if what I said was correct. He replied, “That’s correct.”

I then stated that he had not completed the report and that it was his understanding that because he was getting off work and had worked all night, Officer Victorio was going to complete the investigation as it pertained to Arrestee [redacted] and dispose of the items of evidence and that he (Officer 1 [redacted]) had no responsibility for that as well. I asked Officer 1 [redacted] if this was also accurate and he replied, “Yes.”

Officer 1 [redacted] did not have anything to add to the investigation or have any questions.

The interview with Officer 1 [redacted] concluded at 1333 hours.

Officer H. Victorio (Focus Officer)

On Thursday, 4/25/2024, at about 1430 hours, Sergeant M. Block and I interviewed Officer Victorio in the SBPD PSB Interview Room. The interview was audio recorded. The following is a summary of the interview. Officer Victorio was represented by his attorney, Kasey Castillo of Castillo Harper.

Officer Victorio had reviewed his BWC footage and the documents I had provided him before the interview. He was not aware of any additional recordings or documents that he authored and wanted to review.

At about 1433 hours, I read Officer Victorio his Miranda Rights. He said he understood his rights and was not willing to speak to me. At about 1434 hours, I read Officer Victorio the Lybarger Advisement and ordered him to provide a statement and answer questions.

Officer Victorio has been a police officer with the City of San Bernardino for over 2 years and has no prior law enforcement experience. Officer Victorio is currently assigned to Shift 3, the weekend shift in the Western District (Adam Area). The weekend shift is Friday through Sunday 1400 to 0230 hours. In October of 2023, he was assigned to Shift 1, also on the weekends. Officer Victorio also worked the Adam Area but from 0700 to 1930 hours. The weekend schedule works the occasional buyback Thursday.

Officer Victorio was asked if he participated in the Field Training Program and he replied, “Yes sir.” Officer Victorio received training regarding report preparation in the Field Training Program and in the academy. I asked him if he received training regarding evidence collection and replied, “Yes sir.” I asked Officer Victorio to briefly explain some of the training for report writing and evidence collection.

Officer Victorio said report writing would summarize the investigation and document the facts. For evidence tagging, Officer Victorio said anything that could be used as evidence would be tagged into the evidence room. I used a TV remote control that was on the table as an example and asked Officer Victorio what the process would be for tagging in the remote control at the station if I had used it to hit someone.

Officer Victorio said he would photograph the remote control, collect it, take it to the evidence room, fill out the property sheet, obtain a tag for the remote control (fill out the tag and describe the item), and then tag it in and create a “PR1” and submit it. I asked Officer Victorio if it was something he had conducted during his experience as a police officer. He replied, “Yes sir.” I asked him if it was something he had seen his partners do during their times as police officers. Officer Victorio responded that if he was ever helping them out, “Yes sir.”

I asked Officer Victorio if he remembered trying to detain Arrestee [redacted] near Rialto Avenue and E Street after responding to assist with a burglary in progress call that occurred at Incident location [redacted]. He replied, “Yes sir.” I asked Officer Victorio what

information led him to try and contact Arrestee Officer Victorio said he had not initially been dispatched to the call and was on his way to Loma Linda for a relief call. Officer Victorio said he was listening to the radio and heard there was an ongoing “459” and that two possible suspects had not been accounted for.

Officer Victorio was listening for the descriptions and as he was driving southbound on E Street and passing Rialto Avenue, he observed a Hispanic male who matched the description. Officer Victorio said he broadcasted that he would be with one subject matching, possibly related to the burglary. Officer Victorio said he exited his vehicle and turned on his lights. Officer Victorio said he yelled out to him and the suspect looked back at him. Officer Victorio said he tried to call the suspect to him, but the suspect began to flee. I stated, “He didn’t comply with you.” Officer Victorio replied, “No sir.”

Sergeant Block asked Officer Victorio where he heard the “description,” if it was a “suspect description” and if so, what the suspect was a suspect of. Officer Victorio replied the suspect was the suspect in a burglary that was “a couple of blocks down in the direction that he was coming from.” Officer Victorio said the suspect was described as a Hispanic male. He could not remember the exact description and did not want to mess up the description, but at that time the suspect matched the description that had been given out by officers who were on scene. Officer Victorio added that the description had been provided by the business owner (victim) who had a “live feed to the business.” This information is what led Officer Victorio to contact the suspect.

I summarized what Officer Victorio had provided. I stated that he was driving and had been assigned to go to Loma Linda, but was conscious of what was going on, he heard the call, saw the suspect in the broadcast, and tried to contact him. Officer Victorio said, “So I tried to contact him, yes sir.” I also stated that the suspect did not comply with him. Officer Victorio said, “Correct.” Sergeant Block asked Officer Victorio if he believed the suspect was responsible for the burglary at that time. Officer Victorio replied, “I did.”

I asked Officer Victorio what the suspect was doing when he first saw him. He replied that he was riding a scooter, northbound on E Street, and was coming from the direction of the burglary. The direction the suspect was coming from along with the description, made him believe that he may be related, so he tried to contact him. I stated from what the suspect was wearing and the proximity to the burglary. Officer Victorio said, “Yes sir.” Sergeant Block asked Officer Victorio when he used the term “related,” did he think he was responsible for the burglary or what he meant by the term “related.” Officer Victorio replied that based on the description provided by his partners, he believed the suspect was “involved with the commission of the crime.”

I asked Officer Victorio if he was in a marked black and white police vehicle when he said he exited his vehicle and the suspect did not comply. He replied, “Yes sir,” and added that he was in a black and white police vehicle, with the overhead lights on (red and blue) and was wearing a “department-approved uniform.” I confirmed that the lights were “flashing” and were on and he said, “Yes sir.”

Officer Victorio continued and said he yelled out to the suspect, who looked back in his direction. He remembered calling out to the suspect who disregarded his command and started fleeing in the opposite direction. Officer Victorio said he fled on the scooter. He said he was going to give chase but did not know how fast the scooter could go. Officer Victorio said Officer 1 arrived on the scene and he told Officer 1 what direction the suspect was going, at which point Officer 1 went in that direction while he tried to catch up. Officer Victorio said the suspect was riding westbound, through the train station.

I asked Officer Victorio if Officer 1 detained Arrestee in the Transit Center. He replied, “Yes sir” and added that it was in the westernmost portion. Officer Victorio responded. Officer Victorio saw the person Officer 1 detained and confirmed it was the person who fled from him.

I asked Officer Victorio what property Arrestee had with him when he initially arrived to assist Officer 1. Officer Victorio said Arrestee had a black backpack and the electric scooter he fled on. I asked Officer Victorio if at some point he observed what was inside the backpack. He replied, “Yes sir.” I asked Officer Victorio if he remembered what those items were. He said, “hygiene products”, an alcoholic beverage, lighters, and some tools including a screwdriver.

I stated that he and Officer 1 conducted a physical search of the suspect and a “white substance” was found in his pocket. I asked Officer Victorio if he remembered the substance. He replied, “I do.” I asked Officer Victorio if he remembered what it was. Officer Victorio said from his training and experience he believed it was a “cocaine substance.” He added that he did not “physically pull it out” but that he did recall seeing it. I asked Officer Victorio if he had seen cocaine before and he replied, “I have.”

I asked Officer Victorio how the cocaine was packaged and appeared. He said it appeared to be in a clear plastic container, “possibly like a sandwich bag.” I stated that it was the typical dope in a bag and Officer Victorio replied, “Yes sir.” Officer Victorio could see through the bag.

I asked Officer Victorio if he remembered conducting a secondary search of the backpack. He replied, “Yes sir.” I asked Officer Victorio if he remembered collecting the cocaine. He replied, “Yes sir.” Officer Victorio said Officer 1 placed the cocaine on a “ledge” when the suspect was being searched and said he collected everything that was on top of the ledge and put them into the backpack. Officer Victorio added that the second time he searched the backpack, all the same contents were inside.

I asked Officer Victorio if he knew what happened with the backpack. Officer Victorio said, “Looking back at it now” and after reviewing all the documents that had been provided to him, he thought he had tagged the backpack in for evidence because that is what he would typically do. He continued and said after reviewing the “PR1” he noticed he had not tagged it in.

Officer Victorio then said, “I know” that he had “tossed it.” I asked Officer Victorio if he remembered where he “tossed it.” Officer Victorio said he did not remember exactly where but that it was at the station. Officer Victorio then said, “Typically I would do it in the back lot” because that is where he parks his car. He continued and said if he has “trash” that he doesn’t tag in for evidence, he throws his trash away in the trash bin. He identified the trashcan (blue bin) as being near the pedestrian gate (on the west side of the fence) where the mobile command post had been parked. Officer Victorio said this is where he believes he “threw away the backpack.”

I asked Officer Victorio if he tested the substance (cocaine) and he said, “No sir.” I then said that he was basing it being cocaine from his training and its appearance. He replied, “Yes sir.”

I mentioned marijuana and cocaine and asked Officer Victorio if those substances were in the backpack when he threw it away. Officer Victorio said that “pertaining to marijuana” he did not recall coming in contact with marijuana and just remembered the cocaine itself. Officer Victorio added, “The possible cocaine was inside of the backpack.”

I asked Officer Victorio if he remembered collecting evidence in this case. He replied, “Yes sir” and added that it was a shirt that he (the suspect) used across his face as a mask. I stated, “You tagged that in.” Officer Victorio replied, "Yes sir.” I asked him if he followed the same procedures when we talked about the remote being used as a weapon and he replied, “Yes sir.”

Officer Victorio confirmed that he completed a report for this investigation. He replied, “Yes sir.” I asked him if he mentioned the items in his report and he replied, “I did not sir, no.” Sergeant Block asked Officer Victorio if he knew why he did not mention the items in his report. He replied, “Yes sir.” Officer Victorio continued and stated that in his “eyes,” he had the suspect in custody for a “felony,” and was not going to charge him for a “misdemeanor” when he had the burglary charge and said he “got rid of it.” Officer Victorio continued and said looking back, that he understood it was not the correct way of “getting rid of that substance or possible substance.” He stated he was already “tagging in the shirt”, so he should have tagged in the substance correctly.

I asked Officer Victorio if he remembered an infield line-up was conducted during the investigation with the victim, Victim , and Officer Navarro. He replied, “Yes sir.” Officer Victorio confirmed the victim was shown the scooter and took possession of the scooter. I asked Officer Victorio if any of the backpack contents were shown to the victim. Officer Victorio did not remember if he did or did not show the contents.

I asked Officer Victorio if he knew that items had been stolen during the burglary. Officer Victorio said he did not know and never got a list of the stolen property. He added he knew the scooter was stolen because when the victim arrived, he identified the scooter as belonging to him. Officer Victorio said the victim took possession of the scooter.

I told Officer Victorio that he briefly mentioned the items that were in the backpack and I tried to confirm the items from memory. I mentioned “hygiene items”, and Officer Victorio interjected “lighters.” I mentioned “tools.” Officer Victorio said it could have been a “flathead” screwdriver. Officer Victorio continued and said, “An open alcoholic container” that was “circular”. I asked Officer Victorio if he remembered any other contents. Officer Victorio said there was a “big box” but did not remember what the box was. Officer Victorio remembered the box was made of cardboard. Sergeant Block asked Officer Victorio if he remembered the color of the box or what the box contained. Officer Victorio said, “No sir” and added it may have been a darker colored box. Officer Victorio did not remember what was inside or if he even opened the box.

I repeated the list of items in the backpack and added that he mentioned the “cocaine” was inside the backpack. Officer Victorio said, “Yes sir.”

Sergeant Block told Officer Victorio that he said he realized he likely “tossed the backpack” when he reviewed the documents for this case. Sergeant Block asked when he realized he had “tossed the backpack”. Officer Victorio replied, “To be completely honest with you” and then added, “Maybe an hour ago.” Officer Victorio continued and said he had not looked at the “PR1 specifically.” Officer Victorio continued and said, “Typically, I tag all that stuff in” so when he was reviewing the PR1 today for the interview with his attorney, he noticed the backpack was not on the PR1. Officer Victorio said it was “odd” to him because he normally tags everything in, and that’s when he found out. Sergeant Block asked, “That’s when you realized it?” Officer Victorio replied, “Yes sir.”

Sergeant Block asked Officer Victorio if he could think of a reason why he would have tagged in the t-shirt but not the backpack. Sergeant Block added, “Do you know what happened there?” Officer Victorio replied, “Yes sir.” Officer Victorio remembered the backpack was “disgusting” and was not sure if the alcoholic beverage had “leaked” in the backpack. Officer Victorio continued and said the first time he checked the backpack was a “safety sweep” to ensure no weapons were inside. Officer Victorio said the second time he went through the backpack he had gloves on. Officer Victorio described the backpack as having an odor and being “sticky.”

Officer Victorio continued and stated that we (officers) do not tag in lighters or alcoholic beverages. Officer Victorio said, “I just didn’t see me tagging it for like safekeeping or evidence.” As Sergeant Block began asking Officer Victorio what he meant by “we” don’t tag in lighters, Officer Victorio interjected and stated, “I, Officer Victorio didn’t see, a purpose to tag it in,” and added because it was “moist” and “sticky” and contained a residue of an unknown substance.

Sergeant Block asked Officer Victorio if he was aware of any San Bernardino Police Department policies that prevented him from tagging in alcoholic beverages or flammable objects such as a lighter. Officer Victorio stated he could not read back the policy “verbatim” but knew there was a policy and that was the main reason he did not want to tag in the backpack. Officer Victorio said there were a lot of things in the

backpack that he knew should not have been tagged in. Officer Victorio said he could not give the policy but knew one existed.

Sergeant Block confirmed with Officer Victorio that he did not recall seeing a substance consistent with marijuana.

Sergeant Block told Officer Victorio that we were planning on taking a break and asked Officer Victorio if he had anything he wanted to ask or say before the break and we "go off the record." Initially, Officer Victorio replied, "No sir." Officer Victorio continued, saying, "I understand what I said to the suspect at the time wasn't the right thing to do." Officer Victorio continued and said he had since attended training on "de-escalation."

The recording was paused and we went off the record at 1454 hours. We went back on the record at 1510 hours. I asked Officer Victorio if any questions were asked of him while the recordings were paused. Officer Victorio replied, "No sir."

I showed Officer Victorio footage from his first BWC clip of this case. I pointed out a shirt and the black backpack on the screen and asked Officer Victorio if this was the backpack Arrestee had. I informed Officer Victorio that at this point in the footage, Arrestee had already been detained and that Officer 1 was with Arrestee I asked Officer Victorio if that was a fair assessment of what I was seeing. Officer Victorio replied, "Yes sir."

As the footage continued, Officer Victorio was seen grabbing the backpack that was on the ground. Again, I asked if this was the backpack we were referring to. Officer Victorio replied, "Yes sir." As the footage continued, the footage showed Officer Victorio opening the zippered areas of the backpack and removing a box of earphones from the backpack. I asked Officer Victorio if that was the box he had described. Officer Victorio replied, "Yes sir." Officer Victorio next pulled a red colored drink from the backpack. Officer Victorio confirmed this was the alcohol.

As the footage continued, I pointed out that I could see some tools and a lighter (handle of what appeared to be a screwdriver and BBQ flame lighter). Officer Victorio is seen placing what appears to be a cell phone on top of the box for the earphones. I made Officer Victorio aware that the footage caught a glimpse of the cell phone on the top of the box. I asked Officer Victorio if he recalled this. Officer Victorio said after he reviewed his BWC footage, he realized he had removed the phone.

The footage showed Officer Victorio appearing to wipe his hands on his pants. I asked Officer Victorio if this was what he was referring to when he said it was "sticky" and something had spilled. Officer Victorio said it was "nasty."

I informed Officer Victorio that after this in the BWC footage, he secured the backpack in his vehicle. I then moved forward in the same video (BWC clip #1). Officer Victorio wiped his hands with wipes and moved his arms from side to side. I stated that it appeared to me that he was drying his hands. I pointed out Officer 1 in the

background and stated that was the scooter and shirt Arrestee had. Officer Victorio replied, “Yes sir.”

After putting gloves on, I stated that it looked like he did a “secondary search” of the backpack. Officer Victorio replied, “Yes sir.” During the search, Officer Victorio removed a clear plastic zip lock bag from the backpack that contained an unknown green substance, possibly marijuana. I asked Officer Victorio if he saw it and he replied, “Yes sir.” I informed Officer Victorio that this was the substance I had referred to.

Officer Victorio searched another pouch of the backpack and was seen removing a black wallet and a clear plastic bag that contained an unknown white substance. I stated that it appeared the item was the same item he collected from the wall that looked like the cocaine. I told Officer Victorio that I wanted to make sure we were referring to the same item. I asked Officer Victorio if he saw the substance in his hand. Officer Victorio replied, “Yes sir.” I told Officer Victorio that it appeared the wallet had no contents. Officer Victorio could not remember if there were any contents in the wallet and said he likely looked in the wallet for Arrestee ’ “ID.”

During the secondary search, Officer Victorio was seen removing a box commercially packaged for earphones, a functioning cell phone, a lighter, a small green pouch, a small floral print pouch, the alcohol container, hand sanitizer, a USB cord, an unknown small white device, hygiene items, and a black sock.

After pausing the video, I asked Officer Victorio if it was the backpack we were referring to and if the substance was the substance he believed was cocaine. Officer Victorio replied, “Yes sir.” Officer Victorio said he did not remember the possible marijuana seen in the video.

I asked Officer Victorio if he and Officer Navarro had any conversations regarding the items that had been stolen during the burglary. Officer Victorio replied that he did not remember. Officer Victorio said he remembered the scooter was taken because the victim had pointed out it was his property.

I asked Officer Victorio if it was “common practice” to throw items of evidence or property belonging to citizens away. Officer Victorio replied, “No sir.”

I asked Officer Victorio how he documents in his reports items found at scenes that are deemed as items of evidence. Officer Victorio replied that he “typically” documents his reports in “chronological order.” Officer Victorio then stated that if I was referring to the “possible cocaine,” he did not document the possible cocaine because he was not going to charge Arrestee with the cocaine because he had Arrestee in custody for the “felony.”

I stated that he had the “shirt” that he deemed had “evidentiary value” and documented that. Officer Victorio replied, “Yes sir.”

I asked Officer Victorio in “hindsight,” what would have been the appropriate disposition of the property that Arrestee possessed. Officer Victorio replied, the “cocaine” even though he was not going to charge him with it, he could have tagged it in for “destruction.”

Officer Victorio continued and said he could have removed all the items he could not tag in from the backpack and thrown those items away. Officer Victorio said he could have tagged the personal belongings in the backpack as “safekeeping.” Sergeant Block asked if he would have discarded items such as the lighter and alcohol would it be appropriate to document in his report that Arrestee had the items but that they were thrown away/destroyed. Officer Victorio replied, “Yes sir.” Sergeant Block added consistent with a cocaine or methamphetamine pipe. Officer Victorio again replied, “Yes sir.”

I then summarized Officer Victorio’s statement to him. I stated that he was on his way to Loma Linda on an unrelated call and heard this burglary call. I continued and said he heard the description and saw a person who matched the description in the area. I stated that he directed Officer 1 to detain the subject. I stated during the detention “possible cocaine” and a backpack were located.

I continued and said at some point the suspect was arrested and taken to jail. I asked Officer Victorio if he remembered who took the suspect to jail. Officer Victorio thought Officer Trejo had taken the suspect to jail. Officer Victorio remembered Officer 1 was at the end of his shift and “specifically remembered” Officer 1 that he “had this” because it was the end of his shift.

I then continued with the summary and said the “cocaine is found” and the “arrest is made” and he documented the arrest. I then said that he “relieved” Officer 1 of any obligation and that he would handle the arrest and the documentation. Officer Victorio stated, “Yes sir.” I added that this was based on the time Officer 1 got off shift. Officer Victorio again said, “Yes sir.”

I added that he did complete a report and documented some of the contact with Arrestee I then said we knew what had happened to the other property.

The interview was concluded at 1520 hours and the recording was stopped.

TIMELINE OF DISCARDED EVIDENCE:



10/28/2023 @ 0744 hours - Officer 1 's BWC

This image is from Officer 1 's BWC and shows him detaining Arrestee at the transit center. The black backpack Officer 1 possessed is on the ground next to Arrestee



10/28/2023 @ 0744 hours – Officer 1 's BWC

The image above shows Officer 1 removing suspected narcotics from Arrestee left front pant pocket. The image below shows Officer 1 placing the suspected narcotics on top of a block wall.



10/28/2023 @ 0746 hours – Officer Victorio's BWC



This image shows Officer Victorio searching the backpack and some of the backpack contents which included some of the following visible items: a cell phone, a box of earphones, a screwdriver, a lighter, an alcoholic beverage, a power cord, and a small pouch.

The image below shows Officer Victorio collecting additional property from the top of the block wall. These items included the suspected narcotics, a black wallet, fingernail clippers, a pen, and another lighter.



10/28/2023 @ 0746 hours – Officer 1 's BWC



This image shows Officer 1 removing money and suspected marijuana from Arrestee right front pant pocket. Officer 1 places the suspected marijuana on the roof of his unit and returns the money to Arrestee pocket.

10/28/2023 @ 0746 hours – Officer Victorio's BWC



This image shows Officer Victorio placing the suspected narcotics into the backpack. The other items from the block wall had already been placed inside the backpack.

10/28/2023 @ 0747 hours – Officer Victorio's BWC



This image shows Officer Victorio placing the backpack inside his patrol unit.

10/28/2023 @ 0753 hours – Officer Victorio's BWC



This image shows Officer Victorio conducting a second search of the backpack. Officer Victorio removes a zip lock containing suspected marijuana. In addition to the previous items seen in the backpack, these additional items were seen: a USB cord, a black sock, a floral print pouch, a white unknown electronic device, hand sanitizer, body wash, and some small boxes.

10/28/2023 @ 0754 hours – Officer Victorio's BWC



After the second search of the backpack, Officer Victorio placed the backpack in the backseat area of his patrol vehicle. The suspected cocaine and suspected marijuana were inside the backpack.

10/28/2023 @ 0755 – Officer 1 's BWC



This image shows Officer 1 putting the suspected marijuana he recovered from Arrestee into the backpack. Officer 1 retrieved suspected marijuana from the roof of his unit before placing it in the backpack. Officer 1 did not remove the backpack from Officer Victorio's unit.

10/28/2023 @ 0844 hours – Officer Victorio's BWC



This image shows Officer Victorio removing the scooter from his vehicle to return it to the victim. The backpack is visible in the backseat of his patrol unit. This was the last time the backpack and its contents were captured on BWC.

ATTACHMENTS:

Tab 01	Investigation
Tab 03	Reports and CAD
Tab 04	Notifications
Tab 05	Interviews / Directed Memorandum
Tab 06	BWC Footage
Tab 07	Dispatch and 911 Audio
Tab 08	Video
Tab 09	Supporting Documentation

Attachment Q
Settlement Agreement in Case No. 24PSB-006 between the City of San Bernardino and Hector Victorio, dated October 24, 2024

SETTLEMENT AGREEMENT

This Settlement Agreement and Appeal Waiver ("Agreement") is entered into as of October 24th, 2024, by and between the City of San Bernardino ("City") and Hector Victorio ("Employee") (collectively, the "Parties").

RECITALS

WHEREAS:

A. On September 16th, 2021, Employee was hired by the City in the position of Law Enforcement Trainee, and sworn in as a Police Officer on March 14th, 2022, within the City's Police Department ("Department").

On March 14th, 2024 the Employee was notified about an internal investigation regarding neglecting his duties during a burglary investigation, which occurred on October 28th, 2023 (San Bernardino Case #2023-122237). During that investigation narcotics, along with evidence, were neglectfully discarded.

Subsequently, the employee advised he wanted to bypass the disciplinary appeal process. Further, the Employee indicated he was willing to admit to substandard conduct, performance, and safety, failing to prepare a detailed report, destruction of evidence, failing to adhere to property booking procedures, failing to adhere to the narcotics and dangerous drugs policy, failing to obey laws, regulations and orders, failing to properly perform his duty, and to neglecting his duty.

B. Specifically, the employee admits to violating San Bernardino Policies §340.3.2 - Conduct, §340.3.5 – Performance, §340.3.6 – Safety, §344.1.1 – Report Preparation, §804.3 – Property Handling, §804.3.1 – Property Booking Procedure, §804.3.2 – Narcotics and Dangerous Drugs, Policy and Procedures, §3.01 – General Behavior, §3.02 – Obedience to Laws, Regulations, and Orders, §4.01 – Performance of Duty, §4.02 – Neglect of Duty.

C. As a result, the Parties have since agreed to disciplinary action as follows: An imposition of a (40) forty-hour suspension without pay, and the imposition of a Performance Improvement Plan (PIP) to assist in correcting stated deficiencies. This is done with the understanding that Employee waive any right he may otherwise have had to contest, or appeal this said discipline.

AGREEMENT

NOW, THEREFORE, in consideration for the mutual promises and undertakings of the Parties as set forth below, the City and Employee hereby enter into this Agreement and agree as follows:

1. Incorporation of Recitals. The recitals set forth above are true and correct and are hereby fully incorporated into this Agreement by this reference.

2. No Admission of Liability. This Agreement shall in no way be construed as an admission by the City that it, the Department, or any officer, employee, or agent thereof, has acted wrongfully with respect to Employee. The City specifically disclaims any liability to or wrongful acts against Employee on the part of the City, the Department, or any officer, employee, or agent thereof.

3. No Precedent. This Agreement is in no way intended, and shall in no way be construed, to restrict any rights guaranteed to the City under local, state, or federal law, rule, or policy or by private agreement, or to establish a precedent in this or any other matter, now or in the future.

4. Pending Disciplinary Action. The City and Employee agree that in return for valuable consideration—i.e., the City's non-adversarial, early and efficient resolution of this disciplinary action, and the Employee's non-adversarial, early and efficient resolution of this disciplinary action, the Employee agrees to accept and abide by all of the terms specified in this Agreement.

5. Employee's Promises.

a) Concurrent with the execution of this agreement, Employee agrees that he will not file any appeal, claim, or lawsuit relating to the subject incident or acts referenced in this agreement **(24PSB-006).**

b) Employee agrees to an imposition of a (40) hour suspension without pay, and the imposition of a Performance Improvement Plan (PIP) to assist in correcting stated deficiencies. Employee agrees to the restriction of any and all overtime compensation, unless authorized by the Chief of Police, during the pay period(s) in which the (40) hour suspension is imposed.

c) Employee agrees to waive any and all pre-discipline rights and any and all post-discipline rights that he may have to appeal, grieve, litigate, or otherwise contest the imposition of the discipline set forth in subdivisions a, b, c, and d of this section, above, under any provision or principle of local, state, or federal law, or under any contract or agreement written or oral, express or implied, including but not limited to, a collective bargaining agreement, a MOU, or any future "for cause" provisions of any employment agreement with the City, as may be further applicable, in any forum whatsoever, to the fullest extent permitted by law;

d) Employee agrees to comply with each and every one of the rules, regulations, and/or policies applicable to employees of the City in the Department, including from the date of the execution of this Agreement through the duration of the Employee's employment with the City.

Employee's Misconduct and/or Unsatisfactory Behavior. Employee admits to neglecting his duties while assisting with case #2023-122237, as specified in department policy. Employee agrees and acknowledges that the aforementioned misconduct and unsatisfactory behavior constitute(s) a violation(s) of San Bernardino Policies §340.3.2 - Conduct, §340.3.5 – Performance, §340.3.6 – Safety, §344.1.1 – Report Preparation, §804.3 – Property Handling, §804.3.1 – Property Booking

Procedure, §804.3.2 – Narcotics and Dangerous Drugs, Policy and Procedures, §3.01 – General Behavior, §3.02 – Obedience to Laws, Regulations, and Orders, §4.01 – Performance of Duty, §4.02 – Neglect of Duty.

7. Not a Limit on Future Actions. This Agreement in no way limits the City's ability to discipline Employee for other conduct by him that may violate City rules, policies, or regulations and/or terms of any applicable Memorandum of Understanding or standards of behavior. Moreover

e) Nothing in this Agreement shall limit the City's right to use or make reference to matters described in this Agreement, as a basis, in whole or in part, to justify a decision to discipline or to discharge Employee for any conduct arising or newly discovered subsequent to the execution of this Agreement, except to the extent limited by a City rule or policy or by a negotiated agreement or MOU with the employee's authorized and recognized representative; and

f) The City may place a copy of this Agreement in Employee's official personnel file, and Employee hereby consents to the City doing so and waives any and all rights to respond to and/or appeal the placement of this Agreement in his personnel file.

8. Voluntariness. Employee acknowledges that, prior to signing this Agreement, he was provided with an opportunity to consult with a representative and/or attorney of his own choosing and that he is voluntarily, knowingly, and intelligently entering into this Agreement with sufficient awareness of the relevant circumstances and likely consequences of this Agreement, on the advice of his own chosen counsel, and without reliance on any representations made by the City, the Department, or any officer, employee, or agent thereof, except as provided in this Agreement. Employee further acknowledges that he was given reasonable and sufficient time and opportunity to negotiate the terms of this Agreement and to consider the execution thereof under the terms set forth herein

9. Entire Agreement. The Parties acknowledge that this Agreement constitutes a signed integrated agreement expressing the entire agreement between the Parties and fully superseding any and all prior or contemporaneous oral or written agreements, understandings, promises, or representations between the Parties pertaining to the subject matter of this Agreement. Moreover, no subsequent agreement concerning the subject matter of this Agreement or modification to this Agreement shall be binding unless it is signed by both Parties.

10. Governing Law and Venue. This Agreement shall be governed by and interpreted under the laws of the State of California applicable to contracts made and to be performed within the State. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, California.

11. Interpretation and Severability. The Parties agree that the customary rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. The Parties further agree that, should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal, or otherwise

unenforceable for any reason, such determination shall not affect the validity of the remaining parts, terms, or provisions hereof, or of the offending provision in any other circumstance.

12. Authority. The persons signing this Agreement on behalf of the Parties hereto hereby warrant and represent that they are duly authorized to execute this Agreement on behalf of said Parties and that, by doing so, the Parties hereto are hereby formally bound to the provisions of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR SETTLEMENT AGREEMENT AND APPEAL WAIVER

PLEASE READ THIS AGREEMENT CAREFULLY. IT INCLUDES A WAIVER OF DISCIPLINE APPEAL RIGHTS AND A RELEASE BY THE CITY EMPLOYEE OF ANY AND ALL KNOWN AND UNKNOWN CLAIMS THAT HE MAY HAVE AGAINST THE CITY, THE DEPARTMENT, OR ANY OFFICER, EMPLOYEE, OR AGENT THEREOF.

IN WITNESS HEREOF, the Parties have executed this Agreement as of the date first written above.

CITY:

Approved By:

Darren L. Goodman
Chief, San Bernardino Police Department, City of San Bernardino

EMPLOYEE:

Approved By:

Officer Hector Victorio

Attachment R
San Bernardino Police Department
Performance Improvement Plan, Case No. 24PSB-006, dated October 28, 2024

CITY OF SAN BERNARDINO
POLICE DEPARTMENT
INTEROFFICE MEMORANDUM

TO: Officer Hector Victorio

FROM: Lieutenant Miguel Cintron

SUBJECT: Notification – Performance Improvement Plan (#24PSB-006)

DATE: October 28th, 2024

COPIES: File

This memorandum serves as a notice to you that based on noted deficiencies in your job performance, you are being placed on a Performance Improvement Plan (PIP). The PIP is intended to provide you with an opportunity to demonstrate an acceptable level of performance, demonstrate your understanding of department policy, and prove your capacity to comply with department standards and practices as a valued employee.

The PIP will begin on 11/1/2024 and remain in effect until 4/30/2025. The PIP may be extended at the discretion of management, or by the amount of time corresponding to any cumulative leave use above 40 hours during the period of the PIP.

Areas of Concern

Over the past 20 months, your performance has not conformed to the policies, procedures, and work rules as specified by Department Policy and the Policy and Procedures Manual. Specifically, the following areas of concern have arisen:

- **Report Preparation:**

  You have failed to complete accurate reports, which include all pertinent information seen, heard, or assimilated by any other sense, and accurately document any actions taken.

- **Driving Practices:**

  You have failed to drive and/or operate your vehicle, while on duty, with due regard and caution for the safety of all persons and property.

- **Standards of Conduct:**

  You have failed to comply with standards of conduct that are consistent with the values and mission of this department.

Previous Noted Deficiencies

- On October 24th, 2024, you received a 40-hour suspension for sustained findings of unbecoming conduct, neglect of duty, and improper tactics.
- On March 11th, 2024, you received a 40-hour suspension for sustained findings of utilizing improper tactics, unreasonable force, and unbecoming conduct.
- On June 27th, 2023, you received a verbal counseling regarding tactical communication and de-escalation.
- On June 12th, 2023, you received a documented counseling for an at-fault, on-duty collision.
- On May 7th, 2023, you received a documented counseling for losing department issued equipment (cell phone).
- On March 30th, 2023, you received a documented counseling for an at-fault, on-duty traffic collision.

How to Improve Your Performance

You are required to complete your reports in compliance with the guidelines of Department Policy 344. Additionally, those reports should be properly formatted, contain accurate information, and have few, if any, grammatical or spelling errors. When report errors are brought to your attention by a supervisor, you are to make the recommended corrections, and resubmit the report once all corrections have been made. These reports shall be completed in the time frames required by Department Policy.

You will be given time to complete your reports during normal working hours. Under normal circumstances, you will have an opportunity to request time after briefing and/or prior to the end of your shift. You are required to request that time from a supervisor or the watch commander.

Your direct supervisor will conduct audits on your reports and body worn camera footage to ensure you are complying with department policy. All of your reports shall be submitted to, and held for your direct supervisor, or any designated supervisor in their absence. This shall continue for the duration of the PIP.

While on duty, you shall drive your assigned patrol vehicle with due regard and caution for the safety of all persons and property in compliance with department policy and the California Vehicle Code. Your direct supervisor will monitor and conduct audits regarding your driving and vehicle pursuit practices.

You are required to adhere to the established standards of conduct outlined in Department Policy 340. Your conduct will remain consistent with the values and mission

of this department. You shall familiarize yourself with Department Policy 340 and are responsible for the compliance with each. Should you need clarification and/or guidance in the event of any perceived ambiguity or uncertainty it will be your responsibility to notify your direct supervisor.

If you believe you need additional assistance to meet the goals of this PIP, it is your responsibility to notify your direct supervisor so they can decide as to whether the requested assistance is appropriate. If the requested assistance is appropriate, the necessary arrangements will be made to obtain the assistance requested. Any request for assistance should be submitted in writing.

Regular Meetings, Assistance, and Guidance

Your direct supervisor will meet with you monthly to discuss your progress on the PIP and written progress evaluations will be provided. Following each meeting, Your direct supervisor will provide feedback to Lieutenant John Echevarria. Your performance will be fully evaluated at the conclusion of the PIP.

Failure to Improve

If you have not adequately achieved the work performance objectives and assignments as set forth in this plan, and your work performance does not improve to comply with the minimum job requirements during the term of this PIP, the PIP may be continued or disciplinary actions up to and including termination for neglect of duty may be applied.

You are required to make immediate, significant, and sustained improvements during the period of the PIP, and you are required to maintain that improvement after the completion of the PIP. Failure to improve will merit formal discipline up to and including termination.

X _____ Date: 11/7/24

By signing, I acknowledge I have received a copy of this Performance Improvement Plan (PIP) and fully understand its contents.

Attachment S
San Bernardino Police Department Internal Affairs Investigation Case No. 25PSB-093, dated September 17, 2025

CITY OF SAN BERNARDINO
POLICE DEPARTMENT
INTEROFFICE MEMORANDUM

TO: Captain Adam Affrunti

FROM: Detective Mario Molina

SUBJECT: 25PSB-093

DATE: September 17, 2025

COPIES: File

Synopsis:

On Tuesday, May 6, 2025, the San Bernardino County Sheriff's Department's Professional Standards Bureau (PSB) received a complaint from Complainant. After an initial review, the Sheriff's Department determined that the matter involved officers from the San Bernardino Police Department.

On Wednesday, May 21, 2025, the complaint was forwarded via U.S. mail from the San Bernardino County Sheriff's Department to the San Bernardino Police Department's PSB for further review and action.

In Complainant written statement, Complainant alleged that Officers H. Victorio and Pen. Code sec. 832.7 stopped her on April 28, 2025. According to her allegations, during the traffic stop, the officers deactivated their body-worn cameras while she was detained. Complainant further claimed that, following a conversation between the officers, one officer informed her that if she consented to a search of her residence, her vehicle would not be towed, and she would not be arrested.

The complaint further alleged that the officer involved transported Complainant to her residence and conducted a search while she remained in the patrol unit. During this search, the officer reportedly recovered approximately five bullets from Complainant's residence. Complainant was then returned to her vehicle and released at the scene with a citation for her suspended CDL.

On May 29, 2025, the complaint was formally referred to the appropriate Division for investigation, review, and disposition. Following a preliminary inquiry, the matter was forwarded to the Professional Standards Bureau for a full administrative investigation, and this investigation was assigned to me.

During the course of my investigation, I learned that on April 28, 2025, at approximately 2113 hours, Officer Victorio activated his body-worn camera (BWC) while conducting a traffic stop in the area of State Street and Hanford Street, in the City and County of San Bernardino. The vehicle stopped was a 2014 Dodge Charger, California license plate [redacted] occupied solely by the driver, Complainant [redacted].

Officer Victorio told Complainant she had been stopped for a violation of CVC 26708 (tinted windows). Upon request for her California Driver's License (CDL), Complainant said she had a prior gun-related offense. A CDL inquiry confirmed her license was suspended. Complainant was directed out of the vehicle, and a search of her person and vehicle was conducted.

BWC footage confirmed that no contraband or illegal items were located during the search of Complainant or her vehicle. After completing the vehicle search, Officer Victorio told his partner, Officer Pen. Code sec. 832 "You can cut off," and both officers deactivated their BWCs.

Several minutes later, Officer Victorio reactivated his BWC, at which time he was at Complainant's residence, Complainant's address. Complainant remained seated, handcuffed, and unsupervised in the rear of Officer Victorio's police unit as Officer Victorio walked away.

BWC footage showed Officer Victorio approached the front door of Complainant's residence, which appeared to have been opened by a Black male juvenile. Officer Victorio entered the residence and proceeded to Complainant bedroom, where he opened multiple dresser drawers. Inside one drawer, Officer Victorio located several loose live ammunition rounds, which Officer Victorio took into his possession. Upon returning to his unit, BWC audio captured the sound of the rounds being placed into the unit's cupholder located in the unit's center console. Officer Victorio then deactivated his BWC.

Officer Victorio reactivated his BWC for a third time during the incident. Footage showed Officer Victorio had returned to the original stop location at State Street and Hanford Street. Officer Victorio opened the rear passenger door of his patrol unit, removed Complainant's handcuffs, and allowed Complainant to exit his patrol vehicle.

Officer Pen. Code sec. 8 asked Officer Victorio to complete the address portion of the citation after Complainant provided her current address. Officer Victorio finished the citation, advised Complainant he would not tow her vehicle because of "what we spoke about," and issued Complainant citation #1104027 for driving with a suspended CDL. Complainant was released from the scene.

A review of police reports associated with the enforcement stop found no record of the ammunition being tagged into evidence.

On July 30, 2025, Detective Miles and I interviewed Officer Victorio in the Professional Standards Bureau (PSB) interview room at the San Bernardino Police Department. The following is a summary of Officer Victorio's interview.

Officer Victorio confirmed that on April 28, 2025, at approximately 2114 hours, he conducted a traffic enforcement stop on Complainant's vehicle near State Street and Hanford Avenue for a violation of CVC 26708 (tinted windows).

During the stop, Officer Victorio checked Complainant's California Driver's License (CDL) status and learned her CDL was suspended. When Officer Victorio advised Complainant of her CDL status, Complainant told Officer Victorio that she had a prior firearm-related charge.

Officer Victorio directed Complainant to exit her vehicle and conducted a search of both her person and her vehicle. No contraband was located.

Officer Victorio acknowledged deactivating his body-worn camera (BWC) during the encounter. When asked why, he said he was unsure but believed he may have done so because Complainant was going to be transported to her residence to retrieve ammunition she admitted to possessing.

Officer Victorio transported Complainant to her residence. While Complainant remained handcuffed and unsupervised in the back seat of his patrol unit, Officer Victorio entered Complainant's residence and went to her bedroom. Once inside, Officer Victorio opened several drawers and recovered loose rounds of ammunition.

After leaving the residence, Officer Victorio returned to his unit and placed the ammunition in the center console's cupholder. Officer Victorio then transported Complainant back to the original location of the stop, where he cited and released Complainant

Officer Victorio admitted that he did not tag the ammunition for safekeeping. Instead, he placed it in his equipment bag and retained it until the conclusion of our interview, in accordance with instructions from his representative to comply with PSB's directive given at the time he was notified of his PSB interview.

Officer Victorio acknowledged that he should have kept his BWC activated throughout the traffic enforcement stop and that the ammunition should have been tagged as evidence on the date he took possession of it.

On August 19, 2025, Detective Miles and I interviewed Officer Pen. Code sec. 8 in the PSB interview room at the San Bernardino Police Department. The following is a summary of his interview.

Officer [redacted] confirmed he was the Officer who backed Officer Victorio on April 28, 2025, at about 2114 hours in the area of Hanford and State Street during a traffic enforcement stop.

Officer [redacted] said that during the stop, he contacted [redacted] but the conversation he had with [redacted] did not involve a search of her residence or an agreement not to tow her vehicle and/or arrest her if she did allow a search of her residence.

Officer [redacted] also said he deactivated his BWC because he believed the enforcement stop had concluded, and it did not occur to him to reactivate his BWC.

During my investigation, I called [redacted] several times. During one of our phone calls, [redacted] agreed to be interviewed at the police station on Wednesday, July 9, 2025, at 1400 hours.

On July 9, 2025, [redacted] failed to appear for her scheduled interview. I attempted to contact her several times by telephone to reschedule; however, my calls went to voicemail, and a message was left. As of September 9, 2025, [redacted] had not returned my calls.

On July 31, 2025, I conducted a residence check, which revealed [redacted] and her family had moved from [redacted].

I also conducted a criminal history check on [redacted] and nothing indicated that [redacted] was prohibited from owning and/or possessing ammunition.

SUMMARY OF ALLEGATIONS

Allegations:

[redacted] alleged that Officer Victorio employed improper tactics during the search of her home, which occurred during her traffic enforcement stop.

Evidence Considered:

I reviewed the following evidence about the above allegation: Officer Victorio's statement, Officer [redacted]'s statement, body-worn camera (BWC) footage, and the complainant's written complaint.

Lexipol Policy Review:

§322.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for San Bernardino Police Department personnel to consider when dealing with search and seizure issues.

§322.2 POLICY

It is the policy of the San Bernardino Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

§322.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- *Valid consent*
- *Incident to a lawful arrest*
- *Legitimate community caretaking interests*
- *Vehicle searches under certain circumstances*
- *Exigent circumstances*

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

§322.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

a. *Members of this department will strive to conduct searches with dignity and courtesy.*

b. *Officers should explain to the person being searched the reason for the search and how the search will be conducted.*

c. *Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.*

d. *In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.*

e. *When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:*

    1. *Another officer or a supervisor should witness the search.*

    2. *The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.*

f. *When officers are going to rely on a consent search in lieu of a search warrant, it will be necessary to establish that the consent was given voluntarily. The San Bernardino County District Attorney requests that a "Consent to Search" form be utilized when possible. This form can then be utilized as a court document for presentation to the jury.*

§322.5 DOCUMENTATION

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- *Reason for the search*

- *Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)*

- *What, if any, injuries or damage occurred*
- *All steps taken to secure property*
- *The results of the search, including a description of any property or contraband seized*
- *If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer*

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

§*340.1 PURPOSE AND SCOPE*

This policy establishes standards of conduct that are consistent with the values and mission of this department and are expected of all members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions, but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

This policy applies to all employees (full- and part-time), reserve officers, and volunteers.

§*340.2 DISCIPLINE POLICY*

The continued employment or appointment of every member of this department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties or to the extent that it may be indicative of unfitness for his/her position.

§*340.3 CONDUCT WHICH MAY RESULT IN DISCIPLINE*

The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this department. This list is not intended to cover every possible type of

misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient department service:

§*340.3.1 ATTENDANCE*

a. *Leaving job to which assigned during duty hours without reasonable excuse and proper permission and approval.*
b. *Unexcused or unauthorized absence or tardiness on scheduled day(s) of work.*
c. *Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.*
d. *Failure to notify the Department within 24 hours of any change in residence address, home phone number, or cell phone number.*

§*340.3.2 CONDUCT*

a. *Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily injury on another.*
b. *Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief of Police of such action.*
c. *Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.*
d. *Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.*
e. *Unauthorized possession of, loss of or damage to department property or the property of others, or endangering it through unreasonable carelessness or maliciousness.*
f. *Failure of any employee to promptly and fully report activities on their own part or the part of any other employee where such activities may result in criminal prosecution or discipline under this policy.*
g. *Failure of any employee to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.*
h. *Using or disclosing one's status as an employee with the Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.*
i. *The use of any information, photograph, video or other recording obtained or accessed as a result of employment with the Department for personal or financial gain or without the express authorization of the Chief of Police or a designee may result in discipline under this policy.*
j. *Seeking restraining orders against individuals encountered in the line of duty without the express permission of the Chief of Police.*
k. *Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.*
l. *Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.*

m. *Engaging in on-duty sexual relations including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.*

§*340.3.5 PERFORMANCE*

a. *Unauthorized sleeping during on-duty time or assignments.*
b. *Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.*
c. *Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.*
d. *Concealing, attempting to conceal, removing or destroying defective or incompetent work.*
e. *Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.*
f. *The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.*
g. *Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department or which would tend to discredit any member thereof.*
h. *Knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof.*
i. *The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.*
j. *Wrongfully loaning, selling, giving away or appropriating any department property for the personal use of the employee or any unauthorized person.*
k. *The unauthorized use of any badge, uniform, identification card or other department equipment or property for personal gain or any other improper purpose.*
l. *The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).*
m. *Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. The Department shall make this manual available to all employees. Employees shall familiarize themselves with this manual and be responsible for compliance with each of the policies contained herein.*
n. *Work-related dishonesty, including attempted or actual theft of department property, services or the property of others, or the unauthorized removal or possession of department property or the property of another person.*

o. *Criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/employer relationship, whether on- or off-duty.*
p. *Failure to disclose or misrepresenting material facts, or the making of any false or misleading statement on any application, examination form, or other official document, report or form or during the course of any work-related investigation.*
q. *Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved department practices or procedures.*
r. *Associating with or joining a criminal gang, organized crime and/or criminal syndicate when a department member knew or reasonably should have known of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by the Department.*
s. *Offer or acceptance of a bribe or gratuity.*
t. *Misappropriation or misuse of public funds.*
u. *Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.*
v. *Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions: while on department premises; at any work site; while on-duty or while in uniform; or while using any department equipment or system. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.*
w. *Substantiated, active, continuing association on a personal rather than official basis with a person or persons who engage in or are continuing to engage in serious violations of state or federal laws, where the employee has or reasonably should have knowledge of such criminal activities, except where specifically directed and authorized by the Department.*
x. *Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, on department property or while in any way representing him/herself as a member of this agency, except as expressly authorized by the Chief of Police.*
y. *Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.*
z. *Violating any misdemeanor or felony statute.*
aa. *Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.*
bb. *Any failure or refusal of an employee to properly perform the function and duties of an assigned position.*
cc. *Failure to maintain required and current licenses (e.g. driver's license) and certifications (e.g., first aid).*
dd. *Giving false or misleading statements, or misrepresenting or omitting material information to a supervisor, or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.*

Allegations:

During the investigation, it was determined that Officer Victorio may have failed to properly tag the live ammunition he located at Complainant's residence as evidence, safekeeping, or as found property.

Evidence Considered:

I reviewed the following evidence regarding the above allegation: Officer Victorio's statement, Officer Pen. Code sec. 8 's statement, body-worn camera (BWC) footage, and the complainant's written complaint.

San Bernardino Police Department Policies and Procedures:

§4.02 Neglect of Duty

Employees may be deemed incompetent and subject to discipline when they: fail to properly perform their assigned duties; act in a manner tending to bring discredit to themselves or the Department; or fail to assume responsibility or exercise diligence, intelligence, and interest in the pursuit of their duties.

§3.20 Custodial Property

Employees shall deliver to the property custodian any property not their own, which comes into their possession while (1) on duty, and/or, (2) performing as a police officer. A report and property tag shall be completed for each transaction.

§3.202Safeguarding Money, Property, and Evidence

All employees shall be responsible for safeguarding public or city money, prisoner's money and property, and property and evidence in their possession. They shall observe appropriate procedures regarding the handling of money and when money is received, it shall be placed together with any corresponding records in an envelope and sealed. The envelope shall be marked with all necessary identifying data. The item shall then be deposited in the Department's safe or evidence locker.

Lexipol Policy Review:

§344.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide

sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

§344.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports in a timely manner. The following documentation shall be submitted prior to the end of the reporting employee's shift, unless a supervisor approves otherwise:

a. *All portions of arrest reports where the suspect remains in custody*

b. *Booking applications and juvenile applications for petition*

c. *All reports associated with officer-involved shootings or in-custody deaths*

d. *All reports associated with homicide or death investigations*

e. *All portions of missing persons reports*

f. *CHP 180's*

g. *Face pages, CHP 555 pages 1-3, and property control pages on all reports*

h. *Any reports requiring prompt follow-up on active leads*

All other documentation shall be submitted by the end of the employee's work week, unless other arrangements are approved by a supervisor.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Handwritten reports must be authorized by the Watch Commander. Employees who dictate reports shall use appropriate grammar. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the

reporting employee's opinions should not be included in reports unless specifically identified as such.

§344.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department-approved form unless otherwise approved by a supervisor.

§344.2.1 CRIMINAL ACTIVITY REPORTING

When an employee becomes aware that a crime has occurred, either due to a call for service or through self-initiated activity, the employee is required to document the activity. The fact that a victim is not desirous of prosecution does not exempt the employee from the responsibility of documenting a crime. The following are examples of required documentation:

a. *In every instance where a felony has occurred, the documentation shall take the form of a written crime report*

b. *In every instance where a misdemeanor crime has occurred and the victim desires a report, the documentation shall take the form of a written crime report.*

c. *If the victim does not desire a report, the incident may be recorded as a crime report with the "reluctant victim" and "no further action" boxes checked*

d. *In every case where any force is used against any person by police personnel*

e. *All incidents involving domestic violence shall be documented as a crime report or as a "PC 13700" incident report, whichever is appropriate*

f. *All arrests*

§344.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

a. *Any use of force against any person by a member of this department (see the Use of Force Policy)*

b. *Any firearm discharge (see the Firearms and Qualification Policy)*

c. *Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)*

d. *Any found property or found evidence*

e. *Any traffic collisions will be documented in accordance with the Traffic Collision Reporting Policy, Policy §502*

f. *Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy*

g. *All protective custody detentions*

h. *Suspicious incidents that may place the public or others at risk*

i. *Whenever the employee believes the circumstances should be documented or at the direction of a supervisor*

§804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

§804.1.1 DEFINITIONS

Definitions related to this policy include:

Property *- All articles placed in secure storage within the Property Unit, including the following:*

- *Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.*
- *Found property - Items found by members of the Department or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.*
- *Safekeeping - Items received by the Department for safekeeping, such as a firearm, the personal property of an arrestee that has been not taken as evidence, and items taken for safekeeping under authority of law.*

§804.2 PROPERTY HANDLING

Any member who first comes into possession of any property shall retain such property in their possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Whenever property is taken or received (e.g., relinquished firearms) from an individual, a property receipt form will be completed. The receipt shall describe

the property and contain a notice on how to retrieve the property, as applicable, from the Department. A copy of the property receipt form shall be given to the individual from whom the property was taken or received.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

§804.2.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the member going off-duty unless otherwise approved by a supervisor. Members booking property shall observe the following guidelines:

a. *Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.*

b. *Mark each item of evidence with the booking member's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.*

c. *Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.*

d. *Place the case number in the upper right-hand corner of the bag.*

e. *The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.*

f. *When the property is too large to be placed in a locker, the item may be retained in the supply room. Submit the completed property record into a numbered locker indicating the location of the property.*

§804.3 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

a. *Narcotics and dangerous drugs*

b. *Firearms (ensure they are unloaded and booked separately from ammunition)*

c. *Property with more than one known owner*

d. *Paraphernalia as described in Health and Safety Code § 11364*

e. *Fireworks*

f. *Contraband*

§804.3.1 PACKAGING CONTAINER

Members shall package all property, except narcotics and dangerous drugs, in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

§804.4 RECORDING OF PROPERTY

The Property and Evidence Technician receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the San Bernardino Police Department shall be noted in the property logbook.

§804.5.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time, and to whom released.

The Property and Evidence Technician shall obtain the signature of the person to whom property is released and the reason for release. Any member receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

§804.5.4 AUTHORITY TO RELEASE PROPERTY

Case agents or authorized personnel shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

§804.5.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Property and Evidence Technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Bureau for filing with the case. If some items of property have not been released, the property card will remain with the Property Unit. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The assigned detective should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

§804.6 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property and Evidence Technician shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

§804.8 POLICY

It is the policy of the San Bernardino Police Department to process and store all property in a manner that will protect it from loss, damage, or contamination, while maintaining documentation that tracks the chain of custody, the location of property, and its disposition.

Allegations:

During this investigation, it was suspected that Officer Victorio may have failed to comply with the agreed-upon terms and conditions of his Performance Improvement Plan (PIP), reference 24PSB-006, which was in effect from November 1, 2024, through April 30, 2025. The incident under review occurred on April 28, 2025—two days before the scheduled conclusion of his PIP.

Evidence Considered:

I reviewed the following evidence about the above allegation: Officer Victorio's statement, Officer [redacted] Pen. Code sec. 8's statement, body-worn camera (BWC), Property Data Sheet, and Officer Victorio's PIP.

San Bernardino Police Department Policies and Procedures:

*§***3.20 Custodial Property**

Employees shall deliver to the property custodian any property not their own, which comes into their possession while (1) on duty, and/or, (2) performing as a police officer. A report and property tag shall be completed for each transaction.

*§***3.202 Safeguarding Money, Property, and Evidence**

All employees shall be responsible for safeguarding public or city money, prisoner's money and property, and property and evidence in their possession. They shall observe appropriate procedures regarding the handling of money and when money is received, it shall be placed together with any corresponding records in an envelope and sealed. The envelope shall be marked with all

necessary identifying data. The item shall then be deposited in the Department's safe or evidence locker.

§4.02 Neglect of Duty

Employees may be deemed incompetent and subject to discipline when they: fail to properly perform their assigned duties; act in a manner tending to bring discredit to themselves or the Department; or fail to assume responsibility or exercise diligence, intelligence, and interest in the pursuit of their duties.

Performance Improvement Plan (24PSB-006)

Officer Victorio was required to complete all reports in compliance with the guidelines outlined in Department Policy 344 and to adhere to the established standards of conduct contained in Department Policy 340. The Performance Improvement Plan (PIP) explicitly stated that Officer Victorio *"shall"* familiarize himself with Policy 340 and is responsible for full compliance with its provisions.

Under the "Failure to Improve" section of the PIP, it states that if the minimum job requirements are not adequately achieved during the term of the PIP, the Department may either extend the PIP or impose disciplinary action, up to and including termination for neglect of duty. The PIP further directs Officer Victorio to make *immediate, significant, and sustained* improvements throughout its duration and to maintain that level of performance upon completion. Failure to do so may result in formal disciplinary action, including termination.

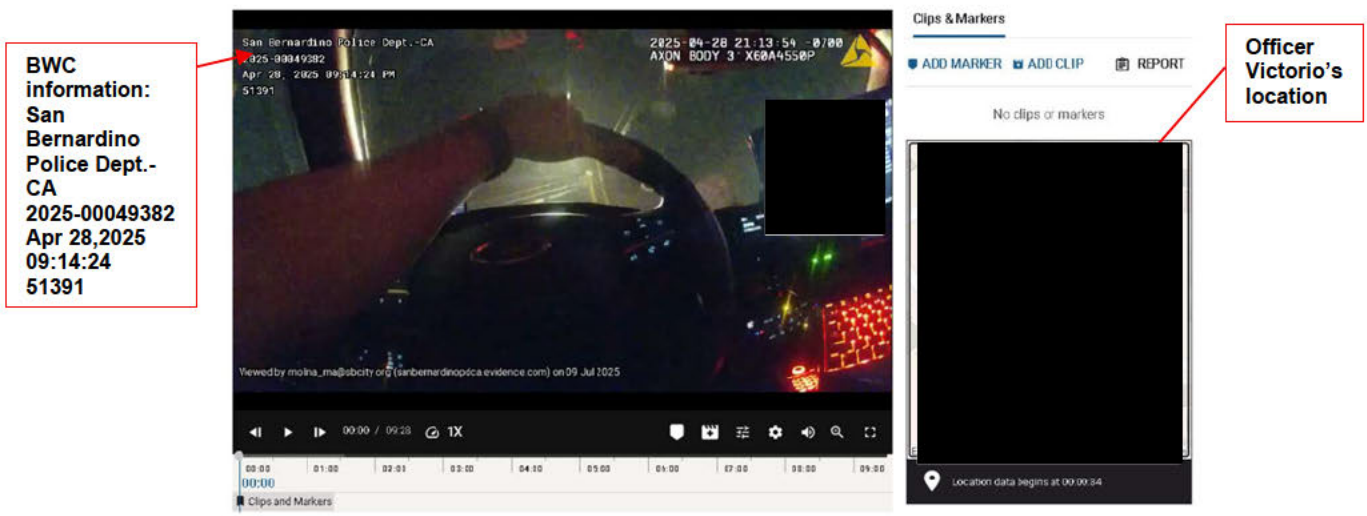
Officer Victorio signed and dated the PIP on November 7, 2024, directly above the acknowledgment statement: "*By signing, I acknowledge I have received a copy of this Performance Improvement Plan (PIP) and fully understand its contents."*

FINDINGS:

BWC REVIEW (Tab 06)

Officer H. Victorio – BWC # 1Footage 9:28

The first 30 seconds of Officer H. Victorio's body-worn camera (BWC) footage were muted, consistent with the system's pre-event buffering mode. When Officer Victorio's BWC was activated, he was observed seated in the driver's seat of his patrol unit. Officer Victorio appeared to activate the vehicle's red and blue overhead emergency lights before exiting his police unit. Officer Victorio then approached the driver's side of a gray four-door vehicle, which was occupied by a Black adult female later identified as Complainant [redacted]. The BWC location data indicated that Officer Victorio conducted his enforcement stop on April 28, 2025, at about 2114 hours in the area of Hanford and University in the City and County of San Bernardino, reference our case # 25-49382



When Officer Victorio contacted [redacted] she denied being on probation or parole and informed Officer Victorio that she had previously been arrested for petty theft and a firearm-related offense. Officer Victorio asked [redacted] if she currently had a firearm in her possession. [redacted] said she did not. [redacted] then briefly explained the circumstances surrounding the prior firearm-related offense.

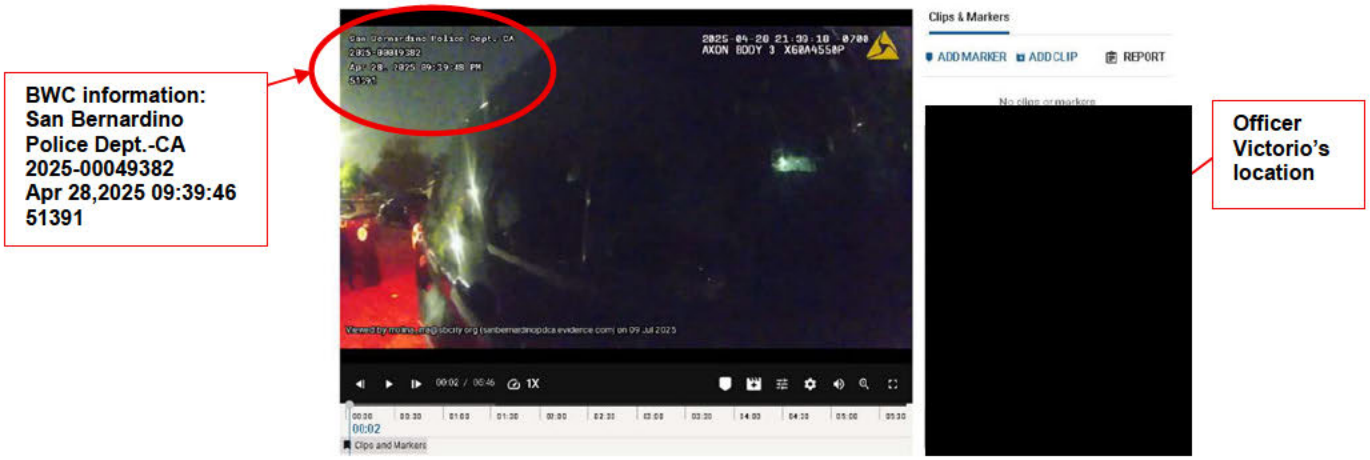
Officer Victorio returned to his patrol vehicle with [redacted]'s identification and appeared to conduct a records check using the mobile data terminal (MDT) inside of his unit. After the records check, Officer Victorio returned to [redacted]'s vehicle, and at Officer Victorio's request, [redacted] exited her vehicle. A search of [redacted] was conducted, after which she was seated on the curb under the supervision of Officer [redacted]

Officer Victorio searched [redacted]'s vehicle. During the search, Officer Victorio asked [redacted] where she lived. [redacted] said she lived around the corner, prompting Officer Victorio to ask why she needed directions home. [redacted] admitted she did not know how to get home from the hospital.

After concluding the vehicle search, Officer Victorio walked back toward his patrol unit and told Officer [redacted] "You can cut off." Officer Victorio then deactivated his body-worn camera (BWC).

Officer H. Victorio – BWC #2 Footage 5:46

The first 30 seconds of Officer H. Victorio's body-worn camera (BWC) footage were muted, consistent with the system's pre-event buffering mode. When the video recording was activated, Officer Victorio was observed walking along the passenger side of a patrol unit. The BWC location data indicated that Officer Victorio was in the area of 17th Street and Arizona Street in the City and County of San Bernardino at about 2146 hours.



The recording showed Officer Victorio walk away from a patrol unit and walk parallel to a white vinyl fence toward the front door of a residence.

Officer Victorio knocked on the front door, which was slightly ajar, and rang the doorbell. A short time later, an individual inside the residence closed the door. Officer Victorio stated, "I see you," and then used his right hand to briefly turn the door handle clockwise, which appeared to slightly open the door and an individual could be seen standing behind it. Officer Victorio asked the unidentified subject, who appeared to be a black male juvenile, if Minor 1,' his 'older sister,' was home. The juvenile responded by saying she was not.

Officer Victorio informed the unidentified black male juvenile that his mother was seated in the back of his patrol vehicle. Officer Victorio stated he was going to enter the residence, retrieve a few bullets that the juvenile's mother had in her room, and then leave. Officer Victorio further explained that afterward, the juvenile's mother would be released.

As the unidentified Black male juvenile walked away from the door, Officer Victorio appeared to lightly open the door and enter the residence. He proceeded further inside and encountered another Black male who identified himself as Minor 2 the oldest person at the location. Officer Victorio explained that he was there because the juvenile's mother had informed him, she had some bullets in a drawer, which he intended to retrieve before releasing her. Minor 2 responded by saying, 'OK.'

Officer Victorio then approached a dresser and opened the top right drawer, which he illuminated with his flashlight. Officer Victorio searched through the contents of the drawer for approximately 50 seconds and located several loose live rounds.

Several live rounds in Officer Victorio's left hand and several loose live rounds on the drawer's bottom panel.



Officer Victorio closed the drawer and placed the live rounds he was holding onto the bed in the bedroom.[1]

Officer Victorio opened four additional drawers in the bedroom and briefly glanced at their contents. After visually inspecting the drawers, he checked behind a pillow on the bed but did not locate any items. He then returned to the loose live rounds he had placed on the bed and picked them up.

Loose live rounds on bed.



Before exiting the bedroom, Officer Victorio visually inspected the walk-in closet. He then informed Minor 2 and the unidentified Black male juvenile that their mother would be home shortly and subsequently exited the residence.

Officer Victorio walked back to his patrol unit, at which point Complainant made an unintelligible comment. Officer Victorio responded, stating, 'They are okay. She wasn't even in there. I spoke with your next oldest son.'

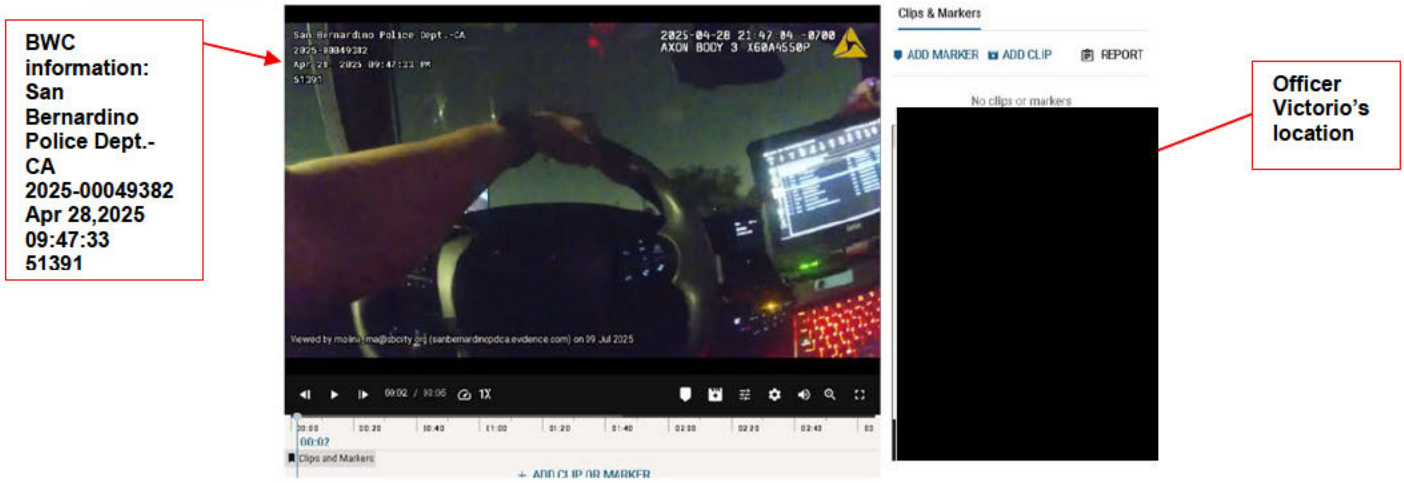
[1] Officer Victorio BWC audio captured the sound of several rounds being placed on the surface of the bed in the bedroom at about the 03:37 mark.

Officer Victorio then opened the front passenger side door of his patrol unit, illuminated the center console with his flashlight, and placed the loose live rounds he was holding into the console's cupholder.[2]

The front passenger side door of the police unit was shut, and Officer Victorio deactivated his BWC.

Officer H. Victorio – BWC #3 Footage 3:05

The first 30 seconds of Officer H. Victorio's body-worn camera (BWC) footage were muted, consistent with the system's pre-event buffering mode. When the video recording was activated, Officer Victorio was observed driving and parking his unit. The BWC location data indicated that Officer Victorio was in the area of University Parkway north of Hanford Street in the City and County of San Bernardino at about the time of 2147 hours.



Officer Victorio exited his patrol unit, walked to the rear passenger-side door, and opened it for Complainant Once the body-worn camera (BWC) audio was activated, Complainant could be heard asking someone if they had followed her location. A female responded affirmatively, explaining that she had responded to the location because Complainant's location had stopped.

Officer Victorio then removed Complainant's handcuffs. After being uncuffed, Complainant briefly spoke with the unidentified female and a Black male juvenile who were standing on the sidewalk.

Officer Victorio approached Officer Pen. Code sec. 832 who was seated in the driver's seat of his patrol unit. Officer Pen. Code sec. 8 handed Officer Victorio the citation for Complainant and requested that he add Complainant's current address to it.

[2] Officer Victorio BWC audio captured what sounded like several rounds being placed in the console's cupholder at about the 05:36 mark

Officer Victorio recontacted Complainant who provided her address. Officer Victorio wrote the address on the citation and appeared to add additional information. After completing the citation, Officer Victorio explained to Complainant that it was being issued for driving with a suspended license. He informed her that he would not be towing her vehicle based on their prior conversation.[3]

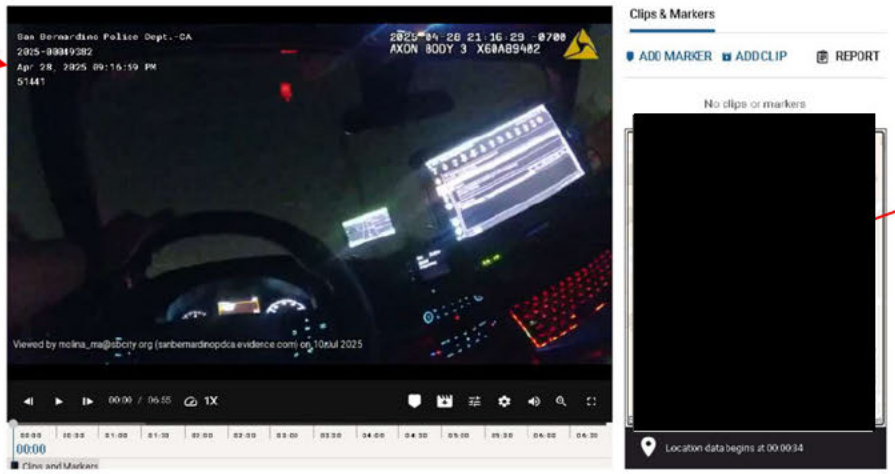
Complainant signed the citation, and Officer Victorio returned her California identification card and provided her with a copy of the citation. Officer Victorio also explained that she would not be charged for possessing the ammunition; however, the ammunition would be "taken" for safekeeping.[4]

Officer Victorio then deactivated his BWC.

Officer Pen. Code sec. 832.7 – BWC Footage 3:05

The first 30 seconds of Officer Pen. Code sec. 832.7's body-worn camera (BWC) footage were muted, consistent with the system's pre-event buffering mode. When the video recording was activated, Officer Pen. Code sec. 8 was observed driving his marked patrol unit. The BWC location data indicated that Officer Pen. Code sec. 8 was in the area of Hanford and University in the City and County of San Bernardino on April 28, 2025, at about 2116 hours, reference our case # 25-49382.

BWC information: San Bernardino Police Dept.- CA 2025-00049382 Apr 28,2025 09:14:24 51441



Officer Pen. Code sec. 8 exited his patrol unit and approached the gray four-door vehicle that had been stopped by Officer Victorio. As Officer Pen. Code sec. 8 approached, Officer Victorio was standing at the front driver's side door of the gray vehicle, and Officer Pen. Code sec. 8 positioned himself along the passenger side of the gray vehicle. While on the passenger side, Complainant walked toward Officer Pen. Code sec. 83 and he asked if she wanted to have a seat. Complainant responded, "Okay," and sat on the curb.

[3] Officer Victorio's BWC captured this at about the 2:25 mark.
[4] Officer Victorio's BWC captured this at about the 2:52 mark.

From the 00:50 mark until Officer Pen. Code sec. 8 deactivated his body-worn camera (BWC), his BWC footage remained generally consistent with the footage captured by Officer Victorio's BWC #1 footage.
Officer Pen. Code sec. 8 then deactivated his BWC.

Detective Molina – BWC Footage 2:00

The first 30 seconds of my body-worn camera (BWC) footage were muted, consistent with the system's pre-event buffering mode. When the recording was activated, I was walking eastbound in the 1900 block of W. 17th Street toward Complainant's address to locate and interview Complainant. As I approached the location, I observed a truck with an attached trailer parked nearby. The trailer and truck bed were loaded with furniture and other miscellaneous property.

Detective Miles and I proceeded to the front door of Complainant's address and contacted a cleaning crew at the location. The workers stated the residence had been vacant for approximately one month and confirmed they did not know the whereabouts of the previous tenants.

With the workers' consent, Detective Miles and I conducted a walkthrough of the residence. We did not locate Complainant or any of her belongings. It appeared that Complainant and her family had moved out of the location.

Following the check of the interior, I deactivated my BWC.

Detective Miles – BWC Footage 2:09

Detective Miles' BWC footage is a replica of my (Detective Molina's) BWC footage.

This concludes the BWC review.

BWC ANALYSIS

A review of the body-worn camera (BWC) footage for Officers Victorio and Pen. Code sec. 8 revealed that the last time Officer Victorio possessed the live ammunition discovered in Complainant's residence was at approximately the 5:36 mark of Officer Victorio's third BWC recording. At that point, an audible sound consistent with loose ammunition being placed into the unit's cup holder could be heard.

REPORTS REVIEW (Tab 03)

Citation # 1104027

Officer Pen. Code sec. 832.7 issued Complainant a citation for a violation of California Vehicle Code section 14601(a) [Driving When Privilege Suspended or

Revoked]. The citation listed Complainant's address as Complainant's address San Bernardino, California. The 2014 Dodge Charger involved in the incident, bearing California license plate [redacted] was registered to Complainant [redacted] at the same address. The citation includes a scheduled court appearance date of September 15, 2025. Complainant signed the citation at the time it was issued.

CR3 Arrest

Officer H. Victorio completed a CR-3 Arrest Report, which documented Complainant's residential address, physical description, and clothing description at the time of the incident.

Property Report

On 07/30/25, I completed a property report documenting 16 live rounds of .22 caliber ammunition that Officer Victorio provided to me, which he alleged were recovered from Complainant's residence. The ammunition was tagged for safekeeping and given barcode # 1335987.

This concludes the Report(s) review.

SURVEILLANCE FOOTAGE REVIEW

No surveillance footage related to this incident was located.

FOLLOW-UP INVESTIGATION

SBPD Property/ Evidence Room

On Thursday, July 3, 2025, I went to the SBPD Property Room after learning of the missing ammunition. Property and Evidence Supervisor K. Tennison generated a Property Report listing all evidence and property tagged by Officer Victorio into evidence or safekeeping between April 1, 2025, and July 3, 2025.[5] The report did not indicate that Officer Victorio had tagged any ammunition associated with case #25-49382.

On Thursday, July 10, 2025, I returned to the SBPD Property Room regarding the missing ammunition associated with case #25-49382. I spoke with Property and Evidence Technician II E. Sanchez, who generated a second Property Report listing all evidence Officer Victorio had tagged into evidence or safekeeping since July 1, 2025.[6] The two-page report created by Sanchez did not indicate that Officer Victorio had tagged any ammunition as evidence or safekeeping under case #25-49382.

[5] All four pages of the printed report provided by K. Tennison were placed under Tab 06 of this investigation.
[6] Both pages of the printed report provided by E. Sanchez were placed under Tab 06 of this investigation.

Summary of Complaint: (Tab 02)

Complainant alleged that on Monday, April 28, 2025, at approximately 2200 hours, she was in the area of State Street and University Parkway when San Bernardino Police Officers H. Victorio and Pen. Code sec. 832.7 conducted an enforcement stop on her vehicle due to a window tint violation.

Complainant stated that she did not contest the reason for the stop, but was confused when one of the officers told her that he would not tow her vehicle and would release her with a citation if she allowed him to search her residence. According to Complainant the officer transported her to her residence, where the officer searched it while she remained seated in his police unit.

A short time later, the officer returned to the unit with several bullets. Complainant reported that she was then transported back to the original stop location and released from the scene with a citation.

Complainant alleged that she suspected an illegal search of her residence had been conducted. During my review of the incident, it appeared that Officer Victorio neglected his duty by failing to properly tag the live ammunition he located at Complainant's residence.

INTERVIEWS: (Tab 08)

Interview of Officer H. Victorio
Recording Duration 44:37
Date July 30, 2025
Time: Approximately 1440 hours
Location: San Bernardino Police Department, Professional Standards Interview Room.

On July 30, 2025, at approximately 1440 hours, Detective Miles and I interviewed Officer H. Victorio in the Professional Standards Interview Room of the San Bernardino Police Department. The interview was audio-recorded.[7] Officer Victorio was represented by his attorney, Kasey Castillo, with KC Law Group.

Before the interview, Officer Victorio reviewed his Body-Worn Camera (BWC) footage and the documents that had been provided to him. Officer Victorio indicated that he was not aware of any additional recordings or documents that he had authored and wished to review.

At approximately 1443 hours, I advised Officer Victorio of his Miranda Rights. Officer Victorio stated that he understood his rights but declined to speak with me.

[7] Two audio recordings of this interview were attached to this report under Tab 08 – Audio – Victorio Interview MP3/ Victorio Interview MP4.

At approximately 1444 hours, I issued Officer Victorio the Lybarger Advisement and ordered him to provide a statement and respond to questions.

Officer Victorio said he has been employed as a police officer with the City of San Bernardino for over three years. He has no prior law enforcement experience. He is currently assigned to the Northern District as a District Resource Officer (DRO). His regular shift runs from 0700 to 1700 hours, Monday through Thursday.

Officer Victorio confirmed that he participated in the Field Training Program. Officer Victorio said he received training on report preparation both during the academy and as part of the Field Training Program. When asked whether he received training on evidence collection, Officer Victorio said, “Yes, sir.”

When asked to briefly describe the training he received in report writing and evidence collection, Officer Victorio explained that report writing involves summarizing an investigation and documenting the relevant facts. Regarding evidence tagging, he said that any item that could be considered evidence would be tagged and placed into the evidence room.

Officer Victorio stated that he received training on conducting searches during both the police academy and the Field Training Program. When asked to explain the concept of a consent search, Officer Victorio responded that a consent search occurs when a person gives an officer permission to search. He further stated that a consent search cannot be conditional. Officer Victorio acknowledged that he had never been taught that a consent search can be conditional.[8]

Officer Victorio said that a person has the option to withdraw consent for a search at any time by verbally instructing the officer to stop.

When asked to explain the process for tagging an item for evidence or safekeeping, Officer Victorio explained that the item is collected and, when time permits, brought to the police department’s evidence room. If the item is narcotics, it is KPAK’d, placed into an envelope, tagged, and then submitted as evidence.[9]

When I asked Officer Victorio if he had a clear understanding of the expectations outlined in his Performance Improvement Plan (PIP) when he signed it on November 7, 2024, Officer Victorio said, “Yes, sir.” When asked to elaborate on those expectations, Officer Victorio stated that he was required to follow proper evidence tagging procedures. Officer Victorio also acknowledged that failure to do so could result in the extension of the PIP or disciplinary action, up to and including termination for neglect of duty.

Officer Victorio agreed that on April 28, 2025, at approximately 2114 hours, he conducted an enforcement stop on a vehicle for a window tint violation in the area of

[8] Officer Victorio’s recorded interview discussed this at about the 0:08:18 mark.
[9] KPAK’d: a term used to identify heat-sealed plastic packaging.

State Street and Hanford Avenue, in the City and County of San Bernardino. He admitted that during the stop, he contacted the driver/sole occupant, who was later identified as Complainant

Officer Victorio said he learned Complainant had a prior arrest for a firearm charge when Complainant disclosed this information to him. Officer Victorio also learned that Complainant's California Driver's License (CDL) was suspended after conducting an inquiry into her license status.

During the enforcement stop, Officer Victorio asked Complainant to step out of her vehicle after learning that her CDL was suspended. Once Complainant exited the vehicle, Officer Victorio conducted a search of Complainant's person and Complainant's vehicle but did not locate any illegal items.

When asked about the reason for deactivating his body-worn camera (BWC) after searching Complainant's vehicle, Officer Victorio said he did not know what he was thinking at the time. However, he believed he deactivated his BWC because Complainant was going to be transported back to her residence to retrieve ammunition that she had admitted to having.

When I asked Officer Victorio why he instructed his partner to turn off his body-worn camera, Officer Victorio said he did not think much of the request at the time. Officer Victorio explained that he was transporting Complainant away from the vehicle, while his partner remained at the vehicle, and he did not perceive a continued need for recording.

Officer Victorio did not have a clear recollection of who handcuffed Complainant prior to her transport to her residence, but Officer Victorio believed he likely was the one who applied the handcuffs because Complainant was in the back seat of his police unit.

I asked Officer Victorio why Complainant was placed in the back seat of his police unit. Officer Victorio said he placed Complainant there because Complainant had "consented" to be transported to her residence so that the ammunition she had there could be recovered. Officer Victorio said this conversation took place when he had his BWC deactivated.[10]

I explained to Officer Victorio that he had deactivated his BWC footage at about 2123 hours and reactivated his BWC at about 2139 hours. I then asked Officer Victorio what had taken place during the 16 minutes his BWC was deactivated. Officer Victorio said he was "debriefing" Complainant at the location of the traffic stop to get information on who was at her residence so that he could determine if he needed additional officers at her residence.

I informed Officer Victorio that, according to the Complainant's complaint, she alleged he told her that her vehicle would not be towed if she allowed him to search her home. I asked Officer Victorio to explain this portion of their conversation. Officer Victorio

[10] Officer Victorio's recorded interview discussed this at about the 0:15:55 mark.

responded, “That is essentially what happened, sir.” Officer Victorio later stated that Complainant consented to returning to her residence, but he “did not recall” whether he made that offer. Officer Victorio also stated that he “did not recall” who initially suggested the option of searching Complainant’s residence during the contact. He acknowledged that he should have had his body-worn camera activated when obtaining consent from Complainant

I asked Officer Victorio to explain this portion of their conversation. Officer Victorio said, “That is essentially what happened, sir.” Officer Victorio later added that Complainant consented to going back to her residence, but he “did not recall” if he made that offer. Officer Victorio “did not recall” who introduced Complainant’s residence as a search option during this contact.

I asked Officer Victorio if he had completed a consent form. Officer Victorio stated that he did not, explaining that he did not have one available at the time, which is why he documented the consent on the computer. He further stated that he “did not recall” whether he asked his partner for a consent form.

I explained to Officer Victorio that, according to the Complainant’s complaint, she alleged he told her that she would not be taken to jail for the misdemeanor offense she had committed if she allowed him to search her home. I then asked Officer Victorio to clarify that portion of their conversation. Officer Victorio said, “I don’t recall that conversation. Looking back at it now, I wish I would have had my body camera rolling so that way, obviously, it could of helped me in this situation.”

I asked Officer Victorio if there was any reason Complainant might have misunderstood their conversation. Officer Victorio responded that he did not know what Complainant was thinking. He acknowledged that he did ask Complainant for permission to search her home for the ammunition, and Complainant gave consent. Officer Victorio denied telling Complainant that he would not tow her vehicle in exchange for allowing the search. When I asked Officer Victorio if he told Complainant that, if nothing was found during the search of her residence, she would be released with a citation, he responded, “Yes.”

Officer Victorio did not recall whether Complainant said that she understood the conversation regarding the search of her residence. Officer Victorio said that Complainant knew she was giving consent to the search because he had asked her about her prior firearm violation. Officer Victorio explained that he found it “strange” that Complainant possessed ammunition, and he suspected there might be a firearm at the residence because, in his view, it was unusual to have bullets but no firearm. Complainant also told Officer Victorio where to locate the ammunition at her residence.

Officer Victorio stated that he believed the Complainant understood their conversation regarding the search of her residence because she had given consent to the search, provided him with directions to where the ammunition could be located, and never withdrew or denied consent. Officer Victorio said he transported Complainant to her residence. Upon arrival, Complainant remained handcuffed and seated in the back seat of

his patrol unit without an officer present, because no other officers were on scene, and he did not ask if any other officers were available. Officer Victorio explained that Officer Pen. Code sec. 8 had remained at the location of the enforcement stop to fulfill his obligation to secure Complainant's vehicle.

Officer Victorio acknowledged that, because Complainant had been left in his patrol unit without another officer present, she had no opportunity to withdraw her consent while he searched her residence.

I informed Officer Victorio that his body-worn camera footage showed that, upon his arrival at the Complainant's residence, the front door appeared to be slightly ajar. The audio from the camera captured the sound of someone inside the residence closing the door, after which it appeared that Officer Victorio opened the door. I asked Officer Victorio whether he had opened the door himself or if someone inside the residence had opened it. Officer Victorio responded, "I don't recall." Officer Victorio said he did remember knocking on the door, identifying himself as "police," as he walked into the residence. Officer Victorio believed the door had been opened by a young black male who stood behind the door inside the residence.

Officer Victorio confirmed that no one inside Complainant's residence gave him consent to enter, but he relied on the consent previously given to him by Complainant. Officer Victorio believed the "little boy" who met him at the door led him to Complainant's bedroom. No one in the bedroom gave Officer Victorio consent to search the dresser drawers, but Complainant had provided consent before Officer Victorio entered the residence.

Officer Victorio said he took possession of the loose ammunition found in Complainant's dresser drawer for safekeeping. Although Complainant is not prohibited from possessing ammunition, Officer Victorio believed it was the right thing to do, and since Complainant's firearm had been "confiscated," Complainant did not need the ammunition.

I informed Officer Victorio that, in Complainant's complaint, Complainant alleged he did not take all the ammunition. Officer Victorio said he took the ammunition he observed and checked several drawers because he found it unusual that Complainant possessed ammunition without a firearm and believed additional ammunition might be located in other drawers.

I informed Officer Victorio that, upon reviewing his body-worn camera (BWC) footage, the audio appeared to capture the sound of ammunition being placed in the cupholder of his patrol vehicle. Officer Victorio confirmed that the audio was of the ammunition he recovered from Complainant's dresser drawer being placed into his patrol unit's cupholder.

Officer Victorio was asked why he deactivated his BWC before he transported Complainant back to the location of the enforcement stop. Officer Victorio said he did not think much of it and turned it off because he concluded what he had been doing at Complainant's residence and believed it was not relevant to keep his BWC on.

I told Officer Victorio that before he cited Complainant he told Complainant he was only citing her for her suspended license and that he was not going to tow her vehicle because "what we spoke about." I asked Officer Victorio what conversation he was referring to. Officer Victorio said the conversation that took place when his BWC was off.

I asked Officer Victorio for the context of that conversation. Officer Victorio said that he took the ammunition for safekeeping and that consent was given to go to her home.

Officer Victorio did not recall if he confirmed with dispatch whether or not Complainant was a convicted felon or prohibited from owning ammunition. Officer Victorio added that when Complainant was arrested, it was in Los Angeles County, and he believed we would not get that return. Officer Victorio did not recall if he ran a criminal history check on Complainant

Officer Victorio said there was nothing that indicated to him that Complainant was prohibited from owning ammunition. Complainant just mentioned she had a prior weapon violation, and Officer Victorio believed Complainant was probably not carrying the firearm correctly, so he took the ammunition, and he told Complainant he was taking the ammunition for safekeeping.

Officer Victorio believed he should have left his BWC on during this incident because it would have helped him in this situation, and it is important.

Officer Victorio said Complainant was cited for having a suspended license, and Officer Victorio said he should have gone to the station after the call, tagged the live ammunition into evidence, and completed a property sheet or the necessary associated forms.

I asked Officer Victorio why he had not tagged the found ammunition as evidence, found property, or safekeeping. Officer Victorio said he forgot about it. Officer Victorio explained that the ammunition was in his duffel bag. He did not realize he still had the ammunition until PSB notified him about his interview. After receiving the interview notification, he checked his duffel bag and located the ammunition. Once the ammunition was located, he contacted his "counsel," which is why the ammunition still had not been tagged in.

During the interview, Officer Victorio acknowledged that he remained in possession of the ammunition recovered during the incident, and the ammo had not been tagged into evidence. Officer Victorio's legal counsel, Attorney Kasey Castillo, stated that upon Officer Victorio receiving notice of the interview, she instructed him to wait until the interview before taking any additional action regarding the ammunition. Attorney Castillo explained that this direction was given to ensure compliance with the interview notification, which specifically advised Officer Victorio not to discuss the case with any other person.

When asked if he believed he failed to perform his assigned duties during this incident, Officer Victorio responded, “Yes, sir.” When asked to specify the nature of the failure, Officer Victorio stated that he failed to tag the evidence into the system and to document it correctly. Officer Victorio agreed that he did not effectively fulfill his role during the incident.

Detective Grant informed Officer Victorio that ammunition belonging to Complainant had been recovered and asked if it would match the ammunition in his possession. Officer Victorio confirmed that it would.

When asked if he had anything further to add, Officer Victorio stated that, in hindsight, the correct course of action would have been to keep his body-worn camera activated for the entire duration of the incident. He further stated that, following his contact with Complainant he should have “slowed down” because he works at a very “high-paced” tempo. Officer Victorio said that he makes many arrests and wants his cases to be successfully prosecuted. As a corrective measure, Officer Victorio stated that he now ensures that he does not wait until the end of his shift to tag any evidence.

Officer Victorio was asked if he had been taught the importance of keeping his BWC on when transporting a female. Officer Victorio said, “Yes. “

I asked Officer Victorio if he told Complainant her vehicle would not be towed if she allowed him to search her residence. Officer Victorio asked if this was the “conditional thing.” I said yes. Officer Victorio said he did not give Complainant a “condition.” Officer Victorio asked Complainant if she had a firearm at the house. Complainant said she did not, but admitted to having ammunition. Officer Victorio asked Complainant if it would be ok if “he’d go”; that is when Complainant consented. Officer Victorio agreed that he never told Complainant that if she allowed him to search her residence, he would not tow her car.

Attorney Kasey Castillo asked Officer Victorio if there was a reason he would not have made that offer. Officer Victorio said he usually does not like to tow cars, and in this situation, he did not have to tow Complainant’s vehicle.

Arrangements were then made to collect the loose rounds Officer Victorio had in his possession that he had recovered from Complainant’s residence.

My interview with Officer Victorio concluded at 1539 hours.

Interview of Officer Pen. Code sec. 832.7
Recording Duration 27:26
Date August 19, 2025
Time: Approximately 0632 hours

Location: San Bernardino Police Department, Professional Standards Interview Room.

On August 19, 2025, at approximately 0632 hours, Detective Miles and I interviewed Officer [redacted] in the Professional Standards Interview Room of the San Bernardino Police Department. The interview was audio-recorded.[11] Officer [redacted] was accompanied by his chosen representative, San Bernardino Police Sergeant Loera.

Before the interview, Officer [redacted] reviewed his Body-Worn Camera (BWC) footage and the documents provided to him. Officer [redacted] stated he was not aware of any additional recordings or documents that he had authored and wished to review.

At approximately 0635 hours, I advised Officer [redacted] of his Miranda Rights. Officer [redacted] stated he understood his rights and declined to speak with me.

At approximately 0636 hours, I issued Officer [redacted] the Lybarger Advisement and ordered him to provide a statement and respond to questions.

Pen. Code sec. 832.7 [redacted]

Pen. Code sec. 832.7 [redacted]

Pen. Code sec. 832.7 [redacted]

Pen. Code sec. 832.7 [redacted]

Pen. Code sec. 832.7 [redacted]

Pen. Code sec. 832.7 [redacted]

Pen. Code sec. 832.7 [redacted]

[11] Two audio recordings of this interview were attached to this report under Tab 08 – Audio – [redacted] Interview MP3/ [redacted] Interview MP4.

Pen. Code sec. 832.7

Officer Pen. Code sec. 8 confirmed that on April 28, 2025, Officer Victorio conducted a traffic stop on a vehicle in the area of Hanford and University. Officer Pen. Code sec. 8 did not recall the specific traffic violation that led to the enforcement stop.

Officer Pen. Code sec. 8 admitted that he and Officer Victorio did contact a female with the last name of Complainant during this stop; however, Officer Pen. Code sec. 8 did not remember if he learned that Complainant was on probation and/or parole.

Officer Pen. Code sec. 8 told me he did not remember if he learned that Victim had a prior firearm-related arrest.

Officer Pen. Code sec. 8 learned that Complainant had a suspended CDL when he was informed by Officer Victorio.

Per Officer Pen. Code sec. 832 Officer Victorio asked Complainant to step out of her vehicle. Officer Pen. Code sec. 8 did not know if Officer Victorio had discovered anything illegal on Complainant's person or in her vehicle.

Officer Pen. Code sec. 8 was asked why he deactivated his BWC during the enforcement stop. He stated he believed the traffic stop was over and that he commonly turns his BWC off when he believes a stop has concluded. Officer Pen. Code sec. 8 was advised that his BWC recorded Officer Victorio stating, "You could go off." Officer Pen. Code sec. 8 explained he believed the enforcement stop was over at that point, but he did not question Officer Victorio regarding the reason for deactivating the BWC, nor did he ask Officer Victorio why he made that statement.[12]

Officer Pen. Code sec. 8 told me he did not remember who handcuffed Complainant he did not know why she was handcuffed, and he "did not recall" why Complainant was seated in the backseat of a patrol unit.

Officer Pen. Code sec. 8 said he talked with Complainant before she was transported to her residence. I asked Officer Pen. Code sec. 8 to summarize his conversation with Complainant Officer Pen. Code sec. 8 said he did not remember what they talked about but guessed the conversation was "small talk" about where she lived or where she was driving to.

Officer Pen. Code sec. 8 said Officer Victorio did have a conversation with Complainant but he replied "I don't recall" when I asked Officer Pen. Code sec. 8 to summarize the conversation between Complainant and Officer Victorio. Officer Pen. Code sec. 8 believed the conversation did appear friendly.

[12] Officer Pen. Code sec's recorded interview talked about this at about the 0:10:50 mark.

Officer [redacted] was advised that, in her complaint, [redacted] alleged she spoke with an officer who told her that if she allowed the officer to search her home, her vehicle would not be towed. Officer [redacted] stated he did not have that conversation with [redacted] and confirmed that the only other officer on scene was Officer Victorio.

Officer [redacted] was told that, in [redacted]'s complaint, [redacted] alleged an officer told her that if she allowed a search of her home, she would not be arrested for the misdemeanor offense she had committed. Officer [redacted] stated he did not have that conversation with [redacted] and confirmed that the only other officer present was Officer Victorio.

I asked Officer [redacted] if he or Officer Victorio told [redacted] that if a search of her home was conducted and nothing illegal was located, she would be released from the location with a citation. Officer [redacted] stated he did not have that conversation with [redacted] and confirmed that the only other officer present was Officer Victorio.

I asked Officer [redacted] if [redacted] told him or Officer Victorio that she understood the conversation about the search of her home. Officer [redacted] confirmed that [redacted] did not tell him anything and that the only other officer on scene was Officer Victorio.

Officer [redacted] said [redacted] did not tell him her home could be searched. [redacted] did not say anything to him that made him believe she understood the conversation that involved the search of her home. He did not hear [redacted] tell Officer Victorio anything regarding this.

Officer [redacted] said he did not know who had introduced the idea of searching [redacted]'s home, but he knew it was not him. Officer [redacted] said that Officer Victorio transported [redacted] to her residence and instructed him to remain with [redacted]'s vehicle.

Officer [redacted] stated that Officer Victorio told him he was transporting [redacted] to her residence in furtherance of his investigation. Prior to transporting [redacted] Officer Victorio asked Officer [redacted] for a consent-to-search form; however, Officer [redacted] did not have one available.

When asked to summarize his role in the incident, Officer [redacted] said he acted as Officer Victorio's backup during the traffic stop. He wrote a citation and remained with [redacted]'s vehicle while Officer Victorio searched [redacted]'s residence.

Officer [redacted] said he did not know why an additional unit was not requested. He further stated that he believed Officer Victorio made the decision not to tow [redacted]'s vehicle, despite [redacted]'s CDL being suspended.

According to Officer [redacted] Officer Victorio later told him that ammunition had been recovered from [redacted]'s residence. Officer [redacted] noted, however, that nothing at the time indicated [redacted] was prohibited from possessing ammunition.

Officer [redacted] stated he believed he should have kept his body-worn camera (BWC) activated during this incident because the traffic stop had not yet concluded. He added that once he realized the stop was still ongoing, it did not occur to him to reactivate the BWC.

When asked if it was common practice for him to search a residence alone, Officer [redacted] replied, "No," and explained that he did not believe it was safe to conduct such a search by himself.

Detective Miles asked Officer [redacted] whether a consent search could be conditional, providing the example: "If I do something for you, will you let me search your property?" Officer [redacted] responded that he did not believe a consent search could be conditional.

Detective Miles then asked Officer [redacted] where he was positioned when Officer Victorio spoke with [redacted] Officer [redacted] stated he was standing on the sidewalk approximately 8 to 10 feet from Officer Victorio and [redacted] who were speaking in a low tone.

Officer [redacted] recalled that when Officer Victorio and [redacted] returned to the location of the traffic stop, [redacted] appeared normal. He also remembered that near the conclusion of the stop, [redacted]'s children arrived at the scene.

Officer [redacted] had nothing further to add. The interview concluded at 0659 hours.

TIMELINE OF COLLECTED EVIDENCE:



04/28/25 @ 21:42:45 hours – Officer H. Victorio's BWC footage.

This image, captured from Officer Victorio's body-worn camera (BWC), shows his left hand holding several live rounds.



04/28/25 @ 21:43:41 hours – Officer H. Victorio's BWC footage.

This image, captured from Officer Victorio's body-worn camera (BWC), shows several live rounds on the bed in Complainant's bedroom. These rounds are the rounds Officer Victorio had recovered from the dresser drawer inside of Complainant's bedroom.



04/28/25 @ 21:44:49 hours – Officer H. Victorio's BWC footage.

This image, captured from Officer Victorio's body-worn camera (BWC), shows him extending his left arm toward the unit's cupholder. Several seconds later, the BWC audio captured sounds consistent with multiple rounds being placed into the console's cupholder.

PHOTOS

On Wednesday 7/30/25 Officer Victorio provided me with 16 rounds of the following ammunition, which he alleged was the ammunition recovered from Complainant residence.



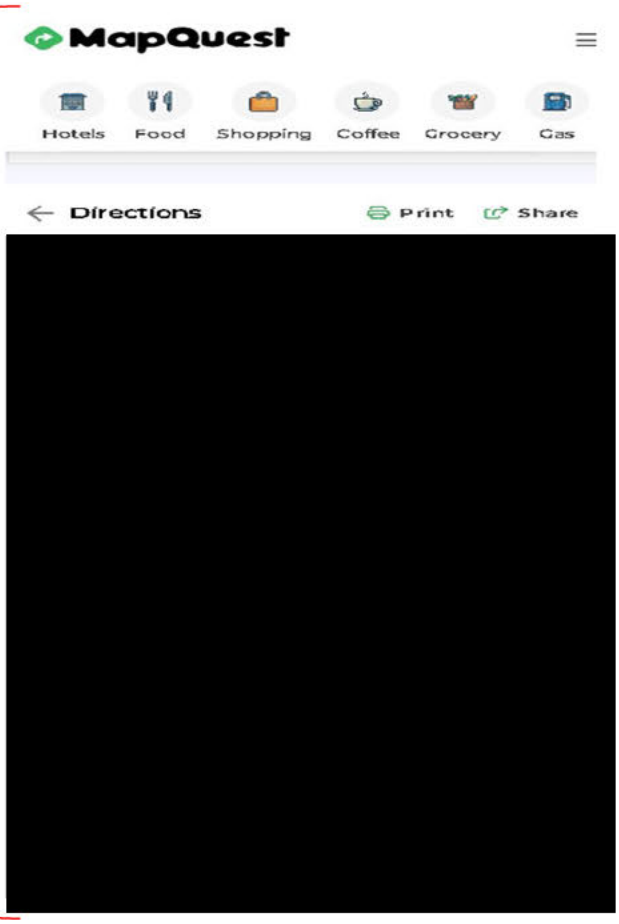
Headstamp of the ammunition provided by Officer Victorio on 7/30/25



Marker A represents the area where Officer Victorio conducted the enforcement stop. Marker B represents the location of Complainant residence, per MapQuest.

Official MapQuest - Maps, Driving Directions, Live Traffic





Per MapQuest, the time and distance from the location of the stop to [redacted] residence.

SUMMARY OF FINDINGS:

On April 28, 2025, Officer H. Victorio conducted a traffic stop on [redacted] for a violation of CVC 26708 (tinted windows), and Officer Curiel backed him. During the contact, it was determined that [redacted]'s driver's license was suspended, and she had a prior firearm-related charge. A search of [redacted]'s person and vehicle was conducted, which yielded no contraband.

Following the vehicle search, Officer Victorio and Officer Curiel deactivated their body-worn cameras (BWCs) before the enforcement stop was concluded. Officer Victorio then transported [redacted]—handcuffed—to her residence without supervisory notification or additional officer support. [redacted] remained unsupervised in the patrol unit while Officer Victorio entered her residence and conducted a consent search, and a written consent form was not obtained. Officer Victorio recovered live ammunition from [redacted]'s bedroom dresser but failed to book or document the items into evidence properly. [redacted] was returned to the original traffic stop location and released with a citation for driving with a suspended license.

Subsequently, Complainant filed a complaint alleging:

- Officers turned off their BWCs during the traffic stop.
- She was told her vehicle would not be towed and she would not be arrested if she consented to a home search.
- Her residence was searched while she remained detained.

The Professional Standards Bureau conducted a full investigation, including review of BWC footage, officer interviews, and related reports.

Recommendations

Officer H. Victorio

1. Improper deactivation of BWC: Sustained.

Summary of Findings.

Officer Victorio turned off his BWC several times during this enforcement stop and failed to reactivate it during critical interactions.

Lexipol Policy Review

***§*450.5.9 When and Where to Record**

a. Enforcement and Non-Enforcement Related Contacts

a. Officers shall use the event mode to record enforcement and all call for service- related contacts. The event mode should be activated prior to exiting your vehicle, prior to actual contact with the citizen, or as soon as safely possible thereafter, and continue recording until the contact or call for service is concluded.
b. Enforcement-related contacts include but are not limited to the following: Traffic stops, field interviews, detentions, arrests, search warrant service, persons present at radio calls who are accused of crimes, and consensual encounters in which the officer is attempting to develop reasonable suspicion on the subject of the encounter.
c. Non-Enforcement related contacts include but are not limited to the following: Calls for service involving crime reports, death

investigations, traffic collisions, civil disputes, child custody disputes, keep-the-peace type calls, and missing persons.

d. Covering/backing another City employee or law enforcement officer during an enforcement contract, including, but not limited to: CSOs, Parking Enforcement Officers, Animal Control Officers, etc.
e. Officers working plain clothes assignments are exempt from this policy while working in a plain clothes capacity.
f. If an officer is unable to activate his or her BWC prior to initiating any of these enforcement or investigative activities, the officer shall activate the device as soon as it is practical and safe to do so. As in all enforcement and investigative activities, including vehicle and pedestrian stops, the safety of the officers and members of the public are the highest priorities.
g. Supervisors and Managers may permit employees not to activate the BWC based on articulable circumstances (community meetings, specials events, etc.).
h. Supervisors are not required to record while performing administrative supervisor duties.

b. Arrest

1. Officers may stop recording in the event mode once the arrestee is no longer in their custody.

c. Suspect Interviews
    a. Officers shall record suspect interviews. Officers should not stop and start the recording during a suspect interview.
    b. When recording interviews, officers shall ensure they record any admonishments prior to the start of an interview.

2. Improper search/transport to residence: Sustained

Summary of Findings:

It was alleged that Officer Victorio conducted a search without proper safeguards,

Lexipol Policy Review

§322.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general

guidelines for San Bernardino Police Department personnel to consider when dealing with search and seizure issues.

§322.2 POLICY

It is the policy of the San Bernardino Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

§322.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- *Valid consent*
- *Incident to a lawful arrest*
- *Legitimate community caretaking interests*
- *Vehicle searches under certain circumstances*
- *Exigent circumstances*

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

§322.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

a. *Members of this department will strive to conduct searches with dignity and courtesy.*
b. *Officers should explain to the person being searched the reason for the search and how the search will be conducted.*
c. *Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.*
d. *In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.*
e. *When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:*
    1. *Another officer or a supervisor should witness the search.*
    2. *The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.*
f. *When officers are going to rely on a consent search in lieu of a search warrant, it will be necessary to establish that the consent was given voluntarily. The San Bernardino County District Attorney requests that a "Consent to Search" form be utilized when possible. This form can then be utilized as a court document for presentation to the jury.*

§907.1 PURPOSE AND SCOPE

This policy provides guidelines for transporting persons who are in the custody of the San Bernardino Police Department.

See the Handcuffing and Restraints Policy for additional guidance.

§907.2 POLICY

It is the policy of the San Bernardino Police Department to provide safe, secure, and humane transportation for all persons in custody.

§907.13 PROHIBITIONS

When transporting a person in custody, officers should not:

C. Leave the vehicle unattended with the person in custody in the vehicle.

3. Failure to properly document Search / Incident – Sustained

Summary of Findings:

Officer Victorio did not properly document the search he conducted during this incident.

§322.5 DOCUMENTATION

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- *Reason for the search*
- *Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)*
- *What, if any, injuries or damage occurred*
- *All steps taken to secure property*
- *The results of the search, including a description of any property or contraband seized*
- *If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer*

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

4. Failure to properly tag ammunition into evidence: Sustained

Summary of Findings:

Ammunition recovered was not properly documented or entered into evidence until months later.

San Bernardino Police Department Policies and Procedures:

*§**4.02 Neglect of Duty***

Employees may be deemed incompetent and subject to discipline when they: fail to properly perform their assigned duties; act in a manner tending to bring

discredit to themselves or the Department; or fail to assume responsibility or exercise diligence, intelligence, and interest in the pursuit of their duties.

§3.20 Custodial Property

Employees shall deliver to the property custodian any property not their own, which comes into their possession while (1) on duty, and/or, (2) performing as a police officer. A report and property tag shall be completed for each transaction.

§3.202Safeguarding Money, Property, and Evidence

All employees shall be responsible for safeguarding public or city money, prisoner's money and property, and property and evidence in their possession. They shall observe appropriate procedures regarding the handling of money and when money is received, it shall be placed together with any corresponding records in an envelope and sealed. The envelope shall be marked with all necessary identifying data. The item shall then be deposited in the Department's safe or evidence locker.

Lexipol Policy Review:

§344.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

§344.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports in a timely manner. The following documentation shall be submitted prior to the end of the reporting employee's shift, unless a supervisor approves otherwise:

i. All portions of arrest reports where the suspect remains in custody

j. Booking applications and juvenile applications for petition

k. All reports associated with officer-involved shootings or in-custody deaths

l. All reports associated with homicide or death investigations

m. All portions of missing persons reports

n. CHP 180's

o. *Face pages, CHP 555 pages 1-3, and property control pages on all reports*

p. *Any reports requiring prompt follow-up on active leads*

All other documentation shall be submitted by the end of the employee's work week, unless other arrangements are approved by a supervisor.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Handwritten reports must be authorized by the Watch Commander. Employees who dictate reports shall use appropriate grammar. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

§344.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department-approved form unless otherwise approved by a supervisor.

§344.2.1 CRIMINAL ACTIVITY REPORTING

When an employee becomes aware that a crime has occurred, either due to a call for service or through self-initiated activity, the employee is required to document the activity. The fact that a victim is not desirous of prosecution does not exempt the employee from the responsibility of documenting a crime. The following are examples of required documentation:

g. *In every instance where a felony has occurred, the documentation shall take the form of a written crime report*

h. *In every instance where a misdemeanor crime has occurred and the victim desires a report, the documentation shall take the form of a written crime report.*

i. *If the victim does not desire a report, the incident may be recorded as a crime report with the "reluctant victim" and "no further action" boxes checked*

j. *In every case where any force is used against any person by police personnel*

k. *All incidents involving domestic violence shall be documented as a crime report or as a "PC 13700" incident report, whichever is appropriate*

l. *All arrests*

§344.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

j. *Any use of force against any person by a member of this department (see the Use of Force Policy)*

k. *Any firearm discharge (see the Firearms and Qualification Policy)*

l. *Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)*

m. *Any found property or found evidence*

n. *Any traffic collisions will be documented in accordance with the Traffic Collision Reporting Policy, Policy §502*

o. *Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy*

p. *All protective custody detentions*

q. *Suspicious incidents that may place the public or others at risk*

r. *Whenever the employee believes the circumstances should be documented or at the direction of a supervisor*

§804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

§804.1.1 DEFINITIONS

Definitions related to this policy include:

Property *- All articles placed in secure storage within the Property Unit, including the following:*

- *Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.*

- *Found property - Items found by members of the Department or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.*

- *Safekeeping - Items received by the Department for safekeeping, such as a firearm, the personal property of an arrestee that has been not taken as evidence, and items taken for safekeeping under authority of law.*

§804.2 PROPERTY HANDLING

Any member who first comes into possession of any property shall retain such property in their possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Whenever property is taken or received (e.g., relinquished firearms) from an individual, a property receipt form will be completed. The receipt shall describe the property and contain a notice on how to retrieve the property, as applicable, from the Department. A copy of the property receipt form shall be given to the individual from whom the property was taken or received.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

§804.2.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the member going off-duty unless otherwise approved by a supervisor. Members booking property shall observe the following guidelines:

g. *Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.*

h. *Mark each item of evidence with the booking member's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.*

i. *Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.*

j. Place the case number in the upper right-hand corner of the bag.

k. The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.

l. When the property is too large to be placed in a locker, the item may be retained in the supply room. Submit the completed property record into a numbered locker indicating the location of the property.

§804.3 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

g. Narcotics and dangerous drugs

h. Firearms (ensure they are unloaded and booked separately from ammunition)

i. Property with more than one known owner

j. Paraphernalia as described in Health and Safety Code § 11364

k. Fireworks

l. *Contraband*

§804.3.1 PACKAGING CONTAINER

Members shall package all property, except narcotics and dangerous drugs, in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

§804.4 RECORDING OF PROPERTY

The Property and Evidence Technician receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the San Bernardino Police Department shall be noted in the property logbook.

§804.5.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time, and to whom released.

The Property and Evidence Technician shall obtain the signature of the person to whom property is released and the reason for release. Any member receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

§804.5.4 AUTHORITY TO RELEASE PROPERTY

Case agents or authorized personnel shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

§804.5.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Property and Evidence Technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Bureau for filing with the

case. If some items of property have not been released, the property card will remain with the Property Unit. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The assigned detective should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

*§***804.6 DISPOSITION OF PROPERTY**

All property not held for evidence in a pending criminal investigation or proceeding and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property and Evidence Technician shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

*§***804.8 POLICY**

It is the policy of the San Bernardino Police Department to process and store all property in a manner that will protect it from loss, damage, or contamination, while maintaining documentation that tracks the chain of custody, the location of property, and its disposition.

4. Conditional consent/quid pro quo: Not Sustained

Summary of findings:

Insufficient evidence to prove or disprove the allegation against Officer Victorio.

Officer Pen. Code sec. 832.7

Pen. Code sec. 832.7

Pen. Code sec. 832.7

Pen. Code sec. 832.7

a. Pen. Code sec. 832.7

Pen. Code sec. 832.7 [redacted]

[redacted]

ATTACHMENTS:

Tab 02	Complaint
Tab 03	Report and CAD
Tab 04	Notification
Tab 05	BWC
Tab 06	Supporting Documentation
Tab 07	24PSB-006 PIP/ Settlement
Tab 08	Audio
Tab 09	Photos
Tab 10	Miranda / Lybarger

Attachment T
Settlement Agreement in Case No. 25PSB-093 between the City of San Bernardino and Hector Victorio, dated November 4, 2025

SETTLEMENT AGREEMENT AND APPEAL WAIVER

This Settlement Agreement and Appeal Waiver ("Agreement") is entered into as of November 4th, 2025, by and between the City of San Bernardino ("City") and Hector Victorio ("Employee") (collectively, the "Parties").

RECITALS

WHEREAS:

A. On September 16th, 2021, Employee was hired by the City in the position of Law Enforcement Trainee (LET), and sworn in as a Police Officer within the City's Police Department ("Department") on March 14th, 2022.

B. On September 29th, 2025, the Employee was served with Discovery and the notification of an Investigative Review Process (IRP) regarding his actions of neglecting his duties, insubordination, and using improper tactics during a traffic stop.

Subsequently, the employee through his legal representative advised that he wanted to waive his right to a Disciplinary Review Board (DRB) and Pre-Skelly Hearing and meet directly with the Chief of Police for a Skelly Hearing. After the Skelly Hearing, the employee and his legal representative agreed to resolve the disciplinary process via settlement. Further, the Employee indicated he was willing to admit to neglecting his duties, insubordination, and to utilizing improper tactics during a traffic stop and arrest on April 28th, 2025. The employee failed to complete reports as specified in department policy, failed to secure evidence/property with the property unit as specified in department policy, failed to activate his body worn camera as specified in department policy, and failed to adhere to the terms, conditions and expectations of his performance improvement plan (PIP).

C. Specifically, the employee admits to violating San Bernardino Policies §322.2(f) – Search Protocol, §322.5 – Documentation, §340.3.5(m) – Performance, §340.3.5(aa) – Performance, §340.3.6 – Safety, §344.1.1 – Report Preparation, §450.5.9 – When and Where to Record (BWC), §804.3.1 – Property Booking Procedure, §907.4 – Officer Responsibilities (Prisoners), §907.13 – Prohibitions (Prisoners), and Policy and Procedure §3.01 – General Behavior, §3.02 – Obedience to Laws, Regulations, and Orders, §4.01 – Performance of Duty, and §4.02 – Neglect of Duty;

D. As a result, the Parties have since agreed to discipline as follows: Reclassification to top-step Community Service Officer (CSO). As a result of this negotiated discipline, the Employee waives any right he may otherwise have to contest or appeal said discipline.

AGREEMENT

NOW, THEREFORE, in consideration for the mutual promises and undertakings of the Parties as set forth below, the City and Employee hereby enter into this Agreement and agree as follows:

1. Incorporation of Recitals. The recitals set forth above are true and correct and are hereby fully incorporated into this Agreement by this reference.

2. No Admission of Liability. This Agreement shall in no way be construed as an admission by the City that it, the Department, or any officer, employee, or agent thereof, has acted wrongfully with respect to Employee. The City specifically disclaims any liability to or wrongful acts against Employee on the part of the City, the Department, or any officer, employee, or agent thereof.

3. No Precedent. This Agreement is in no way intended, and shall in no way be construed, to restrict any rights guaranteed to the City under local, state, or federal law, rule, or policy or by private agreement, or to establish a precedent in this or any other matter, now or in the future.

4. Pending Disciplinary Action. The City and Employee agree that in return for valuable consideration—i.e., the City's non-adversarial, early and efficient resolution of this disciplinary action, and the Employee's non-adversarial, early and efficient resolution of this disciplinary action. Employee agrees to accept and abide by all of the terms specified in this Agreement. Employee further agrees, understands, and acknowledges that;

5. Employee's Promises. Concurrent with the execution of this agreement, Employee agrees that he will not file any appeal, claim, or lawsuit relating to the subject incident or acts referenced in this agreement **(25PSB-093).**

   a. Employee agrees to the immediate reclassification to a top-step Community Service Officer (CSO).

   b. Employee agrees to waive any and all pre-discipline rights and any and all post-discipline rights that he may have to appeal, grieve, litigate, or otherwise contest the imposition of the discipline set forth in subdivisions a, b, c, d, e, and f of this section, above, under any provision or principle of local, state, or federal law, or under any contract or agreement written or oral, express or implied, including but not limited to, a collective bargaining agreement, a MOU, or any future "for cause" provisions of any employment agreement with the City, as may be further applicable, in any forum whatsoever, to the fullest extent permitted by law.;

   c. Employee agrees to comply with each and every one of the rules, regulations, and/or policies applicable to employees of the City in the Department, including from the date of the execution of this Agreement through the duration of the Employee's employment with the City;

6. Employee's Misconduct and/or Unsatisfactory Behavior. Employee admits to failing to complete reports as specified in department policy timelines, failing to secure evidence/property with the property unit as specified in department policy, failing to activate his body worn camera as specified in department policy, and for failing to meet the terms, conditions and expectations of his performance improvement plan. Employee agrees and acknowledges that the aforementioned misconduct and

CONFIDENTIAL

unsatisfactory behavior constitute(s) a violation San Bernardino Policies §322.2(f) – Search Protocol, §322.5 – Documentation, §340.3.5(m) – Performance, §340.3.5(aa) – Performance, §340.3.6 – Safety, §344.1.1 – Report Preparation, §450.5.9 – When and Where to Record (BWC), §804.3.1 – Property Booking Procedure, §907.4 – Officer Responsibilities (Prisoners), §907.13 – Prohibitions (Prisoners), and Policy and Procedure §3.01 – General Behavior, §3.02 – Obedience to Laws, Regulations, and Orders, §4.01 – Performance of Duty, and §4.02 – Neglect of Duty;

7. Not a Limit on Future Actions. This Agreement in no way limits the City's ability to discipline Employee for other conduct by him that may violate City rules, policies, or regulations and/or terms of any applicable Memorandum of Understanding or standards of behavior. Moreover

    a. Nothing in this Agreement shall limit the City's right to use or make reference to matters described in this Agreement, as a basis, in whole or in part, to justify a decision to discipline or to discharge Employee for any conduct arising or newly discovered subsequent to the execution of this Agreement, except to the extent limited by a City rule or policy or by a negotiated agreement or MOU with the employee's authorized and recognized representative; and

    b. The City may place a copy of this Agreement in Employee's official personnel file, and Employee hereby consents to the City doing so and waives any and all rights to respond to and/or appeal the placement of this Agreement in his personnel file.

8. Voluntariness. Employee acknowledges that, prior to signing this Agreement, he was provided with an opportunity to consult with a representative and/or attorney of his own choosing and that he is voluntarily, knowingly, and intelligently entering into this Agreement with sufficient awareness of the relevant circumstances and likely consequences of this Agreement, on the advice of his own chosen counsel, and without reliance on any representations made by the City, the Department, or any officer, employee, or agent thereof, except as provided in this Agreement. Employee further acknowledges that he was given reasonable and sufficient time and opportunity to negotiate the terms of this Agreement and to consider the execution thereof under the terms set forth herein

9. Entire Agreement. The Parties acknowledge that this Agreement constitutes a signed integrated agreement expressing the entire agreement between the Parties and fully superseding any and all prior or contemporaneous oral or written agreements, understandings, promises, or representations between the Parties pertaining to the subject matter of this Agreement. Moreover, no subsequent agreement concerning the subject matter of this Agreement or modification to this Agreement shall be binding unless it is signed by both Parties.

10. Governing Law and Venue. This Agreement shall be governed by and interpreted under the laws of the State of California applicable to contracts made and to be performed

within the State. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, California.

11. Interpretation and Severability. The Parties agree that the customary rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. The Parties further agree that, should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable for any reason, such determination shall not affect the validity of the remaining parts, terms, or provisions hereof, or of the offending provision in any other circumstance.

12. Authority. The persons signing this Agreement on behalf of the Parties hereto hereby warrant and represent that they are duly authorized to execute this Agreement on behalf of said Parties and that, by doing so, the Parties hereto are hereby formally bound to the provisions of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

CONFIDENTIAL

25PSB-093

SIGNATURE PAGE FOR SETTLEMENT AGREEMENT AND APPEAL WAIVER

PLEASE READ THIS AGREEMENT CAREFULLY. IT INCLUDES A WAIVER OF DISCIPLINE APPEAL RIGHTS AND A RELEASE BY THE CITY EMPLOYEE OF ANY AND ALL KNOWN AND UNKNOWN CLAIMS THAT HE MAY HAVE AGAINST THE CITY, THE DEPARTMENT, OR ANY OFFICER, EMPLOYEE, OR AGENT THEREOF IN THIS MATTER.

IN WITNESS HEREOF, the Parties have executed this Agreement as of the date first written above.

CITY:

Approved By:

Darren L. Goodman
Chief, San Bernardino Police Department, City of San Bernardino

EMPLOYEE:

Approved By:

Officer Hector Victorio

AGENDA ITEM REPORT

Title: POST2302397 - ARMANDO AVENA (POST ID: C63-K48)
LAST EMPLOYING AGENCY: LOS ANGELES POLICE DEPARTMENT

REPORT PROFILE

MEETING DATE 04/15/2026	**BUREAU SUBMITTING THE REPORT** Peace Officer Standards Accountability Division	
RESEARCHED BY David Sieber	**REVIEWED BY** Christine Ford	
REPORT DATE 04/15/2026	**APPROVED BY** Annemarie Del Mugnaio	**DATE APPROVED**
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

The matter is before the Peace Officer Standards Accountability Advisory Board (POSAAB) for review and recommendation regarding the Respondent's peace officer certification status.

BACKGROUND:

Respondent was employed by the Los Angeles Police Department (LAPD) beginning on February 21, 2017. At the time of the incident, Respondent held the position of police officer, a peace officer classification as defined under California Penal Code 830.1(a), which requires certification pursuant to California Penal Code 13510.1(a).

On February 12, 2022, while off-duty, Respondent and the Victim went out for drinks. As the night progressed into the early morning hours of February 13, 2022, the two became involved in a verbal argument after Respondent observed the Victim speaking with another man. The couple agreed to leave the location together. Despite having consumed alcohol throughout the evening, Respondent drove himself and Victim to their shared residence.

Upon arrival, Respondent accessed Victim’s cellular phone,

and the verbal dispute escalated over allegations of infidelity. Respondent then physically assaulted the Victim by pulling her hair, dragging her into a bathroom and forcing her into a bathtub while showering her with cold water. Respondent punched the Victim in her face, scratched, slapped and choked her with both hands, causing a concussion, visible bruising to her face, chipped front teeth, a split lip, a sore neck and back, and scratches to her arms.

When Respondent and Victim awoke, the Victim asked Respondent to drive her to her family member's residence, which he ultimately did. Upon observing Victim's injuries, Victim's family member notified the Baldwin Park Police Department (BPPD) and the Victim was transported to Kaiser Permanente's Baldwin Park Medical Center, where she received treatment for her injuries. BPPD investigators obtained an Emergency Protective Order (EPO) on behalf of the Victim and arrested Respondent for a violation of California Penal Code § 273.5(a) - Domestic Violence.

The Los Angeles District Attorney's Office subsequently filed one misdemeanor count of California Penal Code § 273.5(a) - Domestic Violence. Concurrently, LAPD initiated a Personnel Complaint Investigation, which resulted in seven sustained allegations of misconduct and a recommendation that Respondent be terminated, with the matter referred to a Board of Rights.

On April 12, 2023, Respondent entered a plea of no contest to one misdemeanor count of domestic battery in violation of California Penal Code § 243(e)(1). He was placed on three years of probation and subject to a Criminal Protective Order in favor of Victim, effective through April 12, 2028. On April 30, 2023, prior to the Board of Rights hearing, Respondent resigned from LAPD.

ANALYSIS:

Clear and convincing evidence demonstrates that Respondent engaged in acts of serious misconduct pursuant to California Penal Code § 13510.8(b)(6) and Commission Regulation 1205(a)(6), specifically acts that violate the law that are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public.

This misconduct is evidenced by Respondent's actions on February 13, 2022, when he committed a domestic violence offense against the victim, who he was in qualifying relationship with. Respondent's actions caused Victim to suffer significant physical injuries. These injuries included a concussion, subconjunctival hemorrhage, chipped teeth, a split lip, broken nails and bruising to her face, neck, and back.

Respondent's conduct was unlawful, violent and demonstrated a disregard for public safety. Such behavior is fundamentally incompatible with the duties and responsibilities of a peace officer. Accordingly, the Division finds that Respondent's egregious and unlawful conduct constitutes serious misconduct, warranting revocation or suspension of his POST peace officer certification.

RECOMMENDATION: The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

ATTACHMENT(S):

BR01_POST2302397_Avena Armando_ISF.pdf
BR02_POST2302397_Avena Armando_Executive Review and Division Recommendation.pdf
BR03_POST2302397_Avena Armando_Avena_POSTProfile.pdf
BR04_POST2302397_Avena Armando_Attachment A - LAPD Victim Interview 1_Redacted.pdf
BR05_POST2302397_Avena Armando_Attachment B - Victim 02.13.2022 KPBP After Visit Medical Summary_Redacted.pdf
BR06_POST2302397_Avena Armando_Attachment C - LAPD Victim Interview 2_Redacted.pdf
BR07_POST2302397_Avena Armando_Attachment D - Respondent's LAPD Interview_Redacted.pdf
BR08_POST2302397_Avena Armando_Attachment E - LAPD 22-000472 Narrative_Redacted.pdf
BR09_POST2302397_Avena Armando_Attachment F - LAPD 22-000472 LOT_Redacted.pdf
BR10_POST2302397_Avena Armando_Attachment G - LAPD 22-003721 Narrative_Redacted.pdf
BR11_POST2302397_Avena Armando_Attachment H - LAPD 22-003721 LOT.pdf

BR12_POST2302397_Avena Armando_Attachment I - Court Records_Redacted.pdf
BR13_POST2302397_Avena Armando_2-13-22 BPPD VICTIM IMAGE 1_Redacted.pdf
BR14_POST2302397_Avena Armando_2-13-22 BPPD VICTIM IMAGE 2_Redacted.pdf
BR15_POST2302397_Avena Armando_2-13-22 BPPD VICTIM IMAGE 3_Redacted.pdf
BR16_POST2302397_Avena Armando_2-13-22 BPPD VICTIM IMAGE 4_Redacted.pdf
BR17_POST2302397_Avena Armando_2-13-22 BPPD VICTIM IMAGE 5.pdf

INVESTIGATIVE SUMMARY AND FINDINGS

PEACE OFFICER NAME: Armando AVENA

POST ID NUMBER: C63-K48

EMPLOYING AGENCY: Los Angeles Police Department (LAPD)

POST CASE NUMBER: POST2302397

WRITTEN BY: LEC Dave Sieber

DATE: 3/17/2026

Contents

I. Executive Summary and Findings 3

II. Investigative Methodology 4

III. Respondent's Background 4

A. Respondent's Peace Officer Certificates and Employment 4

B. Respondent's Service Record 5

IV. Factual Background 6

V. Analysis and Findings 12

A. Does the alleged conduct violate Commission Regulation 1205(a)(6)? 12

B. Summary of Findings 12

VI. Supporting Evidence 14

I. Executive Summary and Findings

On February 12, 2022, while off-duty, Los Angeles Police Department (LAPD) Officer Armando AVENA (hereinafter, "Respondent"), and Victim, went out for drinks in Whittier, California. As the night progressed into the early hours of February 13, 2022, Respondent and Victim left a brewery and went to a lounge. While at the lounge, they became involved in a verbal argument when Respondent noticed Victim talking to another man. The couple subsequently agreed to leave the lounge together. Despite having consumed alcohol throughout the evening, including shots of a clear liquor immediately before departing, Respondent drove himself and Victim to their home.

Upon arriving, Respondent gained access to Victim's cell phone and the verbal argument escalated over claims of infidelity. Respondent pulled Victim's hair, dragged her into a bathroom and forced her into a bathtub while showering her with cold water. Respondent refused to let Victim out of the bathtub and punched her in the face, scratched, slapped and choked her with both hands, causing a concussion, visible bruising to her face, chipped front teeth, a split lip, a sore neck and back, and scratches to her arms.

Later that morning, after Respondent and Victim woke up, Victim asked Respondent to drive her to [redacted]'s residence. Respondent reluctantly complied. Upon observing Victim's injuries, [redacted] notified the Baldwin Park Police Department (BPPD) and Victim was transported to Kaiser Permanente's Baldwin Park (KPBP) Medical Center where she received medical attention for her injuries. In response, BPPD investigators obtained an Emergency Protective Order (EPO) for Victim and arrested Respondent for a violation of California Penal Code § 273.5(a) - Domestic Violence.

BPPD presented the criminal case to the El Monte branch office of the Los Angeles District Attorney's Office (EMDA) for review. Upon evaluation, EMDA filed one count of California Penal Code § 273.5(a) - Misdemeanor Domestic Violence. In response, LAPD initiated Personnel Complaint Investigation CF No. 22-000472, ultimately sustaining seven allegations of misconduct and directing him to a Board of Rights (BOR) with a recommendation of Termination.

On April 12, 2023, Respondent pled "no contest" to one misdemeanor count of California Penal Code § 243(e)(1) - Misdemeanor Domestic Battery, for the February 13, 2022, domestic violence incident. As a result of this conviction, Respondent was placed on probation for three years and subject to a Criminal Protective Order in favor of Victim until April 12, 2028. On April 30, 2023, Respondent resigned from LAPD, prior to his BOR hearing.

II. Investigative Methodology

This report summarizes the findings related to allegations of serious misconduct. The investigation was conducted in accordance with the regulations and policies of the Commission on Peace Officer Standards and Training (POST). The investigation included a detailed review of BPPD's criminal investigation, LAPD's Complaint Investigations, Los Angeles County Superior Court records and supporting documents, which included interviews of Respondent, Victim and witnesses.

The Division analyzed the information in this investigation using the clear and convincing evidence standard. For purposes of this report, clear and convincing evidence means "evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true. The evidence need not establish a fact beyond a reasonable doubt."

This report is necessarily summary in nature and does not include every fact or issue that might be found in the underlying investigation and attachments. However, it does contain reference to that evidence that the Division believes establishes the requisite facts and proves the serious misconduct charged by clear and convincing evidence.

III. Respondent's Background

A. Respondent's Peace Officer Certificates and Employment

The following table sets forth Respondent's employment history:

Dates	***Rank***	***Agency***
February 21, 2017	Trainee	Los Angeles Police Department
August 6, 2017	Police Officer	Los Angeles Police Department

Respondent is assigned POST identification C63-K48. He received the following peace officer certificate from POST:

Certificate Type	***Certificate Number***	***Date Issued***
Basic	195479	June 28, 2019

B. Respondent's Service Record

When evaluating whether suspension or revocation is appropriate, Penal Code § 13510.8(c)(5) and Commission Regulation 1213(a)(5) provide that the Commission must consider Respondent's prior conduct, discipline and service record. The relevance and weight the Commission may choose to assign to a peace officer's prior conduct and service record will depend on the facts in each case.

California Penal Code § 13510.8(c)(5) provides that the Commission "shall consider the peace officer's prior conduct and service record, and any instances of misconduct, including any incidents occurring beyond the time limitation for investigation in evaluating whether to revoke certification for the incident under investigation."

Service Record
Respondent's employment with LAPD began on February 21, 2017, as a full-time Trainee. On August 4, 2017, Respondent completed the POST Basic Course and on August 6, 2017, Respondent was sworn in as a Peace Officer. On June 28, 2019, Respondent received his POST peace officer certification. Respondent resigned from LAPD April 30, 2023. Respondent does not have any prior law enforcement appointments in the State of California.

Relevant Training
Respondent's POST Electronic Data Interchange (EDI) profile indicates that he completed 24 courses prior to the captioned incident, including the following relevant topics:

Date	***Course Title***
August 11, 2020	First Aid/CPR/AED
February 17, 2020	Arrest/Control Techniques
January 22, 2020	De-Escalation & Tactical Communication
July 20, 2018	Mental Health Intervention Training
July 15, 2018	Post Traumatic Stress Disorder & Traumatic Brain Injury
September 13, 2017	Implicit Bias and Community Policing
August 4, 2017	Basic Course Intensive
May 3, 2017	Cultural Diversity - Tools for Tolerance

Prior Complaints/Discipline

Respondent is the subject of the following allegations of serious misconduct with POST:

POST Case ID	***Allegation***	***POST Status***	***Disposition***
POST2302397 **CAPTIONED MATTER**	Acts That Violate the Law	POST (Priority 1)	Complaint of Acts That Violate the Law based on Respondent's conduct on February 13, 2022, when he was involved in a domestic violence incident with [redacted] Victim and arrested for a violation of California Penal Code § 273.5(a) - Misdemeanor Domestic Violence.

POST2321703	Acts That Violate the Law	POST (Priority 1)	Complaint of Acts That Violate the Law based on Respondent's conduct on December 11, 2022, when he was arrested at bar in Pasadena, California, for a violation of California Penal Code § 647(f) - Public Intoxication.

On February 9, 2023, LAPD reported the February 13, 2022, domestic violence incident to POST's Professional Conduct Bureau (PCB), alleging a violation of Commission Regulation 1205(a)(6) - Acts That Violate the Law.

On November 24, 2023, LAPD reported Respondent's December 11, 2022, public intoxication incident to POST's PCB, alleging a violation of Commission Regulation 1205(a)(6) - Acts That Violate the Law.

Respondent was an LAPD employee for approximately six years at the time of the captioned domestic violence incident. During his tenure with the department, Respondent held assignments at LAPD's Wilshire Custody Service Division and Pacific Division.

In addition to the captioned matter and second allegation of serious misconduct detailed above, Respondent's LAPD records reflected the following personnel actions:

- Four Non-Categorical Use of Force (NCUOF) incidents, all of which were found to be "in policy."

- Two vehicle pursuits – "pending" at the time Respondent resigned.

Respondent has not been involved in any Categorical Uses of Force (CUOF), vehicle collisions or civil litigation.

IV. Factual Background

On February 12, 2022, while off-duty, Respondent and Victim went out for dinner and drinks. After eating dinner at a sushi restaurant, they stopped at a brewery for several beers before proceeding to Flashbackz Lounge in Whittier, California. While inside the lounge, Respondent observed Victim speaking with another male patron, which caused him to become upset. Respondent confronted Victim about speaking with the individual and questioned her about purchasing four shots of alcohol. Respondent's demeanor became increasingly aggressive, and the two returned to their table, where a verbal argument ensued. Although they ultimately agreed to leave the lounge together,

Respondent and Victim consumed the previously purchased shots of alcohol before Respondent drove them home.

After arriving at their home, the argument escalated when Respondent gained access to Victim's phone while she was changing clothes. While going through Victim's phone, Respondent saw a conversation with Victim's old friend that Respondent alleged was an ex-boyfriend. Victim told him there was nothing to hide but Respondent "blew up." Victim reported during her interview with LAPD that Respondent pulled her hair, took her glasses, dragged and threw her into the bathroom, and forced her into a bathtub while showering her with cold water. Respondent refused to let Victim out of the bathtub, pulled her hair, scratched, slapped and punched her in the face and choked her, causing visible injuries.[1] Later, during a telephone conversation with POST, Victim stated that she tried to scratch Respondent to stop his attack, breaking her fingernails in the process. She also stated that she was unsure whether she lost consciousness during the incident.

After Respondent and Victim awoke later that same morning, Victim had a black eye and other visible injuries. Victim asked Respondent to take her to [redacted]'s residence due to the pain she was experiencing. Respondent replied, *"No, I don't want you to leave - like can you please, if I take you, tell them that I didn't do anything to you? Like it was a knee and like, I'm sorry."* [2] Nevertheless, Respondent reluctantly drove Victim to [redacted]'s residence.

Upon arrival, [redacted] observed Victim's injuries and immediately called Respondent, demanding that he turn himself in. Respondent hung up, at which point [redacted] notified BPPD. Victim was transported to the KPBP Medical Center by the Los Angeles County Fire Department where she received medical attention for a headache, neck and back pain, bruising and swelling to her face and left eye, bruising to her hands, a split lip, chipped front teeth and broken fingernails. KPBP ordered CT scans of Victim's cervical spine, facial bones and head, along with X-rays of her hands, ribs and chest, scapula and wrist. Ultimately, Victim was diagnosed with a shoulder contusion, multiple soft tissue contusions, a subconjunctival hemorrhage, from a broken blood vessel in her left eye, and a concussion with a loss of consciousness.[3]

On February 13, 2022, after interviewing Victim, BPPD requested an Emergency Protective Order. Respondent also turned himself into BPPD the same day. On February 15, 2022, a court-ordered Criminal Protective Order was authorized and Respondent was charged with a violation of California Penal Code § 273.5(a) –

[1] Attachment A (LAPD Victim Interview Transcript 1 - 3:02-3:40 and 6:41)
[2] Attachment A (LAPD Victim Interview Transcript 1 - 4:07-4:16)
[3] Attachment B (Victim's February 13, 2022, KPBP After Visit Medical Summary)

Misdemeanor Domestic Violence. In addition, photographs documenting Victim's injuries were captured.

During Respondent's LAPD administrative investigation, LAPD detectives interviewed Victim on February 13, 2022, after she was discharged from the hospital. Victim alleged that this was not the first instance of domestic violence involving Respondent. She stated that the violence had never escalated to this extent, apart from hair pulling. Victim stated sometime in January of 2022, Respondent, while off duty, broke her eyeglasses and cellphone, forcibly pulled her hair and threatened to kill her.[4] Victim also alleged that on or about September 2020, while off-duty, Respondent threw a folding table at Victim, nearly striking her and requiring a domestic violence response from BPPD.[5] Based on records documenting BPPD's response to this incident, LAPD determined that this domestic violence incident occurred on October 24, 2020.

LAPD also interviewed [redacted] on February 13, 2022. [redacted] stated that Victim called her at approximately 3:00 a.m. on February 13, 2022, while Respondent drove her home from Flashbackz Lounge. Victim was crying and explained that Respondent was mad because she purchased four shots of tequila that Respondent believed were for men standing near Victim at the bar. [redacted] stated that Victim had a history of calling her when she argued with Respondent. [redacted] knew Respondent had a temper, but when she previously responded to their home during arguments, Victim would say everything was under control. [redacted] never expected any physical harm would occur that night.

[redacted] observed that Victim had been assaulted when Victim was dropped off at her home on the morning of February 13, 2022. [redacted] informed investigators that she immediately called Respondent and told him to turn himself in or she would call the police. Respondent hung up on [redacted], at which point she reported the incident to BPPD.

Respondent Statements

Respondent denied physically assaulting Victim. During his administrative interview, Respondent stated that he unintentionally struck Victim with his elbow when he twisted his torso to stop Victim from taking her phone away from him. This action caused Victim to fall into an entry table in the hall.[6] Respondent was not sure if she hit her head on the table. Respondent also stated Victim jumped on him while he was on a bed, again attempting to grab her phone from him. Respondent stated Victim fell on the carpeted floor. At various points throughout the interview, Respondent stated that he never hit,

[4] Attachment C (LAPD Victim Interview Transcript 2 – 4:30-5:46)
[5] Attachment C (LAPD Victim Interview Transcript 2 – 0:24-1:59)
[6] Attachment D (Respondent's LAPD Administrative Interview Transcript – 27:52)

punched, pulled hair, choked, or slapped Victim and denied ever threatening to kill Victim.

LAPD's Complaint Investigation (CF No. 22-000472)[7] ultimately sustained seven allegations of misconduct against Respondent (detailed below). These allegations included Respondent's operation of a motor vehicle while intoxicated on February 13, 2022, the physical assault of Victim on February 13, 2022, and Respondent's prior physical assaults and threats to kill Victim on October 24, 2020, and January 2022. On February 8, 2023, based upon his disqualifying acts of domestic violence, LAPD's Chief of Police (COP) directed Respondent to a BOR for termination consideration.

LAPD Complaint Investigation Adjudication (CF No. 22-000472)
On January 6, 2023, LAPD Complaint Investigation CF No. 22-000472, into the allegation of domestic violence, was completed and a Letter of Transmittal (LOT) [8] conveying the department's findings and proposed discipline. The LOT sustained the following seven findings:

- **ALLEGATION 1 -** Victim alleged that on February 13, 2022, Respondent, while off-duty, operated his private vehicle while under the influence of alcoholic beverages.
- **ALLEGATION 2 -** Victim alleged that on February 13, 2022, Respondent, while off-duty, physically assaulted Victim, causing injuries that required medical treatment.
- **ALLEGATION 3 -** Victim alleged that sometime in January of 2022, Respondent, while off-duty, threatened to kill her.
- **ALLEGATION 4 -** Victim alleged that sometime in January of 2022, Respondent, while off-duty, unnecessarily broke her eyeglasses and cellphone, and forcibly pulled her hair.
- **ALLEGATION 5 -** Victim alleged that on unknown date and time, Respondent, while off-duty, pulled her hair during an argument.
- **ALLEGATION 6 -** Victim alleged that on October 24, 2020, Respondent, while off -duty, threw a folding table in her direction, nearly striking her, during a domestic dispute.
- **ALLEGATION 7 -** Victim alleged that on October 24, 2020, Respondent, while off-duty, became involved in a domestic violence incident which resulted in the response of on-duty officers from the Baldwin Park Police Department.

[7] Attachment E (LAPD Complaint Investigation CF No. 22-000472 – Narrative with photographs of Victim's injuries)
[8] Attachment F (LAPD Complaint Investigation CF No. 22-000472 - LOT)

Based on these seven sustained allegations, involving Respondent's involvement in multiple incidents of domestic violence and one possible incident involving driving under the influence of alcohol, LAPD assessed that Respondent would be disqualified from performing the duties of a police officer. The Victim and principal witness were considered credible, and the evidence of criminal activity led the EMDA to file criminal charges against Respondent.

LAPD further assessed that if Respondent was to continue serving as a police officer, any case in which he participated would be subject to District Attorney or City Attorney disclosures which could seriously jeopardize subsequent prosecutions. Furthermore, Respondent's actions reflected poorly on LAPD. If LAPD failed to take forceful action in this case, LAPD stated it could appear that domestic violence and drunk driving were not taken seriously, causing the public to lose confidence in the department and leading to repercussions. Given these factors, on February 8, 2023, LAPD directed Respondent to a BOR with a recommendation of termination.

On April 12, 2023, Respondent pled "no contest" to one misdemeanor count of California Penal Code § 243(e)(1) - Domestic Battery, based on the February 13, 2022, domestic violence incident. Under California Penal Code § 29805, a conviction for California Penal Code § 243(e)(1) triggers a ban on owning, purchasing, possessing or receiving a firearm or ammunition for ten years from the date of conviction. Additionally, under federal law, specifically 18 U.S.C. § 922(g)(8), a conviction of a misdemeanor crime of domestic violence prohibits the possession or receipt of any firearm or ammunition indefinitely, so long as the conviction qualifies under the statute.

On April 30, 2023, Respondent resigned from LAPD prior to his BOR termination hearing.

Photographs, medical records, victim and witness statements obtained less than 24 hours after the February 13, 2022, domestic violence incident substantiate Victim's account that she sustained significant injuries during the physical altercation with Respondent. Specifically, Victim's KPBP After Visit Medical Summary corroborated her statements. Additionally, [redacted] corroborated the number of shots Victim and Respondent purchased, which led to their argument at Flashbackz Lounge, as well as the telephone call she had with Victim at approximately 3:00 a.m. and the subsequent telephone call she had with Respondent on the morning of February 13, 2022, during which she demanded that he turn himself in to police.

Communication with Victim

On January 5, 2026, the Division discussed the allegations of serious misconduct with Victim. Victim explained that Respondent had a volatile personality, which was exacerbated when he consumed alcohol. She stated that in October 2020, when Respondent had been drinking, he grew angry and threw a folding table at her. The

table did not hit her, but she feared for her safety and called BPPD. When BPPD responded, Respondent was asleep in his room with his firearm nearby. Victim left the residence and stayed with [redacted] for the remainder of the evening. BPPD confirmed Victim's call for service and response but did not file a report documenting the incident.

Victim also clarified prior statements regarding the domestic violence she suffered on February 13, 2022. Specifically, Victim described the nature of her injuries and the manner in which they were sustained. Victim reported that Respondent punched her several times in the face with closed fists while she was pinned against their bathtub, resulting in a concussion, facial bruising, a spilt lip and chipped teeth, in addition to the injuries documented in her KPBP After Visit Summary. Victim further stated that Respondent intentionally showered her with cold water, possibly because he feared that he had rendered her unconscious.

Victim explained that she no longer communicated with Respondent, except as necessary to coordinate [redacted]. On February 18, 2026, Victim consented to the release of her medical records to POST and provided an electronic copy of her February 13, 2022, KPBP After Visit Medical Summary.

Second Allegation of Misconduct (POST2321703)
Prior to Respondent's BOR termination hearing, on December 11, 2022, while off-duty, Respondent and [redacted] were involved in an unrelated incident at the Via Sorriso Bar in Pasadena, California. The incident resulted in Respondent's arrest for a violation of California Penal Code § 647(f) - Public Intoxication and subsequent release pursuant to California Penal Code § 849(b)(2). LAPD's subsequent Personnel Complaint Investigation (CF No. 22-003721)[9] sustained allegations that Respondent was intoxicated in public while off-duty and that he failed to cooperate with the Pasadena Police Department (PPD) officers during his detention, noting that Respondent chose to drink past the point where he was still in control.

LAPD Complaint Investigation Adjudication (CF No. 22-003721)
In response to Respondent's December 11, 2023, Public Intoxication arrest, LAPD initiated Complaint Investigation CF No. 22-003721. On April 25, 2023, LAPD issued a Letter of Transmittal[10] (LOT2), conveying the department's findings and proposed discipline. LOT2 sustained the following findings and conveyed LAPD's imposition of a two-day suspension, with loss of pay and benefits, for Respondent's misconduct on December 11, 2022.

[9] Attachment G (LAPD Complaint Investigation CF No. 22-003721 - Narrative)
[10] Attachment H (LAPD Complaint Investigation CF No. 22-003721 - LOT)

- **ALLEGATION 1 -** LAPD alleged that on December 11, 2022, Respondent, while off-duty, was intoxicated in public which caused the response and led to his arrest by the Pasadena Police Department.
- **ALLEGATION 2 -** LAPD alleged that on December 11, 2022, Respondent, while off-duty, failed to cooperate with on-duty Pasadena Police Department personnel.

LAPD determined that Respondent's blood alcohol level, based on a breathalyzer, was twice the legal limit, five hours after he stopped drinking and he was arrested. LAPD also determined that Respondent failed to cooperate with security guards and PPD officers at the establishment. Respondent's actions showed that he chose to drink past the point where he was in control. His belligerent and demanding treatment of fellow officers illustrated a significant lack of control and professionalism when he chose to falsely accuse them of injuring him. Respondent's actions reflected poorly on the department, both in the eyes of the public and the officers from PPD. As a result, Respondent received a penalty of two suspension days. This incident occurred prior to Respondent's BOR hearing for the unresolved domestic violence incident that occurred on February 13, 2022.

Respondent's Rehabilitation
On April 12, 2023, Respondent pled no contest to one count of California Penal Code § 243(e)(1) - Misdemeanor Domestic Battery. Respondent's conviction resulted in a three-year term of summary probation, eight hours of community service, the completion of 52 domestic violence training classes and adherence to a Criminal Protective Order. Los Angeles County court records indicate that as of June 11, 2024, Respondent completed all 52 court-ordered domestic violence training sessions. On October 22, 2025, during an informal telephone conversation with the Division, Respondent reported that he no longer worked in the law enforcement profession and was currently pursuing a career as a truck driver.

V. Analysis and Findings

A. Does the alleged conduct violate Penal Code § 13510.8(b)(6) and Commission Regulation 1205(a)(6)?

Penal Code § 13510.8(b)(6) and Commission Regulation 1205(a)(6), define Acts That Violate the Law as:

> Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by the Commission.

The Division concludes that clear and convincing evidence establishes that Respondent engaged in Acts That Violate the Law - domestic violence - on February 13, 2022. Respondent's actions were sufficiently egregious in that he assaulted Victim, who he was in a qualifying relationship with, causing significant physical injuries that required medical treatment, constituting domestic violence. The Victim's injuries include a concussion, a subconjunctival hemorrhage, chipped teeth, a split lip, broken nails and bruising to her face, neck and back based upon the events contained in the below timeline:

- On February 13, 2022, Respondent was involved in the captioned domestic violence incident, causing significant physical injuries to Victim requiring medical attention.

- On February 15, 2022, the EMDA's Office filed one misdemeanor count of California Penal Code § 273.5(a) - Domestic Violence on Respondent. Respondent pleaded "not guilty" and was served with a Criminal Protective Order instructing him to stay 100 yards away from Victim by the Superior Court of Los Angeles.

- On December 11, 2022, while off-duty, Respondent and Witness 1 were involved in an unrelated incident at the Via Sorriso Bar in Pasadena, California. The incident resulted in Respondent's arrest for a violation of California Penal Code § 647(f) - Public Intoxication; however, he was released pursuant to California Penal Code § 849(b)(2).

- On February 8, 2023, LAPD's LOT for CF No. 22-000472 conveyed the COP's decision to direct Respondent to a BOR for termination consideration based upon his disqualifying acts of domestic violence on February 13, 2022.

- On April 12, 2023, Respondent pled "no contest" to one misdemeanor count of California Penal Code § 243(e)(1) - Misdemeanor Domestic Battery, for the captioned February 13, 2022, domestic violence incident. As a result of this conviction, on April 12, 2023, Respondent was placed on Los Angeles County Probation for a period of three years, and subject to a Criminal Protective Order[11] in favor of Victim. The Criminal Protective Order remains in effect until April 12, 2028.

- On April 25, 2023, LAPD's LOT2 for CF No. 22-003721 sustained two allegations and imposed a two-day suspension, with loss of pay and benefits, for Respondent's misconduct on December 11, 2022.

[11] Attachment I (Los Angeles County Superior Court Protective Order – April 12, 2023 – April 12, 2028)

- On April 30, 2023, Respondent resigned from LAPD, prior to his BOR termination hearing for the February 13, 2022, domestic violence incident.

Additionally, Respondent's domestic violence conviction triggered a ten-year California state prohibition on the possession of firearms and ammunition. Under federal law, specifically 18 U.S.C. § 922(g)(8), Respondent's conviction prohibits the possession or receipt of any firearm or ammunition indefinitely, so long as the conviction qualifies under the statute.

The clear and convincing evidence demonstrates with high probability that the Respondent committed acts that violate the law and were sufficiently egregious or repeated as to be inconsistent with his obligation to uphold the law and respect the rights of members of the public when he assaulted Victim, causing significant physical injuries, including a concussion, subconjunctival hemorrhage, chipped teeth, a split lip, broken nails and bruising to her face, neck, and back constituting serious misconduct in violation of California Penal Code § 13510.8 (b)(6) and Title 11, California Code of Regulations § 1205 (a)(6) – Acts that Violate the Law. Further, Respondent's misconduct on February 13, 2022, was not an isolated occurrence. The record reflects a pattern of poor judgement, emotional volatility, physical violence and irresponsible alcohol consumption dating back to at least October 24, 2020.

Based on the totality of the evidence, the Division finds that reasonable grounds exist to refer this case to the Peace Officer Standards Accountability Advisory Board and the POST Commission for consideration of certificate revocation or suspension pursuant to California Penal Code § 13510.8.

Supporting Evidence

Evidence	**Attachment**
LAPD Victim Interview Transcript 1	A
February 13, 2022, KPBP After Visit Medical Summary (Victim)	B
LAPD Victim Interview Transcript 2	C
Respondent's LAPD Administrative Interview Transcript	D
LAPD Complaint Investigation CF No. 22-000472 – Narrative	E
LAPD Complaint Investigation CF No. 22-000472 – LOT	F
LAPD Complaint Investigation CF No. 22-003721 - Narrative	G
LAPD Complaint Investigation CF No. 22-003721 – LOT	H
LA County Superior Court Records	I

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE

GAVIN NEWSOM, *Governor*
ROB BONTA, *Attorney General*

Commission on Peace Officer Standards and Training
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EXECUTIVE REVIEW & PEACE OFFICER STANDARDS ACCOUNTABILITY DIVISION RECOMMENDATION

DATE: 1/15/2026

CASE #: POST2302397

PEACE OFFICER: Armando Avena

POST ID#: C63-K48

AGENCY: Los Angeles Police Department

POST CONSULTANT / BC: LEC Dave Sieber / BC Christine Ford

ALLEGATION(S):

PC § 13510.8 (b)(6) / CCR 1205(a)(6) – Acts that violate the law

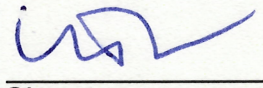
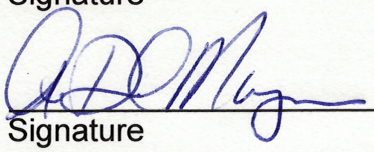
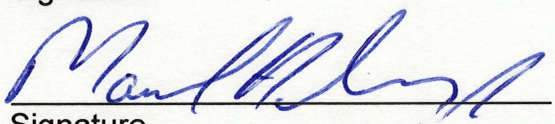
Los Angeles Police Department Officer Armando Avena (hereinafter "Respondent") engaged in acts that violated the law on February 13, 2022, when he dragged Victim into a bathroom, pulled her hair, choked her, forced her into a bathtub while showering her with cold water and punching her in the face, causing injuries that required medical attention. On April 12, 2023, Respondent was convicted of a misdemeanor count of California Penal Code § 243(e)(1) – domestic battery. In addition to the February 12, 2022, incident, Victim alleged that on October 24, 2020, while off-duty, Respondent threw a folding table at Victim, nearly striking her and requiring a domestic violence response from the Baldwin Park Police Department and in January of 2022, Respondent, while off-duty, broke her eyeglasses and cellphone, forcibly pulled her hair and threatened to kill her.

The Division has determined, under the clear and convincing standard, that Respondent's acts of domestic violence are inconsistent with an officer's obligation to uphold the law and therefore violates Penal Code § 13510.8(b)(6) and Commission Regulation § 1205(a)(6). Respondent's domestic violence conviction triggered a ten-year California state prohibition on the possession of firearms and ammunition.

The Peace Officer Standards Accountability Division, Certification Executive Review Panel has reviewed the above referenced case involving alleged serious misconduct and has determined the following:

☒ There are reasonable grounds for suspension or revocation of a peace officer's certification.

POST determined clear and convincing evidence exists to show Respondent committed serious misconduct as defined in Penal Code §13510.8(b)(6) and Title 11, California Code of Regulations 1205(a)(6) – Acts That Violate the Law when he committed domestic violence upon the Victim.

William Darden Chief Legal Counsel	 Signature	1/21/26 Date
Annemarie Del Mugnaio Assistant Executive Director	 Signature	1/21/2026 Date
Manny Alvarez Executive Director	 Signature	01/21/2026 Date

cc: Bureau Chief Christine Ford

cc: Jason Morlock

cc: Chandler Knapp

cc: _____

POST PROFILE NAME:

AVENA, ARMANDO

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

AKA: N/A

DATE: 03/18/2026

PERSONAL IDENTIFICATION

POST I.D.	Agency	Birth Date	Gender	Race/Ethnicity
C63-K48		[redacted]	[redacted]	[redacted]

CERTIFICATES AWARDED

Cert No.	Type	Awarded	Education	T	T+	Comments
195479	B	06/28/2019		45.60	0.00	

Total Number of Certificates: 1

EMPLOYMENT

Hired From	To	R*	Rank	Rank Date	Agency	Agency Name	F/P	P/U	Seas
02/21/2017	08/06/2017	6	TRN	02/21/2017	19420	LOS ANGELES PD	F	P	
08/06/2017	04/30/2023	1	PO	08/06/2017	19420	LOS ANGELES PD	F	P	

***Reason for Separation: 1 = Resigned, 6 = Other**

POST CERTIFIED TRAINING

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
05/02/2017	K	1850-31777-16-010	8	X	Y	19420	LAPD		WMD L. E. PROTECTIVE MEASURES (LEPM)
05/03/2017	K	4890-23272-16-060	8		Y	19420	M TOLERNCE		CULT. DIV.-TOOLS FOR TOLERANCE (MOT ONLY)
07/27/2017	K	1850-31771-17-001	8	X	Y	19420	LAPD		WMD L.E. RESPONSE ACTIONS (LERA)
08/04/2017	A	1850-00100-16-009	912	R	Y	19420	LAPD		BASIC COURSE-INTENSIVE
09/13/2017	K	1850-20268-17-042	4	X	Y	19420	LAPD		IMPLICIT BIAS AND COMMUNITY POLICING
09/13/2017	K	1850-29303-17-043	4	X	Y	19420	LAPD		BELOW 100
01/16/2018	K	1850-21647-17-047	4	X	Y	19420	LAPD	*	FIREARMS/TACTICAL-ADVANCED
01/26/2018	K	1850-10207-17-029	3	X	Y	19420	LAPD		BALLISTIC SHIELD OPERATOR
07/15/2018	K	1850-29000-18-248	2	X	Y	19420	LAPD		POST TRAUMATIC STRESS DISORDER & TRAUMATIC BI
07/20/2018	K	1850-20911-18-001	36		Y	19420	LAPD	*	MENTAL HEALTH INTERVENTION TRAINING
07/23/2018	K	1850-29000-18-264	2	X	Y	19420	LAPD		HOMELESSNESS AND POLICING: A COLLABORATIVE APPROAC
10/10/2018	K	1850-21954-18-041	9	X	Y	19420	LAPD	*	CROWD CONTROL
11/17/2018	K	9180-25587-18-140	2	X	Y	19420	POST		VEHICLE PURSUIT POLICY (WEB)
10/07/2019	K	1850-20662-19-001	4	X	Y	19420	LAPD		CRIMINAL RECORDS SYSTEM
10/08/2019	K	1850-21647-19-019	4		Y	19420	LAPD	*	FIREARMS/TACTICAL-ADVANCED
12/14/2019	K	1850-20167-19-005	6	X	Y	19420	LAPD		MAC TAC UPDATE
01/22/2020	K	1850-20799-19-051	8	X	Y	19420	LAPD	*	DE-ESCALATION & TACTICAL COMMUNICATION
01/29/2020	K	9180-25590-19-213	2	X	Y	19420	POST		COURTROOM TESTIMONY (WEB)
02/17/2020	K	1850-21025-19-029	10		Y	19420	LAPD	*	ARREST/CONTROL TECHN UPD
08/11/2020	K	9180-25586-20-042	8	X	Y	19420	POST		FIRST AID/CPR/AED (WEB)
09/14/2021	K	1850-23090-21-052	4	X	Y	19420	LAPD		ELECTRONIC WEAPONS
10/11/2021	K	1850-21647-21-037	8	X	Y	19420	LAPD	*	FIREARMS/TACTICAL-ADVANCED
12/12/2021	K	1850-29503-21-028	4		Y	19420	LAPD	*	ARSTCTL(PSP)
12/12/2021	K	1850-29502-21-046	4		Y	19420	LAPD	*	DRIVING(PSP)

***Meets Perishable Skills**

FOOTNOTES
NO FOOTNOTE ON FILE.

PLEASE REFER TO THE ENCLOSED EXPLANATION SHEET FOR ADDITIONAL INFORMATION.

COMMISSION ON POST – PROFILE REPORT

The Profile Report contains confidential information.

EXPLANATION SHEET

PERSONAL IDENTIFICATION: Subject's personal information as indicated in POST database (EDI system)	
POST ID:	Unique identification number assigned to subject by POST.
Agency:	Indicates the agency (or one of the agencies) where subject is currently employed. An "*" indicates that the subject is employed in more than one position within the same agency.
Birth Date/Gender:	Self-explanatory.
Race/Ethnicity:	**A** = Asian **B** = African American (Black) **N** = Native American **S** = Spanish/Hispanic **W** = White **O** = Other

CERTIFICATES AWARDED	
Cert:	Certificate serial number.
Type:	**B** = Basic **I** = Intermediate **A** = Advanced **S** = Supervisory **M** = Management **E** = Executive **R** = Reserve **D** = Public Safety Dispatcher **SX**= Specialized X (example: SA = Specialized Advanced)
Awarded:	Date certificate was issued.
Education:	Educational points or degree used for earning a certificate.
T:	Training points used for awarding the certificate.
T+:	Additional training points.
Comments:	Comments regarding training or institute(s) where subject received education.
Total Number of Certificates:	Number of certificates awarded to subject as indicated in POST database.

EMPLOYMENT: Subject's employment history as indicated in POST database	
Hired From:	Date subject was hired or sworn into the agency.
To:	Date subject left agency (if applicable).
R*:	Reason for separation as indicated by number in the Report description.
Rank / Rank Date:	Indicates rank as translated by POST database and date subject made rank.
Agency / Agency Name:	Agency code number and name where subject is currently working or previously worked.
F/P:	Time base: **F** = Full time **P** = Part time
P/U:	Wage status: **P** = Paid **U** = Unpaid
Seas:	Provisional or seasonal employment.

POST TRAINING: Courses attended or completed as indicated in POST database	
Comp Date:	Date course ended.
Cat:	General course category (for POST use only).
CCN:	Course Control Number.
Hrs:	Hours completed in course.
Rmb:	Reimbursement indicator: **R** = Reimbursed *(before FY 83/84 reimbursable agency not necessarily reimbursed)* **J** = Job specific * = Job specific, SALARY NOT PAID **Blank** = None or no data available
Cmp:	Completion indicator: **Blank or Y** = Course completed **N** = Course not completed **?** = Prior to 1979
Agency:	Agency where subject was employed at time of course enrollment.
School:	Training institute offering the course.
Course Name:	Course name as shown in POST database.

NON-CERTIFIED COURSES

This section will only appear if applicable.

FIELD TRAINING

This section tracks field training progress and will only appear if applicable.

FOOTNOTES

This section reserved for additional information.

Administrative Interview
Advisement and Transcription Cover Page

POST CASE NUMBER: POST2302397
SUBJECT OFFICER NAME: Armando Avena

Administrative Interview Advisement

Following is the record of an Administrative Interview conducted by the Los Angeles Police Department on 2/13/2022 with the Victim of this investigation. The interview was recorded and a true and correct copy of the recording is being maintained by the Professional Conduct Southern Bureau. The recording reflects all relevant statements and conversations occurring during the course of the interview. The interview was also transcribed by AXON Auto-Transcribe. This transcript was prepared by Analyst I Anna Huang, Professional Conduct Southern Bureau.

Parties Present:
Sergeant II Shawn Svoboda, Los Angeles Police Department, Primary Investigator
Sergeant II Todd Schmidt, Los Angeles Police Department, Secondary Investigator
Victim

[00:01]
Sergeant Svoboda: This is a recorded interview of [redacted], who is a, uh, complainant on an incident that occurred on February 13th, 2022. There is no CF number yet. Today's date is February 13th, 2022. The time now is 1621 hours, and the location is [redacted] in Baldwin Park, California, [redacted]. This interview is being conducted by Sergeant Two, Shawn Svoboda, serial number 36699 of IAD. The second investigator is Sergeant Two, Todd Schmidt. Serial number 32902 of IAD. This interview is being recorded on an IA digital recorder, and we're, um, here with, uh, [redacted]. So, uh, can you describe, describe your relationship with, uh, what's his name? I'm sorry. I, I have written

[00:54]
Victim: Armando Avena.

[00:55]
Sergeant Svoboda: Armando Avena. Okay. Can you describe your relationship with Armando? How long you guys have been together?

[01:00]
Victim: Um, we've been together for nine years.

[01:03]
Sergeant Svoboda: Nine years, okay.

[01:05]
Victim: We have [redacted].

[01:07]
Sergeant Svoboda: [redacted].

[01:08]
Victim: Mm-hmm <affirmative>.

[01:08]
Sergeant Svoboda: And what's [redacted]?

[01:09]
Victim: [redacted].

[01:11]
Sergeant Svoboda: Can you spell [redacted] for me?

[01:12]
Victim: [redacted]

[01:12]
Sergeant Svoboda: [redacted]. Okay. And, uh, same [redacted] as Armando Avena?

[01:20]
Victim: Yes.

[01:21]
Sergeant Svoboda: What's [redacted] date of birth?

[01:23]
Victim: [redacted].

[01:37]
Sergeant Svoboda: And you guys live together, correct?

[01:38]
Victim: Yes.

[01:39]
Sergeant Svoboda: Okay. And that's at, uh, [redacted Home Address] in Baldwin Park?

[01:44]
Victim: Yes.

[01:44]
Sergeant Svoboda: And that's, uh, that's where you guys also had this incident today, correct? Yes. Okay, because can you tell me what led up to this incident?

[01:52]
Victim: So we had went out for a couple drinks and I was at the bar and I went to get some drinks, and some guy came up to me and asked me what kind of drinks I was ordering. And when I told him, Armando approached me from the back and he said, why are you talking to them? And I said, I'm not, they just asked me what kind of

drinks I was ordering, and I answered his question and that's it. So he got very aggressive and then he took me to the table. And then from there we went home and just everything started like,

[02:25]
Sergeant Svoboda: Okay. So, so you, do you remember where you were? What location that was?

[02:29]
Victim: Um, it was in Whittier, uptown Whittier. Um, it's called flashbacks, I believe.

[02:36]
Sergeant Svoboda: Flashbacks.

[02:37]
Victim: Flashbacks.

[02:38]
Sergeant Svoboda: Oh, flashbacks, okay.

[02:39]
Victim: Mm-hmm <affirmative>.

[02:41]
Sergeant Svoboda: Flashbacks. So it's a, it's a like a regular bar.

[02:44]
Victim: Mm-hmm <affirmative>.

[02:47]
Sergeant Svoboda: It's in Whittier <affirmative>. Now, did anything physical happen at the, at the bar?

[02:54]
Victim: No.

[02:54]
Sergeant Svoboda: No. Okay. So he was just, just upset. He

[02:57]
Victim: Was just upset, okay.

[02:58]
Sergeant Svoboda: Mm-hmm <affirmative>. <affirmative>. All right. And then, so when you got home, what happened?

[03:01]
Victim: So then we got home, and then I was changing, and then he just grabbed me from my hair, and I guess he dragged me and he broke my glasses. And, um, he took my phone away. And then, um, all I remember like was, he started, you know,

hitting me and scratching me and slapping me and choking me. And, um, I just, I remember I woke up and I was in the bathtub and the water was on, like, running, and I was cold. And I told him like, can you please stop? Like, you know, you're hurting me. And then he would just come and like, hit me and pull my hair and, and I told him like, I can't, I can't. So he gave me a towel then I took two Tylenols, and then I went to sleep.

[03:51]
Sergeant Svoboda: And you went to sleep there? There, okay. And then what happened next?

[03:55]
Victim: And then I woke up at nine, and then I told him like, can you please take me to Relevant Party 2's? You know, my, like, it's pounding. Like I, I have a really bad pain. I can't, like, not even Tylenol was helping me. And then he was just crying and telling me like, no, I don't want you to leave. Like, can you please just, if I take you, can you tell them that I didn't do anything to you? Like, it wasn't me. And like, I'm sorry.

[04:18]
Victim: And I'm like, I can't do that, you know, that's not right.

[04:23]
Sergeant Svoboda: Okay.

[04:23]
Victim: And then, um, and then, yeah, he dropped me off at RP 2 's and he didn't want to gimme my phone. He, and that's it.

[04:33]
Sergeant Svoboda: And then from there, RP 2 took you to the hospital?

[04:35]
Victim: She called the cops.

[04:36]
Sergeant Svoboda: Oh, she called the police. Okay.

[04:37]
Victim: She, yeah, she called the police. And then, um, the police brought the ambulance, and then the ambulance sent me.

[04:42]
Sergeant Svoboda: They took you, okay.

[04:43]
Victim: Yeah.

[04:43]

Sergeant Svoboda: So, um, what, what injuries have you sustained? Obviously I can see you have bruising and swelling on the left side of your face, your eyes bloodshot?

[04:51]
Victim: Um, I have bruising on my hands.

[04:54]
Sergeant Svoboda: Okay. I see the bruising. Yeah. You lots.

[04:56]
Victim: Um, I believe like my whole back up here and neck is very, um, I'm sure I have bruising, but I can't really see.

[05:05]
Sergeant Svoboda: Sure.

[05:05]
Victim: Um, I don't know if there's like a little lump right here as well.

[05:09]
Sergeant Svoboda: Okay.

[05:10]
Victim: Um, what else? All my nails are all broken. <laugh>.

[05:14]
Sergeant Svoboda: Did the officers take photos of your injuries?

[05:16]
Victim: Yeah

[05:16]
Sergeant Svoboda: They did. Okay. Hospital. And then at the hospital, um, did they, when they were treating you, did they say that you had any kind of conditions related to, uh, your brain?

[05:25]
Victim: They just told me, um, I got a concussion.

[05:29]
Sergeant Svoboda: So you got a concussion?

[05:31]
Victim: Yeah, they did, um, ct, um, they did X-rays and all that, but I didn't have any, um, broken bones or anything like that.

[05:40]
Sergeant Svoboda: So we're gonna ask you for an authorization for to release your medical information to us. Would you, are you willing to do that?

[05:45]
Victim: Yeah.

[05:46]
Sergeant Svoboda: Okay, thank you. So, um, let's, let's go back to, uh, when you got home, you guys were arguing. Is that what led to him grabbing your hair and the argument was over what?

[05:58]
Victim: It was over, Um, well, you know, the drinks, he didn't want me talking to any guys, and I wasn't talking to any guys.

[06:03]
Sergeant Svoboda: Mm-hmm <affirmative>.

[06:04]
Victim: And I told him mm-hmm <affirmative>. And then, um, he went through my, he was going through my phone and he seen a conversation that I had with an older friend, and he was telling me why I was, it was a, he's a male, and then he told me why I was talking to him, and I was like, you know, what's, nothing like that? Like, you're reading the messages, there's nothing for me to hide. And then he just, after that, I got him more angry and he just blew up.

[06:30]
Sergeant Svoboda: Okay. And that's when he, you said he started by pulling your hair?

[06:32]
Victim: Mm-hmm <affirmative>.

[06:33]
Sergeant Svoboda: And when he pulled your hair?

[06:34]
Victim: Took my glasses, he broke them.

[06:36]
Sergeant Svoboda: Okay. And then how did you get this injury on your, on your face?

[06:39]
Victim: Um, he was stalking me.

[06:40]
Sergeant Svoboda: Okay. So he was punching you?

[06:41]
Victim: Yeah, he was punching me in the face. He was choking me. Okay. Um, and he was banging my head against the tub.

[06:48]
Sergeant Svoboda: When you say he was choking you, how was he choking you? He describe it

[06:51]
Victim: choking me with his two hands,

[06:53]
Sergeant Svoboda: two hands?

[06:53]
Victim: Mm-hmm <affirmative>.

[06:54]
Sergeant Svoboda: Okay. Do you remember, did you lose consciousness?

[06:56]
Victim: Um, I, I don't think I did.

[06:59]
Sergeant Svoboda: Were you, were you unable to breathe when he was choking you?

[07:02]
Victim: I was trying to like, you know, scratch him to stop

[07:05]
Sergeant Svoboda: Uhhuh, <affirmative>,

[07:06]
Victim: and then obviously he stopped. And so I don't,

[07:10]
Sergeant Svoboda: Okay. So then at that point, uh, you said at some point you ended up in a bathtub?

[07:17]
Victim: Yeah.

[07:17]
Sergeant Svoboda: Okay. So do you remember how you ended up in the bathtub?

[07:21]
Victim: Um, I remember, uh, when I was changing, when I was, um, when he had pulled my hair, he threw me in the restroom and that's, and I had started throwing up and then that's how I ended up in the, the bathtub.

[07:34]
Sergeant Svoboda: Did you put yourself in the bathtub or did he put you in there?

[07:36]
Victim: He put me in there.

[07:37]
Sergeant Svoboda: Okay.

[07:37]
Victim: And he turned the water on.

[07:38]
Sergeant Svoboda: Okay. All right. You described the water as being cold and you're uncomfortable. And at that point he reacted in which way?

[07:45]
Victim: Uh, he just wanted me in there. He said, you're not getting out. And he just started screaming at me, at me and pulling my hair. And then he, he just slapped me and sock me in the face and that's it.

[07:57]
Sergeant Svoboda: Okay. In the same like side?

[07:59]
Victim: Yeah.

[07:59]
Sergeant Svoboda: Okay. 'cause it looks like you don't have any injuries on your right side.

[08:01]
Victim: Mm-hmm.

[08:02]
Sergeant Svoboda: Okay.

[08:02]
Victim: It is, um, swollen from my jaw, like right here and in my jaw, but it's nothing in my eye, like my eye like this one.

[08:10]
Sergeant Svoboda: I see. So then after all this, all this occurred, uh, you wanted him to take you mm-hmm. Or you wanted him to take you to RP 2 's house here, correct?

[08:19]
Victim: Mm-hmm.

[08:19]
Sergeant Svoboda: Okay. And he didn't want to do that?

[08:21]
Victim: No, he didn't.

[08:22]
Sergeant Svoboda: And, and, and what did he say?

[08:24]
Background: No.

[08:24]
Sergeant Svoboda: You didn't remember exactly what he said?

[08:26]
Victim: He said, no, I, I don't want, I don't want you to go, I'm, I don't want to go to jail. I don't wanna, um, I don't want to, I wanna see [redacted], he's like, I don't want you to take [redacted] away from me. And that's how he was telling me he didn't wanna go to jail, he don't want go to jail. And he said to tell the police and the nurses and everybody that it wasn't him. He didn't want me to tell RP 2 that it was him who did it.

[08:51]
Sergeant Svoboda: Okay. And did he walk you up to the door here or did he just drop you off?

[08:55]
Victim: No, he just dropped me off and

[08:56]
Sergeant Svoboda: Okay. Now, um, so he did finally agree to bring you over here then?

[09:00]
Victim: Mm-hmm.

[09:00]
Sergeant Svoboda: Okay. Was there any more violence in the car on the way over?

[09:04]
Victim: No.

[09:04]
Sergeant Svoboda: Okay. So he kind of stopped after that point?

[09:06]
Victim: Mm-hmm <affirmative>.

[09:06]
Sergeant Svoboda: All right. Did he, has he called you since all this occurred?

[09:10]

AFTER VISIT SUMMARY

KAISER PERMANENTE

Victim MRN: [redacted]

2/13/2022 BPED 626-851-1011

Instructions

New Prescriptions

NAPROXEN (NAPROSYN) 500 MG ORAL TAB	***Take 1 tablet by mouth 2 times a day as needed for pain . Take with food***

Apply ice for 10-15 minutes and then repeat every hour as needed to help reduce swelling/ pain.

Your medications have changed today

See your updated medication list for details.

Read the attached information

1. Contusion, Shoulder (English)
2. Soft Tissue Contusion (English)
3. Concussion (English)
4. Hemorrhage, Subconjunctival (English)

Pick up these medications at KP BP BALDWIN PK MC 24 HR

Naproxen

Address: 1011 Baldwin Park Blvd., Baldwin Park CA 91706
Phone: 866-319-4249

Schedule an appointment with BETTY PEI-YI CHEN MD, M.D. as soon as possible for a visit in 1 week (around 2/20/2022)

Specialty: Internal Medicine
Contact: 1011 BALDWIN PARK BLVD
Baldwin Park CA 91706-5806

Today's Visit

You were seen by JOHN HOP-DOAN NGUYEN MD, M.D.

Reason for Visit

- FACE PAIN
- DOMESTIC VIOLENCE

Today's Visit (continued)

Diagnoses

- CONCUSSION WITH LOSS OF CONSCIOUSNESS
- FACE CONTUSION (BRUISE)
- HAND CONTUSION (BRUISE)
- HAND CONTUSION (BRUISE)
- SHOULDER CONTUSION (BRUISE)
- LEFT SUBCONJUNCTIVAL HEMORRHAGE

Imaging Tests

CT SCAN CERVICAL SPINE
CT SCAN FACIAL BONES
CT SCAN HEAD
X-RAY HAND
X-RAY HAND
X-RAY RIBS AND CHEST
X-RAY SCAPULA
X-RAY WRIST

Medications Given

HYDROcodone-Acetaminophen (NORCO) Last given at 12:52 PM
Ondansetron (ONDANSETRON) Last given at 12:51 PM

Blood Pressure	Temperature	Pulse	Respiration	Oxygen Saturation
122/86	99 °F	93	18	100%

What's Next

FEB 25 2022

COVID-19 Vaccine

Friday February 25 10:30 AM

Please bring your original CDC vaccine card (showing proof of prior dose) to your appointment.

COVID 19 IMMUNIZATION CLINIC
1011 BALDWIN PARK BLVD
BALDWIN PARK CA 91706-5806
833-574-2273

Medications You Will Be Given

Your Treatment Team

Provider	Role
Nguyen, John Hop-Doan (M.D.), M.D.	Attending Provider

You are allergic to the following

No active allergies

Information on File

@PII - Civ. Code secs. 1798.3 & 1798.24

Preferred language: English
Date of birth:
Ethnicity:
Race:

Changes to Your Medication List

START taking these medications

START

Naproxen 500 mg Tab
Commonly known as: NAPROSYN

Take 1 tablet by mouth 2 times a day as needed for pain . Take with food

kp.org

View your After Visit Summary and more online at https://healthy.kaiserpermanente.org/hconline/ie/.

Continue taking all other medications that you reported taking during this Emergency Department visit. The above list of medications was based on information you provided at this visit.

Also,

1. Tell your healthcare provider what medications you are taking - including over the counter medications and herbal supplements.
2. Take medications as directed by your doctor. If you are given a prescription for antibiotics, it is important to take them as ordered by your doctor until they are all gone.
3. If you have additional questions about your medications, please call your doctor.
4. If you have problems that may be caused by your medications such as rash, itching, swelling, or stomach pain, call your doctor.
5. If you note any discrepancies with medications at home, please address these with your primary physician.
6. You should always keep an accurate list of all your medications with you in case of emergency..

The exam and treatment that you received today has been provided on an emergency basis only. You may return to the Emergency Department if your condition worsens or you have new concerns. Further examination and care may be required and you should coordinate this with your regular physician.

Discharge Destination

Patient agrees to discharge destination

Discharge Destination: Home
Mode of Transportation: Private Automobile
Transportation Arrangements: Patient
Patient Disposition: N/A - Patient agrees to destination;Patient is appropriately clothed

VERBALIZED UNDERSTANDING OF DISCHARGE INSTRUCTIONS AND COPY GIVEN.

A copy of the Discharge Instructions was printed, given to and reviewed with the patient.

A signature is only required for patients identified as homeless patients and evaluated and treated according to the hospital Policy For Homeless Patient Management and Discharge and/or National Policy NATL.HPHO.4

_____ _____

Patient Signature **Date**

_____ _____

RN Signature **Date**

Mental health assistance is available 24 hours a day, 7 days a week. If you need mental health assistance and are a Kaiser Permanente health plan member, please call either 911 or the Behavioral Health Helpline 1-800-900-3277. If you are not a Kaiser Permanente member call the National Suicide Prevention Lifeline 1-800-784-2433.

Thrive Local

Find help in your community

We're here to support you however we can. If you need help with essentials like housing, childcare, or food, Thrive Local Connections can help connect you to resources in your community. Call 1-800-443-6328 (TTY 711), Monday through Friday between 8 a.m. and 5 p.m.

Shoulder Bruise

You have a shoulder bruise (contusion). This causes pain, swelling, and sometimes bruising on the skin. You don't have any broken bones. This injury will take from a few days to several weeks to heal, depending on how severe it is. Moderate to severe shoulder bruises are treated with a sling or shoulder immobilizer. Minor bruises can be treated without any special support.

Home care

Follow these tips when caring for yourself at home:

- If you were given a sling to use, leave it in place for the time advised by your healthcare provider. If you aren't sure how long to wear it, ask for advice. If the sling becomes loose, adjust it so that your forearm is parallel with the ground. Your shoulder should feel well supported.
- Put an ice pack on the injured area for 20 minutes every 1 to 2 hours the first day. You can make your own ice pack by putting ice cubes in a plastic bag. Wrap the bag in a thin towel. Continue with ice packs 3 to 4 times a day for the next 2 days. Then use the pack as needed to ease pain and swelling.
- You may use acetaminophen or ibuprofen to control pain, unless another pain medicine was prescribed. If you have chronic liver or kidney disease, talk with your healthcare provider before using these medicines. Also talk with your provider if you've ever had a stomach ulcer or digestive bleeding.
- Shoulder and elbow joints become stiff if left in a sling for too long. You should start range of motion exercises about 7 to 10 days after the injury. Talk with your provider to find out what type of exercises to do and how soon to start.
- Unless your provider told you otherwise, you can take the sling off to shower or bathe.

Follow-up care

Follow up with your healthcare provider if you don't start getting better in the next 5 days.

When to seek medical advice

Call your healthcare provider right away if any of these occur:

- Pain or swelling gets worse or continues for more than a few days
- Large amount of bruising on your shoulder or upper arm
- Your hand or fingers become cold, blue, numb, or tingly
- Trouble moving your hand or fingers
- Weakness in your hand or fingers
- Your shoulder becomes stiff
- Your shoulder feels like it is popping out
- You aren't able to do your daily activities

StayWell last reviewed this educational content on 11/1/2019

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Soft Tissue Bruise (Contusion)

You have a bruise (contusion). There is swelling and some bleeding under the skin. This injury generally takes a few days to a few weeks to heal. During that time, the bruise will typically change in color from reddish, to purple-blue, to greenish-yellow, then to yellow-brown.

Home care

- Elevate the injured area to reduce pain and swelling. As much as possible, sit or lie down with the injured area raised about the level of your heart. This is especially important during the first 48 hours.
- Ice the injured area to help reduce pain and swelling. Wrap an ice pack in a thin towel. Apply to the bruised area for 20 minutes every 1 to 2 hours the first day. Continue this 3 to 4 times a day until the pain and swelling goes away. You can make an ice pack by placing ice cubes in a plastic bag.
- Unless another medicine was prescribed, you can take acetaminophen, ibuprofen, or naproxen to control pain. Talk with your doctor before using these medicines if you have chronic liver or kidney disease or ever had a stomach ulcer or digestive bleeding.

Follow-up care

Follow up with your healthcare provider, or as advised. Call if you are not better in 1 to 2 weeks.

When to seek medical advice

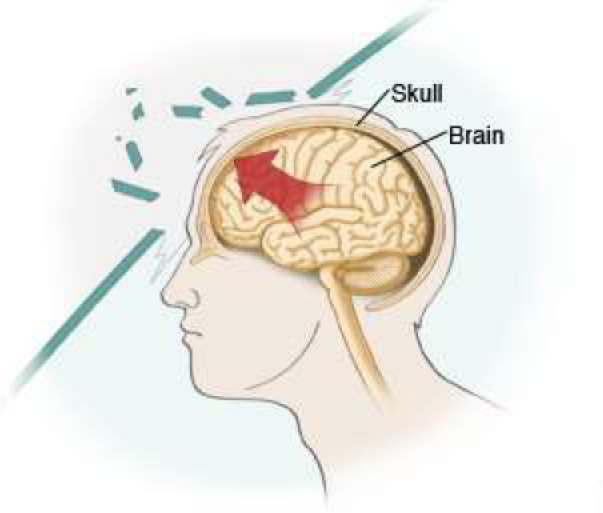
Call your healthcare provider right away if you have any of the following:

- Increased pain or swelling
- Bruise is on an arm or leg and arm or leg becomes cold, blue, numb or tingly
- Signs of infection: Warmth, drainage, or increased redness or pain around the contusion
- Inability to move the injured area or body part
- Bruise is near your eye and you have problems with your eyesight or eye
- Frequent bruising for unknown reasons

StayWell last reviewed this educational content on 11/1/2019

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Concussion



A concussion is a type of brain injury. It can be caused by a direct hit or blow to the head, neck, face, or body. The force of the blow makes the head and brain shake quickly back and forth. In some cases you may lose consciousness. Depending on the severity of the blow, it will take from a few hours up to a few days to get better. Sometimes symptoms may last a few months or longer. This is called post-concussion syndrome.

At first, you may have a headache, nausea, vomiting, or dizziness. You may also have problems concentrating or remembering things. This is normal.

Symptoms should get better as the hours and days go by. Symptoms that get worse could be a sign of a more serious brain injury. This might be a bruise or bleeding in the brain. That's why it's important to watch for the warning signs listed below.

School-age children are more at risk for symptoms that don't go away after a concussion. They should be watched very closely.

Home care

If your injury is mild and there are no serious signs or symptoms, your healthcare provider may recommend that you be watched at home. If there is evidence that the injury is more serious, you will be watched in the hospital. Follow these tips to help care for yourself at home:

- After a concussion, your healthcare provider may recommend that a family member or friend watched you for 12 to 24 hours. They may be told to wake you every few hours during sleep to check for the signs below.
- If your face or scalp swells, apply an ice pack for 20 minutes every 1 to 2 hours. Do this until the swelling starts to go down. To make an ice pack, put ice cubes in a plastic bag that seals at the top. Wrap the bag in a clean, thin towel or cloth. Never put ice or an ice pack directly on the skin.
- You may use acetaminophen to control pain, unless another pain medicine was prescribed. Don't use aspirin or ibuprofen after a head injury. If you have long-lasting (chronic) liver or kidney disease, talk with your healthcare provider before using these medicines. Also talk with your provider if you ever had a stomach ulcer or gastrointestinal bleeding.

- For the next 24 hours:
  - Don't drink alcohol or take sedatives or medicines that make you sleepy.
  - Don't drive or operate machinery.
  - Don't do anything strenuous. Don't lift or strain.
- Don't return right away to sports or to any activity where you could hit your head. Wait until all symptoms are gone and you have been cleared by your healthcare provider. Having a second head injury before you fully recover from the first one can lead to serious brain injury.
- After a few days, it's OK to go back to your normal daily activities. But don't do anything that could cause your head to be hit again.

Follow-up care

Follow up with your healthcare provider in 1 week, or as directed.

A radiologist will review any X-rays or CT scans that were taken. You will be told of any new findings that may affect your care.

When to seek medical advice

Call your healthcare provider right away if any of these occur:

- Headache or dizziness that won't go away
- Redness, warmth, or pus from the swollen area

Call 911

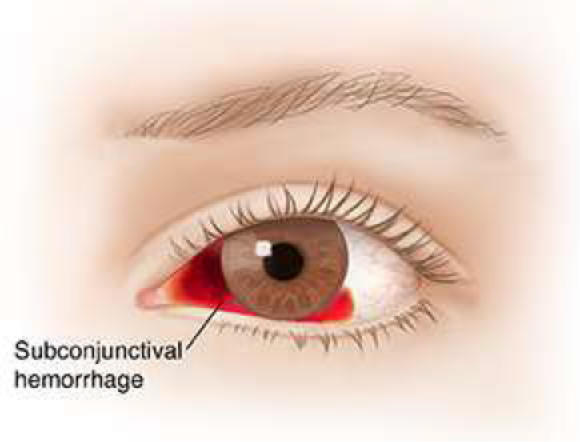
Call 911 or get medical care right away if any of these occur:

- Repeated vomiting (it's common to vomit once after a head injury)
- Headache or dizziness that is severe or gets worse
- Loss of consciousness
- Unusual drowsiness, or unable to wake up as usual
- Weakness or decreased ability to walk or move any limb
- Confusion, agitation, or change in behavior or speech, or memory loss
- Blurred vision
- Convulsion (seizure)
- Swelling on the scalp or face that gets worse
- Changes in pupil size (the black part of the eye)
- Fluid draining from or bleeding from the nose or ears

StayWell last reviewed this educational content on 6/1/2018

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Subconjunctival Hemorrhage



A subconjunctival hemorrhage is a result of a broken blood vessel in the white part of the eye. It is usually painless and may be caused by coughing, sneezing, or vomiting. An injury to the eye can cause this. It can also be a sign of high blood pressure (hypertension) or a bleeding disorder.

This can look frightening. But the presence of the blood is not serious. The blood will be reabsorbed without treatment within 2 to 3 weeks.

Home care

You may continue your usual activities.

Follow-up care

Follow up with your healthcare provider, or as advised.

When to seek medical advice

Contact your healthcare provider right away if any of these occur:

- Pain in the eye
- Change in vision
- The blood does not go away within 3 weeks
- Increasing redness or swelling of the eye
- Severe headache or dizziness
- Signs of bruising or bleeding from other parts of your body

StayWell last reviewed this educational content on 8/1/2017

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Narcotic Administration Instructions

Your Kaiser Permanente Care Instructions

Safe Use of Opiate Pain Medicine: Care Instructions

Your Care Instructions:

Pain is your body's way of warning you that something is wrong. Pain feels different for everybody. Only you can describe your pain.

A doctor can suggest or prescribe many types of medicines for pain. These range from nonprescription medicines like acetaminophen (Tylenol) to powerful medicines called opiates.

Opiates work well to relieve pain. But they also can cause problems, especially if they are taken too often or in too large a dose. They can interact with other medicines, or they may make it hard for you to do your job or to think clearly. They can even cause death. For these reasons, doctors are very careful about how they prescribe opiates.

The doctor carefully considered what pain medicine is right for you. You may not have received opiate pain medicine if your doctor was concerned about drug interactions or your safety, or if he or she had other concerns.

It is best to have one doctor or clinic treat your pain. This way you will get the pain medicine that will help you the most, and a doctor will be able to watch for any problems that the medicine might cause.

The doctor has checked you carefully, but problems can develop later. If you notice any problems or new symptoms, **get medical treatment right away**.

Follow-up care is a key part of your treatment and safety. Be sure to make and go to all appointments, and call your doctor if you are having problems. It's also a good idea to know your test results and keep a list of the medicines you take.

How can you care for yourself at home?

- Try other ways to reduce pain:
  - Relax, and reduce stress. Relaxation techniques such as deep breathing or meditation can help.
  - Keep moving. Gentle, daily exercise can help reduce pain over the long run. Try low- or no-impact exercises such as walking, swimming, and stationary biking. Do stretches to stay flexible.
  - Try heat, cold packs, and massage.
  - Get enough sleep. Pain can make you tired and drain your energy. Talk with your doctor if you have trouble sleeping because of pain.
  - Think positive. Your thoughts can affect your pain level. Do things that you enjoy to distract yourself when you have pain instead of focusing on the pain. See a movie, read a book, listen to music, or spend time with a friend.
- If the doctor gave you a prescription medicine, take it as prescribed.
- If you are not taking a prescription pain medicine, ask your doctor if you can take an over-the-counter medicine.

When should you call for help?

Call your doctor now or seek immediate medical care if:

- You have a new kind of pain.
- You have new symptoms, such as a fever or rash, along with the pain.

Watch closely for changes in your health, and be sure to contact your doctor if:

- You think you might be using too much pain medicine, and you need help to use less or stop.
- Your pain gets worse.
- You would like a referral to a doctor or clinic that specializes in pain management.

Where can you learn more?

Go to http://www.kp.org

Enter **R108** in the search box to learn more about "**Safe Use of Opiate Pain Medicine: Care Instructions**."

Current as of: February 20, 2015

Content Version: 10.6

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- This medicine may/can contain acetaminophen (Tylenol). Check other medicines that you take to see if they contain this medicine. It is not safe to take more than 4 grams of Tylenol in a 24-hour period.
-

Administrative Interview
Advisement and Transcription Cover Page

POST CASE NUMBER: POST2302397
SUBJECT OFFICER NAME: Armando Avena

Administrative Interview Advisement

Following is the record of an Administrative Interview conducted by the Los Angeles Police Department on 2/13/2022 with the Victim of this investigation. The interview was recorded and a true and correct copy of the recording is being maintained by the Professional Conduct Southern Bureau. The recording reflects all relevant statements and conversations occurring during the course of the interview. The interview was also transcribed by AXON Auto-Transcribe. This transcript was prepared by Analyst I Anna Huang, Professional Conduct Southern Bureau.

Parties Present:
Sergeant II Shawn Svoboda, Los Angeles Police Department, Primary Investigator
Sergeant II Todd Schmidt, Los Angeles Police Department, Secondary Investigator
Victim

[00:00]
Sergeant Svoboda: Okay, we're back on tape. Back on tape with, uh, Victim, Sergeant Svoboda. Sergeant, uh, Schmidt time now is 1637 hours. Okay. So you, you described that there had been a previous incident when the police were called. About how long ago was that?

[00:15]
Victim: I would say it was last year and maybe, I can't even remember. No, not last year. It has to be two years ago. I think it was like maybe in Sep September, around there

[00:35]
Sergeant Svoboda: September, about two years ago. Mm-hmm <affirmative>. Okay. So not this last September, but maybe September before that. Mm-hmm. So maybe 2020 I think. Was this during the pandemic?

[00:43]
Victim: Yes. I think it was around when the Dodgers were playing. So I think that was in September. I'm not sure <laugh>

[00:49]
Sergeant Svoboda: Sure. Okay.

[00:50]
Victim: Um, so I went to Relevant Party 4's house to go watch the game and he went out with his friends. And when he got home, you know, he was drunk and he was questioning me where I was at. And the whole time I told him that I was with [redacted] Relevant Party 4 and everybody. And I told him, if you don't believe me, you can call RP 4. You know, RP 4 dropped me off here at home, sorry. And, um, he got home, he threw everything out the pantry and then he had like a little foldable table and he threw that at me, but it didn't hit me. It hit the wall. So then I got up, I

was scared, and I called the police and they came and then they just questioned us. But that was pretty much it, and they brought me to [redacted]'s.

[01:38]
Sergeant Svoboda: And that took place in, in, in your address? In Baldwin Park on [redacted]?

[01:41]
Victim: Mm-hmm <affirmative>.

[01:41]
Sergeant Svoboda: Okay. And they, Baldwin Park PD responded

[01:44]
Victim: mm-hmm <affirmative>.

[01:44]
Sergeant Svoboda: Now, did any report taken or anything like that, that you're aware of?

[01:47]
Victim: Uh, he did take down on my information and he, I think he did put a report, but I think that was pretty much it.

[01:55]
Sergeant Svoboda: Okay. And, and it did not hit you, there was no injuries or anything like that?

[01:58]
Victim: No.

[01:59]
Sergeant Svoboda: Now were, were there any other instances where you contacted the police at all?

[02:03]
Victim: No.

[02:04]
Sergeant Svoboda: No. Okay. So just today at that time, and you mentioned that your hair was pulled by him at one point, and you said, how many years ago was this?

[02:12]
Victim: Uh, like two years ago.

[02:14]
Sergeant Svoboda: Okay.

[02:15]

Victim: I would say like two.

[02:15]
Sergeant Svoboda: It wasn't that incident, it was a different incident?

[02:17]
Victim: No. Mm-hmm.

[02:18]
Sergeant Svoboda: And what did you, what did you do with that incident

[02:20]
Victim: With the little,

[02:21]
Sergeant Svoboda: When you had your hair pulled?

[02:22]
Victim: Oh, this was today. It was this incident.

[02:25]
Sergeant Svoboda: Oh,

[02:25]
Victim: My hair pulled the other time he did it.

[02:27]
Sergeant Svoboda: Okay. So before this incident today, there's never been any other

[02:30]
Victim: Oh, yes.

[02:31]
Sergeant Svoboda: Physical Violence.

[02:32]
Victim: The one with the hair pulled? Yes, we were, um, you know, we just, when we go out, he gets upset, just pulls my hair. That's pretty much it.

[02:41]
Sergeant Svoboda: So he does that often?

[02:42]
Victim: Not often. He's done it twice already.

[02:44]
Sergeant Svoboda: Okay. So when was the last time he did that?

[02:48]
Victim: Like three years ago? I would, I don't remember exactly when it was.

[02:53]
Sergeant Svoboda: Okay.

[02:53]
Victim: But he comes home drunk and he gets aggressive.

[02:58]
Sergeant Svoboda: Okay. So does it, how often does he come home drunk?

[03:01]
Victim: Um,

[03:02]
Sergeant Svoboda: Is it, is it once a year? Is it once a month, once a week, every day?

[03:08]
Victim: Maybe like three times a year, I would say. Or more.

[03:12]
Sergeant Svoboda: Three times a year.

[03:12]
Victim: He hasn't, he hasn't done that because we've had problems with that in the past where he would go out with his friends. He wouldn't even tell me where he was going and, you know, but he stopped doing that last year. So it happened for like, maybe four years straight where he would just come home and he was intoxicated and would just try to start arguing with me, but I would just ignore it and go to sleep.

[03:37]
Sergeant Svoboda: Okay. And when, when he was doing that, was it every day? Was it how often?

[03:42]
Victim: No, I would say maybe twice, like every other month.

[03:48]
Sergeant Svoboda: Every other month. Okay. So not something that's so regular, but it did, it did happen on occasion. Okay. And then, but no violence back then? It was just, just arguing.

[03:58]
Victim: Yeah.

[03:58]
Sergeant Svoboda: And then occasionally he would pull your hair, you said two, two times.

[04:01]

Victim: Mm-hmm <affirmative>.

[04:02]
Sergeant Svoboda: And you remember both occurrences?

[04:03]
Victim: Mm-hmm <affirmative>.

[04:03]
Sergeant Svoboda: So the one time that he did pull your hair, you said he came home drunk?

[04:06]
Victim: Mm-hmm <affirmative>.

[04:07]
Sergeant Svoboda: You guys argued, and this was about four years ago, you said?

[04:10]
Victim: Like, two

[04:11]
Sergeant Svoboda: Oh, 2 years ago.

[04:12]
Victim: Two, three years ago.

[04:13]
Sergeant Svoboda: okay.

[04:13]
Victim: Yeah. I don't exact, I don't exactly know when.

[04:16]
Sergeant Svoboda: Okay. No police called. Nothing else happened then?

[04:19]
Victim: No. No.

[04:20]
Sergeant Svoboda: Okay. And then what was the, the incident prior to that?

[04:23]
Victim: To which one?

[04:24]
Sergeant Svoboda: What's that?

[04:25]
Victim: To which one? I'm sorry.

[04:26]
Sergeant Svoboda: The first time he pulled your hair.

[04:28]
Victim: That, that's the time when he pulled my hair. And then one time I went out with my friends to go have dinner and I didn't answer the phone. And when I got home, he pulled my hair.

[04:38]
Sergeant Svoboda: Okay. And when did that happen?

[04:40]
Victim: Um, I don't remember.

[04:43]
Sergeant Svoboda: Okay. Has he ever threatened you?

[04:46]
Victim: Um, yeah.

[04:50]
Sergeant Svoboda: Okay. So now, did he threaten you in this, this time? Did he say anything to you?

[04:55]
Victim: No.

[04:56]
Sergeant Svoboda: Okay.

[04:56]
Victim: Not this time.

[04:57]
Sergeant Svoboda: So before this, when was the last time he threatened you, threatened to harm you, kill you, et cetera?

[05:03]
Victim: Last month.

[05:04]
Sergeant Svoboda: And what did he say?

[05:05]
Victim: He said, if I ever go out, he'll kill me

[05:08]
Sergeant Svoboda: If you ever go out.

[05:09]
Victim: Yeah. I went out to have dinner with my friend and um, he had said it was fine, but when I got home he, I don't know if he was drinking or what was going on, but he got upset with me and he threw my phone. He broke my glasses and he said if I ever go out, he'll kill me.

[05:30]
Sergeant Svoboda: And this was a month ago?

[05:31]
Victim: Mm-hmm <affirmative>.

[05:32]
Sergeant Svoboda: And, okay. And, and this was in what started this argument?

[05:36]
Victim: Um, because I had went out with my friends.

[05:38]
Sergeant Svoboda: Okay. So that's what, that's what triggered it then?

[05:39]
Victim: Mm-hmm <affirmative>.

[05:40]
Sergeant Svoboda: Did you believe him?

[05:41]
Victim: Um, yeah.

[05:43]
Sergeant Svoboda: Do you believe he would actually kill you? <laugh> He had,

[05:45]
Victim: yeah.

[05:46]
Sergeant Svoboda: Okay. So you're actually afraid of him then? Mm-hmm. Alright.

[05:49]
Sergeant Schmidt: Has he ever pointed his gun at you?

[05:51]
Victim: No.

[05:51]
Sergeant Schmidt: No?

[05:52]
Victim: Mm-hmm.

[05:54]
Sergeant Schmidt: Is when you go out, alright? Right. Does he tell you you are not allowed to go out with your friends?

[06:00]
Victim: No, I'm not.

[06:01]
Sergeant Schmidt: You're not allowed to go out with your friends and he tells you that, do you? And he Is he, do you believe he's controlling you? Okay.

[06:10]
Victim: He said he doesn't want me to go out 'cause he's jealous.

[06:15]
Sergeant Schmidt: Did you ever do anything to give him a reason to be jealous?

[06:17]
Victim: No.

[06:18]
Sergeant Schmidt: No. Okay. Okay.

[06:23]
Sergeant Svoboda: Um, just to confirm, you guys have been together nine years? Correct. Okay. Alright. That's all I have. We're gonna go ahead and go off tape. Uh, same admonition applies. 1643 hours.

Administrative Interview
Advisement and Transcription Cover Page

POST CASE NUMBER: POST2302397
SUBJECT OFFICER NAME: Armando Avena

Administrative Interview Advisement

Following is the record of an Administrative Interview conducted by the Los Angeles Police Department on 12/15/2022 with Officer Armando Avena, who is the subject of this investigation. The interview was recorded and a true and correct copy of the recording is being maintained by the Professional Conduct Southern Bureau. The recording reflects all relevant statements and conversations occurring during the course of the interview. The interview was also transcribed by AXON Auto-Transcribe. This transcript was prepared by Analyst I Anna Huang, Professional Conduct Southern Bureau.

Parties Present:
Sergeant II Martha Delgado, Los Angeles Police Department, Primary Investigator
Sergeant II Miguel Ortega, Los Angeles Police Department, Secondary Investigator
Officer Armando Avena, Los Angeles Police Department, Subject
Leslie Wilcox, Attorney, Representative for Subject Officer

[00:00]
Sergeant Delgado: Okay, so this is a digitally recorded interview for CF number 22 dash 000472. Today's date is December 15th, 2022. The start time is 8 43, and this is a telephonic interview. Present to be interviewed is gonna be Officer Armando Avena, serial number 42919 of Pacific Division. And the assignment on date of alleged occurrence was Pacific Division. Uh, he is Accompanied by Leslie Wilcox as his attorney. Okay. The primary investigator is myself, Sergeant two Martha Delgado, 39903 of Internal Affairs, central Section and Secondary Investigator Sergeant two, Miguel Ortega, serial number 33273 of IA Central Division as well. Okay. So you, officer Avena, you're being interviewed as an accused employee, do you understand?

[01:01]
Officer Avena: Yes.

[01:01]
Sergeant Delgado: Okay. So the main allegations that we're gonna discuss today, there's five. Um, one is gonna be that, uh, the complainant alleges that on February 13th, 2022, um, while off duty, you operated a private vehicle under the influence of an alcoholic beverage. The second allegation is also on the same date, and that while off duty you physically assaulted her causing injuries and required, that required medical treatment. The third allegation is while on, while off duty broke her glasses and physically assaulted her. Um, the fourth allegation is that in January, 2022 while off duty, you made criminal threats toward her. And the fifth allegation is that on unknown date while off duty, you physically assaulted her. So with that being said, this interview pertains to a criminal misconduct. Therefore, I am going to advise you of your Miranda rights. You have the right to remain silent. Do you understand?

[02:04]

[21:55]
Sergeant Delgado: Okay. So as you were driving, um, did you feel you were impaired?

[22:03]
Officer Avena: Uh, no.

[22:04]
Sergeant Delgado: Okay. So from the bar, you guys went where? Home, right?

[22:09]
Officer Avena: Oh, Uh, I, we drove Home.

[22:11]
Sergeant Delgado: Okay. And, um, what, what happened when you guys got home? Was, sorry, before that, was there any physical altercation in the car?

[22:21]
Officer Avena: No.

[22:22]
Sergeant Delgado: No. Okay. Uh, when you got home, what happened next?

[22:29]
Officer Avena: So, um, I, I, I entered the gate and, uh, I, I have a, a manual garage. So I gotta lift it up every time I parked my car inside. And as I, as I did that, she got off and came inside the apartment. Uh, we're on the second floor. I put the car away, locked it up, walked upstairs. I, I entered the apartment and I saw that she was in the restroom. 'cause I could see that the light was on in there and the door was closed. And as I was in the hallway, I saw one of the entry hallway, it's, it's, it's a living room, I guess. Um, uh, we have a, uh, a side entry table. And I saw that her, her purse was there and her phone was right next to it, and it, it was unlocked. And I grabbed the phone and, um, I, I, I grabbed the phone for the reason. Um, kind of like weeks prior to this, she's kind of been hiding her phone as far as, um, she would not charge it when we would go to sleep, could we sleep on the same bed? She was, she wasn't charging her phone anymore. She would tuck it underneath her stomach when she would sleep. And she was very, uh, you know, just like small little signs that she wouldn't have her phone around me.

[23:45]
Sergeant Delgado: Mm-hmm <affirmative>.

[23:45]
Officer Avena: She wouldn't use it around me as much anymore. So I, I kind of had like, you know, uh, like I was kind of curious at that point, like, why is she hiding her phone? I I, I didn't bring it up

[23:55]
Sergeant Delgado: mm-hmm <affirmative>.

[23:55]
Officer Avena: Until, you know, un until I, 'cause I didn't really have anything to go off of, like, like for me to think that she's, you know, cheating on me or anything.

[24:03]
Sergeant Delgado: Right.

[24:04]
Officer Avena: But it was still in my mind. So when I saw the phone was unlocked, I was like, Hey, I'm just gonna go through her phone. I'm curious. Um, so I, I grabbed the phone and then as soon as I, as I grabbed the phone, and you can, it's an iPhone, so you can swipe up. And it shows that a recent open apps, and it was on, it was on the Instagram, uh, social media platform, and it was on the messages, and she was, um, it, it, it, it was on a message board with, um, uh, it, and it, it had a guy's face on there. And I, I clicked on his page and it showed that it, they don't even have each other as friends, but I guess you can still message each other.

[24:43]
Sergeant Delgado: Mm-hmm <affirmative>.

[24:44]
Officer Avena: And I went back to the messages and No, I'm, I'm sorry. So when, when I clicked on his, on the picture, I, I saw who it was, and I recognized him as it being her ex-boyfriend.

[24:55]
Sergeant Delgado: Okay.

[24:56]
Officer Avena: And I was, I was kind of even more interested in like, wait, wait a minute, what are they talking about? And I just, I saw, I went back to the messages and w what the, one of the latest messages was, you know, her giving him updates as far as to which restaurant we were at, what kind of drinks she was drinking. So I was like, why is she telling him like, all these little details? And so I, so in my mind I'm like, she, you know, she's probably just been talking for a little bit, but I start to swipe down. So to go back to the oldest to like the old messages, and it's just, it's going and it's going and it's going, I'm like, wow. Like, just paragraphs and paragraphs and conversations. And I don't remember everything. I remember small bits and pieces, but, um, small things as that I do remember is, um, them calling each other babe, which, you know, that's usually when you're in a relationship with someone that, how you speak to each other. Um, him, him telling her to stick to her list of things she has to do before she leaves me.

[25:56]
Officer Avena: Um, I, I can't remember everything right now, but it was just a, a lot of small details like, um, which day I'm going to work and which day they can hang out. Small things like that. So I, at this point, I knew, hey, she's constantly talking to this guy on a daily basis, on an hourly basis. He, he, he knows what we're doing. Like when I'm with her and she's planning to meet me, and they have a list of things that they're trying to do before she separates. So I'm, I'm reading all this within a span of,

you know, three minutes or so. And, um, I'm, I'm still standing in the hallway. I have both my hands on the cell phone and I'm holding it up to my face, and I'm, I'm reading it. And, um, she, she walks out of the restroom and she looks at me standing, um, in the entryway.

[26:51]
Officer Avena: And she's kind of like shocked. Like she couldn't believe I was holding her phone. I think she had like a pink case on it, so it, you could, stands out from my phone. Um, and then, um, and then I, I, I began to tell her what I, what I found. And she kind of made, uh, she made a face to where she seemed like confused. Like she didn't know what I was talking about. So then I began to read the messages out loud to her. Um, you know, like, oh, hi babe, good, or, or good morning babe, and so forth, or whatever the conversation they were having. I just, I just started reading from where I was at. And, um, as, as I was holding the phone and looking down at it, reading it, um, she ran towards me and she had to both her hands out to try to take her phone.

[27:39]
Officer Avena: And I twisted my upper torso. And as, as I did that, I kind of swung away with the phone in my hand still

[27:46]
Sergeant Delgado: mm-hmm <affirmative>.

[27:46]
Officer Avena: To prevent her from getting, 'cause I wanted to read more. I, I, I, I wanted to read everything. I wanted to find out everything that happened,

[27:51]
Sergeant Delgado: right.

[27:52]
Officer Avena: So as, as she came towards me and she charged towards me, I twisted my upper torso and my, uh, right elbow struck her on the side of her face. And she fell over to the side, um, which knocked over that entry table. And, um, at, at, at that point, I ran to the bedroom, to our bedroom, and I, I locked the door so she won't, so to prevent her from, you know, coming in and,

[28:25]
Sergeant Delgado: because you still?

[28:26]
Officer Avena: I stood on the phone and I, I wanted to continue reading the conversations. Um, as I, as I laid on the bed, and I was, as I was there, she, she first started to knock for me to open the door, and I didn't even respond. And she started to bang on the door very hard for about, I wanna say two minutes maybe, but like, repeatedly hitting the door very hard. And I, I still continued to, um, read the messages and actually tried calling, uh, the guy that she was messaging through her Instagram. I, I, there's a dial option. I called him a few times, he wouldn't answer. Um, so I was like, okay, this, this guy's not gonna answer. So I just continued to read

and the, the banging continued. And then as I was laying on the bed, I observed the, the, the door kind of bust open, which, which broke like the wooden door jamb. Um, and she, she ran towards me as I was on the bed, and she jumped on top of me. Um, and she was trying to take her, trying to take the phone. And I still, I, I wanted to read everything.

[29:32]
Officer Avena: You know, someone, I've been in a relationship for almost 10 years with I, I wanted to know everything that was going on. So I did everything I could to, you know, hold onto the phone. And she, you know, she know she, she was throwing like her, like, she jumped on top of me and I was, I told her to get off. She wouldn't get off. She wanted the phone and I was preventing her. And in, in doing so, I was able to, uh, push her off of me. And she fell off the bed onto the, onto the bedroom carpet. And I got up and I ran to the living room. And as I was in the living room, um, I, I continued to read for, I don't know, maybe 20 more seconds. And her phone died. And then as it happened, I heard her throwing up in the, in the bedroom.

[30:24]
Officer Avena: Um, and then I walked into the, to the bedroom. And then I observed her, she was standing over the dirty clothes hamper, throwing up on it, on, on the dirty clothes and on herself. And she asked me if I could turn on the shower for her. So I went into the restroom, I turned on the shower, and then she walked straight into the restroom and she went into the bathtub and sat down with her clothes on. And then she started to cry. And, uh, uh, she began apologizing about what I had discovered. And I, at that point, I just wanted to, I just wanted to contact this guy to get, you know, his side of the story. 'cause I couldn't read any more of her messages. I wanted to see what he had to say. So that's when I went to the, I went back to the room.

[31:14]
Officer Avena: Um, and, uh, I, I was, I, I was crying, of course, I, I was sad of what I had discovered. And I, I got on my phone and I went on Instagram, and I remember his username. So then I went ahead and messaged him. Uh, I told him to call me asap and of, of course, he didn't answer or write back because it was maybe like three in the morning at the time. Um, and then I, and then I just sat there crying and I kind of like dozed off on my phone. 'cause I, I was, I was, since I couldn't find him, his profile was private at the time. I, I tried finding him on other platforms, like, I don't know, Facebook, things like that. I can find out more about this guy. And as I was doing, so, I, I kind of dozed off and kind of started falling asleep, uh, for a few minutes.

[32:05]
Officer Avena: And then I, I heard Victim calling my name. It, what, what, as I had my eyes closed, it kind of sounded far away. And I, and I, and I opened my eyes and, and then I, I heard her calling me. She's like, babe, babe. And I, I, I, I got up and I went to the restroom and the shower was still running. And she said, can you please gimme a towel? I'm cold. So I, I went to the closet. I, I got a towel. And uh, I handed it to her. And, uh, um, she said that she needed help. So I, I helped her get out of the shower, and I went back into the room. I laid down and I fell asleep. And then, um, that was it, that night or early morning.

[redacted] called me, said that she's filing a report for domestic violence allegations. Uh, a detective and a police officer came out and I told them, Hey, I'm, I'm off duty, uh, Los Angeles police officer, and I, I had, but prior to leaving my apartment, I, I know how the, how the process works, which in which they take your firearms. So I was like, let me just take my firearms just to give 'em to them when I'm there. So I put 'em in a backpack. And when, when I, when I, when I was explaining why I was there, I told 'em that I was LAPD and in my backpack, I have two firearms, um, which are both registered to me. And they're like, okay. Then. So I took off my backpack, gave it to them, and then they, they placed me under arrest. Uh, and that's it.

[43:15]
Sergeant Delgado: Okay. I mean, so let me just, um, we'll, I'm gonna kind of like backtrack on little additional questions. Okay. Just to clarify, not on your statements, but just like to verify with you if these things happened or not. Okay. So, um, like number one, um, in the episode where you were driving from, um, flashbacks to home, um, do you recall driving fast or, or doing any, like, or braking hard?

[43:46]
Officer Avena: No.

[43:47]
Sergeant Delgado: Okay. And then once you got to the, uh, your home, um, did you ever drag, uh, Victim into the bathroom?

[43:58]
Officer Avena: No.

[43:59]
Sergeant Delgado: Okay. Um, so it was Victim who asked, who put herself in the bathtub and, um, turned on her own shower?

[44:09]
Officer Avena: No, uh, I turned on the shower for her. Okay. She asked me to, as she was throwing up, she like, can you please turn on the shower? She had threw up all over herself.

[44:16]
Sergeant Delgado: Okay. And

[44:16]
Officer Avena: so I turned on the shower.

[44:18]
Sergeant Delgado: Do you remember the temperature of the water?

[44:23]
Officer Avena: I, I do not remember the temperature of the water.

[44:26]

Sergeant Delgado: Okay. And then, um, did you ever refuse to let her out of the bathtub?

[44:34]
Officer Avena: No.

[44:35]
Sergeant Delgado: Okay. Did you ever punch her in, in her left side of the face?

[44:41]
Officer Avena: No.

[44:42]
Sergeant Delgado: Did you ever punch her at all?

[44:45]
Officer Avena: No.

[44:47]
Sergeant Delgado: Okay. Did you ever pull her hair?

[44:51]
Officer Avena: No.

[44:52]
Sergeant Delgado: Okay. Did you ever, um, take her glasses or break them?

[44:57]
Officer Avena: No.

[44:58]
Sergeant Delgado: Okay. Um, so you never scratched or slapped her or, or choked her?

[45:05]
Officer Avena: No.

[45:06]
Sergeant Delgado: Okay. Um, has Victim ever, like, ha. There has never been any domestic violence amongst between you two?

[45:20]
Officer Avena: Hello? Hello?

[45:22]
Sergeant Delgado: Yeah. Can you hear me?

[45:23]
Attorney Wilcox: I can hear You.

[45:24]
Sergeant Delgado: Yeah. It, it kind of broke up a little bit.

[45:26]
Sergeant Delgado: Ha. Has there ever been domestic violence between you two? Physical?

[45:32]
Officer Avena: No.

[45:34]
Sergeant Delgado: Okay. So you've never pulled her hair in the past?

[45:38]
Officer Avena: No.

[45:38]
Sergeant Delgado: Okay. Uh, lemme see, what other one, do you remember, um, Victim taking two Tylenol pills in the night?

[45:51]
Officer Avena: Um, I don't remember.

[45:52]
Sergeant Delgado: Okay. And do you remember her telling you that she, um, she had pain like the night before when, before you guys fell asleep?

[46:02]
Officer Avena: No.

[46:03]
Sergeant Delgado: Okay. Um, do you remember telling her that you did not wanna go to jail and that you felt like hurting yourself?

[46:15]
Officer Avena: No.

[46:17]
Sergeant Delgado: Okay. Um, Lemme See. Better. Okay. Let me see what other need. How about an incident in January? Do you recall any incident where you, um, broke her glasses and pulled her hair? Or did you ever threaten to kill her?

[46:40]
Officer Avena: No.

[46:40]
Attorney Wilcox: January of 2022?

[46:42]
Sergeant Delgado: Yes, correct. January of 2022?

[46:46]
Officer Avena: No.

[46:47]
Sergeant Delgado: No. Okay. Um, lemme see,

[46:54]
Sergeant Ortega: I just have a couple myself. Um, that evening that you guys went out, um, do you remember where [redacted] was?

[47:03]
Officer Avena: I'm sorry, sir. The first part of the question was broken up. Can you repeat it one more time?

[47:06]
Sergeant Ortega: So we're, we're talking about that evening. You, you guys went out of this incident. Um, was [redacted] home?

[47:14]
Officer Avena: No. Yeah. So, uh, prior to us, uh, going out to the restaurant, we, [redacted] came in the car with us and we dropped [redacted] off at, um, Relevant Party 3's house.

[47:26]
Sergeant Ortega: Okay.

[47:27]
Officer Avena: And then we went to the restaurant.

[47:29]
Sergeant Ortega: Okay. And so when you guys returned home, [redacted] was, [redacted] was basically spending the night at, uh, RP 3 's house?

[47:36]
Officer Avena: That's correct.

[47:37]
Sergeant Ortega: Okay. And then I know you weren't sure about the times, like what time you went to the uptown Whittier brewery. Uh, do you recall or estimate how much time you spent there?

[47:49]
Officer Avena: Uh, okay, so I would say at, at, so at the first restaurant, west Covina, the sushi, it was maybe about an hour or so.

[47:58]
Sergeant Ortega: Okay.

[47:59]

Officer Avena: And got to Whittier Brewery. We, we were there for about, I would say an, uh, an hour and a half because we, we were, you know, drinking and playing like the games they had.

[48:11]
Sergeant Ortega: Right.

[48:12]
Officer Avena: And at flashback, I believe it was anywhere between an hour and an hour and a half as well.

[48:17]
Sergeant Ortega: Okay. And then, um, you did mention when you guys initially, when you, when you, when you had her phone and she came out to grab it, you turned your right torso and your right elbow struck the side of her face. Um, so, um, I guess what I'm asking was, so you, your elbow connected with her face, was that an intentional hit?

[48:40]
Officer Avena: That was not intentional. That was, um, I, I did that to prevent her from taking the phone.

[48:46]
Sergeant Ortega: Right. So it was unintentional. Um, is that the only time that you recall her face being struck that night?

[48:56]
Officer Avena: Yes.

[48:56]
Sergeant Ortega: Okay. So do you believe that's what caused her swollen eye?

[49:02]
Officer Avena: I, I don't know. Honestly, I don't know what it was.

[49:06]
Sergeant Ortega: Right, right. Do you know if she, she fell that, that night or if anything like that?

[49:11]
Officer Avena: Uh, well, yes. Uh, as I, uh, stated earlier, uh, when that happened, when, uh, I, I prevented her from grabbing the phone from my hand and I, I twisted my upper body and she got, she was struck in the face, she fell over to the side, um, which actually knocked over the side table and then she hit the, the carpet and that, that was, uh, that time. And the second time was when I was in the bedroom and she jumped on top of me and, and she was struggling to try to, to try to get her phone. And I, I, you know, tried to get her off of me and I, and I, you know, I, I was able to get her off of me and I, you know, kind of pushed her off and she fell over off the side of the bed and fell on the carpet. Okay.

[49:56]
Sergeant Ortega: And, and the, well, both those times that she fell, she struck her face as well?

[50:01]
Officer Avena: I, I, I don't know. I didn't, I didn't see.

[50:04]
Sergeant Ortega: Okay. That's all I have.

[50:07]
Sergeant Delgado: Okay, <inaudible>. Well, um, that's all, all of our questions. Is there anything else you feel is important for us to know for this investigation?

[50:17]
Officer Avena: Not at this time,

[50:19]
Sergeant Delgado: No. Okay. Um, Ms. Leslie Wilcox, do you have anything else?

[50:24]
Attorney Wilcox: I just wanted to ask him one thing. When, um, they were asking originally about the, um, amounts and size and brands and types of, uh, drinks that you had. Um, on the night of February 12th into the February 13th, did you think it was important to remember what brand of beer you were drinking?

[50:43]
Officer Avena: No.

[50:44]
Attorney Wilcox: Okay.

[50:45]
Sergeant Delgado: Okay.

[50:45]
Attorney Wilcox: Um, if you had been interviewed in February, do you think you would have a better recollection of the type of beer or sizes?

[50:55]
Officer Avena: Yes.

[50:56]
Attorney Wilcox: Okay. That's all I have.

[50:58]
Sergeant Delgado: Okay. Thank you. Um, in hindsight, would you say or do anything different?

[51:10]

INVESTIGATIVE RESPONSIBILITY

The investigating officer (I/O), for this case was Sergeant II Martha Delgado, Serial No. 39903, Internal Affairs Division (IAD), Complaint Investigation Section-Central. She can be contacted at (213) 996-2783. Any request for supplemental investigation must be approved by the Commanding Officer at IAD, via an Intradepartmental Correspondence, Form 15.02.00.

STATUTE ISSUES

On November 23, 2022, Detective Andres Villalobos, from Baldwin Park Police Department (BPPD) advised they presented a criminal case against Police Officer II Armando Avena, Serial No. 42919, Pacific Patrol Division, to Los Angeles County District Attorney's Office (Case No. 2EM00297). Deputy District Attorney Melvin Lopez filed one count of California Penal Code 273.5 (F)(2), Domestic Violence, against Avena. Avena was scheduled to be arraigned on January 18, 2023. Thus, the statute date remained **February 13, 2022.**

BACKGROUND

Avena and his [redacted], Complainant- Victim, were in a relationship for approximately nine years. The couple lived together with [redacted], Relevant Party 1.

SUMMARY

On February 12, 2022, Avena and Victim went out for drinks at the Flashbackz Lounge, located in the City of Whittier. While there, Avena and Victim became involved in an argument over the fact that Victim had engaged in conversation with an unknown male patron at the bar area of the lounge. The couple mutually agreed to leave the lounge after their argument. Despite having been consuming alcohol, Avena drove them home to Home Address, in the City of Baldwin Park. When the couple arrived home, they continued their argument which led to Avena physically assaulting Victim, causing her to sustain numerous injuries.

The following morning, Avena drove Victim to her [redacted], Relevant Party 2's, residence at Location 1 in the City of Baldwin Park, and left her there. Once at RP 2's residence, RP 2 observed Victim's injuries and immediately notified BPPD (Addenda 1 Crime and Arrest Report).

BPPD Officer Trinidad, Serial No. 4445, responded to the domestic violence investigation. Upon Trinidad's arrival, Los Angeles County Fire Department personnel was providing medical treatment to Victim. She was transported to Kaiser Permanente Baldwin Park Medical Center for further medical treatment. Trinidad interviewed Victim at the hospital and obtained an Emergency Protective Order (EPO) for her (Victim's Photographs) (Addenda 2 Restraining Order).

Upon Officer Trinidad' return to Baldwin Park Police Station, Avena turned himself in. Avena was arrested for CPC 273.5 (F)(2), Domestic Violence.

On February 13, 2022, Lieutenant II Eric Eppolito, Serial No. 34270, IAD, assigned to the IAD-On Call Team, was contacted by Captain I Michael Applegate, Serial No. 34613, Pacific Division, Patrol Commanding Officer. Captain Applegate advised Avena was arrested for Domestic Violence by BPPD. Additionally, Captain Applegate advised Eppolito that Officer Avena had made threats to harm himself and could not yet be located.

> **Note:** Avena turned himself in to the BPPD prior to the IAD On-Call team's arrival. Eppolito along with Sergeant II Todd Schmidt, Serial No. 32902, and Sergeant II Shawn Svboda, Serial No. 36699, IAD, responded to RP 2 's residence and interviewed Victim and RP 2 for this complaint investigation (Avena's Photographs).

During her interview with IAD, Victim disclosed past domestic violence incidents with Avena. In January 2022, Avena threatened to kill her, broke her eyeglasses, and pulled her hair during various disputes. In one particular incident, that occurred on October 24, 2020, Avena threw a folding chair in her direction, nearly striking her. During this dispute, BPPD responded to their residence. BPPD kept the peace and did not interview Avena due to him being asleep. On that occasion, Victim agreed to go to RP 2 's home for the evening.

ALLEGATION 1. Complainant Victim alleged that on February 13, 2022, Officer Avena, while off -duty, operated his private vehicle while under the influence of alcoholic beverages.

ALLEGATION 2. Complainant Victim alleged that on February 13, 2022, Officer Avena, while off -duty, physically assaulted her causing injuries that required medical treatment.

ALLEGATION 3. Complainant Victim alleged that sometime in January of 2022, Officer Avena, while off-duty, threatened to kill her.

ALLEGATION 4. Complainant Victim alleged that sometime in January of 2022, Officer Avena, while off -duty, unnecessarily broke her eyeglasses and cellphone, and forcibly pulled her hair.

ALLEGATION 5. Complainant Victim alleged that on unknown date and time, Officer Avena, while off -duty, pulled her hair during an argument.

ALLEGATION 6. Complainant Victim alleged that on October 24, 2020, Officer Avena, while off -duty, threw a folding table in her direction, nearly striking her, during a domestic dispute.

ALLEGATION 7. Complainant Victim alleged that on October 24, 2020, Officer Avena, while off -duty, became involved in a domestic violence incident which resulted in the response of on-duty officers from the Baldwin Police Department.

Victim[1] and Avena were in a relationship for approximately nine years. They have [redacted] (Relevant Party 1. [redacted]) in common and lived together at Home Address, in the City of Baldwin Park.

Victim and Avena had prior history of unreported domestic incidents. Those prior incidents involved naming calling, breaking her cell phone, and breaking her prescription eyeglasses. Victim advised the only previous physical altercation was "years ago" when Avena pulled her hair. Victim believed the physical altercations escalated after he became a police officer.

> **Note:** The investigation revealed that the incident described by Victim occurred in January of 2022.

On February 12, 2022, Victim and Avena went to the Flashbackz Lounge. Avena and Victim had not consumed any alcohol prior to their arrival to the bar. Victim advised she and Avena only consumed beer at the location. Victim recalled they had a total of four glasses of Pacifico beer each throughout their stay at the bar. Victim believed Avena was "a little buzzed, not too intoxicated" throughout the night.

While at the lounge, Victim walked to the bar to order some drinks. While at the bar area, an unknown male approached her and asked her what drinks she had ordered. Victim advised the male of her order. Avena then approached her from behind and questioned why she had engaged in conversation with the unidentified male at the bar area. Victim explained the nature the conversation, but Avena grabbed Victim and took her to the table. The couple went home soon after. Victim stated there was no physical altercation between them while they were at the bar.

As Avena drove home, he continued to yell at Victim for speaking to the unknown male at the bar. Victim warned Avena that he was driving too fast and continually braking hard. Victim did not observe Avena swerve or driving in a manner that led her to believe Avena would collide with other vehicles.

Once the couple arrived home, Avena continued to yell at Victim over the same issue of her talking to the unknown male at the bar. As Victim began to change her clothes, Avena went through her phone and noticed a text conversation she had had with an old male friend. Avena questioned her about the text conversation and Victim told him he was taking the text conversation out of context. Avena then pulled Victim's hair and dragged her into the bathroom. There, Victim became ill and vomited. Avena threw her into the bathtub and turned on the shower head with cold water. Victim told Avena that the water was cold, but Avena refused to let her out of the bathtub and told her, "you're not getting out". As Victim remained inside the bathtub, Avena punched her in the left side of her face as he pulled her hair. At one point, Avena took Victim's glasses off her and broke them. Avena also scratched, slapped, and choked Victim with both hands. Victim did not believe she had lost consciousness but advised she had to scratch Avena in

[1] On February 13, 2022, Svoboda and Schmidt interviewed Victim for the Complaint investigation. The recording of the interview was uploaded onto the Complaint Management System (CMS).

self-defense to get him to stop choking her. Once she scratched him, Avena stopped choking her.

After the physical altercation was over, Victim took two Tylenols to ease her headache and immediately fell asleep. Victim woke up the next morning with a painful headache. Victim asked Avena to take her to RP 2 's residence. Avena began to cry and asked her to stay. Avena asked that she not tell anyone, including RP 2 , the police, and hospital staff, where or how she sustained the injuries. Avena began to tell Victim he did not want to go to jail and wanted to be able to see Relevant Party 1 .

Eventually, Avena agreed to drive Victim to RP 2 's residence. Avena refused to give Victim her cell phone and her Apple watch back when he left her at RP 2 's residence. Avena left the location after Victim stepped out of the vehicle. Victim never recovered her cell phone or watch and later purchased her own cell phone.

Victim told RP 2 that Avena had physically assaulted her and RP 2 called the police and requested an ambulance to respond to treat the injuries she had sustained. Victim was medically treated by Los Angeles County Fire Department personnel and transported to the Kaiser Permanente Baldwin Park Medical Central for additional medical treatment.

> **Note:** Victim agreed to sign the medical release form and described her injuries to the IAD On-Call team as follows. Victim sustained bruising and swelling to the left side of her face, blood shot eyes, bruising on her hands, back and neck, and broken nails. Victim was also diagnosed with concussion which was a result from the physical altercation with Avena.

Victim had not been in communication with Avena from the time he dropped her off at RP 2 's residence. Avena continuously called in attempt to speak to Relevant Party 1. Victim decided to block Avena's cell phone number and advised she would fully cooperate with the investigation.

> **Note:** On January 6, 2023, the I/O contacted Victim to request copies of the text messages that Avena had sent her. Victim advised there were no text messages to assist in memorializing the Domestic Violence incident that occurred on February 13, 2022. She only recalled one phone call occurring during that period. Additionally, Avena kept her cellular phone because he was the one who bought it for her and paid the monthly bill.

Victim also alleged another domestic incident that occurred sometime in September of 2020. Victim had gone to Relevant Party 4 's house to watch a Dodger's game while Avena went out with his friends. Avena returned home drunk and began to question Victim 's whereabouts. Victim told him she was at RP 4 's house and to call [redacted] if he doubted her. Avena became angry and began throwing items out of the pantry. One of those items happened to be a folding table. Avena threw it in Victim 's direction, but missed. The table ended up hitting the wall. Victim feared for her safety and called BPPD. Victim said the police responded and believed they took a police report for the

incident due to the officers taking down her information, but was uncertain if a report was completed.

> **Note:** The I/O contacted BPPD to ascertain if a report was taken for the incident in September of 2020 and was met with negative results. However, it was later determined the incident Victim believed occurred in September of 2020 actually occurred on October 24, 2020. BPPD responded to Victim and Avena's residence for a verbal dispute investigation. Upon their arrival, Avena was already asleep and Victim agreed to go to RP 2 's residence[2]. BPPD confirmed this incident. No additional reports unrelated to this scope were taken (Addenda 3 October of 2020 Radio Call Incident)[3]

Victim also stated that Avena threatened her in the past and the last time was in January of 2022. Victim had gone out to dinner with her friends and missed his phone call. When Victim returned home from the dinner, Avena grabbed her glasses, broke them, and pulled her hair. Avena then threatened to kill her if she ever went out again. Victim believed his threats were real and believed he would kill her. Avena told her he did not want her going out because he was jealous. Victim told Avena that she had never given Avena any reason to be jealous. Victim believed Avena was controlling. She did not report this incident to the police.

Victim explained that for the past four years, Avena had gone out with his friends every other month and returned drunk. Avena would become "aggressive" towards her and would want to argue but Victim would ignore him by just going to sleep to de-escalate the situation. Avena stopped going out with his friends since last year and only recalled him going out three times this year.

RP 2 [4] advised she was aware that Victim and Avena had gone out the night prior (February 12, 2022) to a club or bar. On February 13, 2022 at approximately three in the morning, Victim called her crying as Avena was driving home from the bar.

Victim explained she was involved in a dispute with Avena at the club and that Avena had dragged her out of the club. Avena was upset with her because he saw her talking to other guys at the bar. Victim explained to RP 2 that when she was ordering drinks at the bar, the bartender told her tequila shots were being sold at two shots for $16.00. Victim believed it was a good price and bought four shots for both her and Avena. While Victim was at the bar, an unknown male asked her what type of drinks she was having. Victim told the unknown male she was drinking Don Julio 70 Tequila. Avena then approached her and asked her why she had four shots. Avena began questioning if she had ordered the other two shots for the men standing next to her. She explained to him that the shots were cheap, and she decided to get four shots to save herself another trip to

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[2] On January 6, 2023, the I/O interviewed Victim for the Complaint investigation. The recording of the interview was uploaded onto the Complaint Management System (CMS).
[3] On December 21, 2022, the I/O spoke with BPPD Records Clerk Chvez, Serial No. 4965, who confirmed no additional reports had been filed. On January 6, 2023, the I/O spoke with BPPD Records Clerk Khor and Operator Serial No. 4062, who confirmed the radio call and that no additional reports had been filed.
[4] On February 13, 2022, Svoboda and Schmidt interviewed RP 2 for the complaint investigation. The recording of the interview was uploaded onto the CMS.

the bar. Avena began to argue with her and eventually dragged her out of the club. Victim advised RP 2 she was scared because Avena was mad and driving too fast as they drove home. RP 2 advised her to calm down, go home, sleep, and that they would talk about it in the morning.

RP 2 said Victim had a tendency of calling her whenever she argued with Avena. In those previous incidents, RP 2 responded to their residence but upon her arrival, Victim would tell her everything was under control and would ask her to go back home. Due to that pattern, RP 2 no longer wanted to respond to the couple's residence at three in the morning just to be sent back home. RP 2 figured she would discuss the incident with her more detail later in the day. RP 2 never expected Avena to harm Victim in that manner. RP 2 admitted she knew Avena had a temper but did not imagine he would ever actually hurt Victim. RP 2 advised she was aware Avena "could explode really quickly" and has seen how he acts when he consumes alcohol.

Later that same morning, RP 2 's [redacted], Relevant Party 3, told her she had been texting Victim, but she had not responded. RP 3 advised the texts messages were not going through and told her the cell phone must have been turned off. RP 2 was also aware Avena had a tendency of taking Victim 's phone away from her. RP 2 remembered Victim had to report to work and they decided to text Victim 's co-worker and asked about Victim 's whereabouts. Victim 's co-worker advised Victim was not at work. RP 2 text messaged Avena asking for Victim and asked him to call back. Avena text RP 2 and asked her if she was home. RP 2 told him she was and he advised he would be dropping Victim off her home.

Sometime during mid-morning, Avena dropped off Victim at RP 2 's home. As Victim walked up to the front door, RP 2 noticed Victim was wearing a mask over her mouth while holding her face. When RP 2 opened her door, she then noticed Victim had been physically assaulted.

Once Victim told her Avena had hit her, RP 2 immediately called Avena and told him to turn himself in to the police or she would report the incident to the authorities. Avena hung up on RP 2 and RP 2 immediately called the police due to Avena hanging up on her. Victim also told RP 2 that Avena had hit her in the restroom, placed her in the bathtub with cold water, beat her, banged her head.

RP 2 reiterated she was aware of Avena's temper. She has heard him yell at Victim in the background during prior telephonic conversations. RP 2 believed Avena's anger was only geared toward Victim.

Avena[5] and Victim were in a relationship for approximately nine years and had been living together since 2014. They had [redacted] in common. Avena advised he and Victim had no history of reported or unreported domestic violence.

[5] On February 15, 2022, Sergeant Miguel Ortega, Serial No. 33273 and the I/O interviewed Avena. The recording of the interview was uploaded onto CMS.

On Saturday, February 12, 2022, at approximately 2000 hours, Victim and Avena went out to eat and drink at a restaurant the City of West Covina. Prior to arriving at the restaurant, they dropped off RP 1 at RP 3 s residence. Avena could not recall the exact name of the restaurant but advised they went to a Sushi restaurant located inside the West Covina Plaza. As they ate and drank at the restaurant, the couple got into a minor argument regarding the fact Victim wanted to go to a club in the City of Fullerton after dinner. Avena did not like the idea due to the fact the club was approximately 40 minutes away and they both had to work the following day. The couple left the restaurant and went back to their vehicle.

While inside their vehicle, Victim continued to express she wanted to go out. The couple agreed to go out to a brewery in the Uptown Whittier District in the City of Whittier. Avena could not recall the time they arrived at the brewery. Avena stated he and Victim walked up to the bar and ordered unknown types of Indian Pale Ale (IPA) beers. Avena estimated they had approximately three 12-ounce beers each during their time at the brewery. The couple then walked to the Flashbackz Friday's Lounge which was nearby the brewery. Avena did not recall what time they arrived at Flashbackz Friday's lounge, but, they spent approximately an hour at the brewery.

Avena recalled they bought several beers when they arrived at the Flashbackz Friday's Lounge. Avena was unable to recall the brand or size of the beers they consumed. The couple ordered their drinks and sat down at a table to watch a man who was playing his guitar at the location. Avena recalled they had several rounds of beers while at the lounge.

Victim made her way over to the bar to order additional drinks, while Avena remained at their table to secure their spot. Avena noticed Victim had taken a while at the bar but understood it took time to order drinks at a full bar. Avena eventually observed Victim talking and laughing with two unknown males at the bar. Avena went to check on Victim since he had never seen the males who were talking to her. As Avena arrived at the bar, Avena observed Victim signing a receipt for four drinks. Avena asked why she had ordered four shots of tequila. Victim became upset at the fact he was questioning about why she had purchased four shots. They both walked to their table as Victim was carrying a tray with the four shots. Avena could not recall how many shots he had but advised they both consumed the four shots. Avena was not sure what brand of liqour the shots contained but advised they tasted like tequila. Avena continued to question Victim on why she had engaged in such long conversation with the unknown males at the bar. Victim became upset over the continuous questioning and they mutually decided to leave the location. Avena estimated they spent approximately 1 ½ hour at the lounge.

Avena did not think about whether he was too impaired to drive. His mind was consumed with the thought Victim had entertained a conversation with the other males at the bar. Avena did not believe he was impaired to drive. Avena confirmed there was no physical altercation while they were in the vehicle.

Upon arrival to their residence, Avena advised he had opened the garage door with his garage remote control. At this point, Victim had already exited the vehicle and began to

walk upstairs into their apartment. Avena parked in their garage, proceeded to their apartment, and noticed Victim had gone into the bathroom.

Avena observed Victim left her purse and phone on a living room table and also noticed her phone was unlocked. Avena wanted to go through her cellphone because, days prior, he noticed she had been hiding her cellphone from him. Avena decided to go through it and noticed the cellphone screen was opened to her Instagram Direct message screen. Avena immediately noticed that Victim had engaged in a conversation with her ex-boyfriend. Avena began reading the messages she exchanged with her ex-boyfriend and became upset when he noticed she had been updating him about their whereabouts throughout the night. She also provided the ex-boyfriend with all the details that transpired through their night. Avena began to scroll back into the conversation to see how long they had been in contact for and realized Victim had engaged in conversation with ex-boyfriend for several weeks. Avena became upset at the fact they referred to each other as 'Babe.' Avena also became upset over the fact the ex-boyfriend had made a list of things she needed to do before she left Avena. Avena read all this in the span of three minutes.

Victim eventually exited the bathroom and observed Avena was holding her cellular phone. Victim was shocked Avena was holding her cellular phone. Avena began to read the messages aloud as he held her cellular phone. Victim ran towards him and attempted to take the phone away from him. Avena explained that as he was holding the phone he turned around to give her his back to prevent her from taking the phone away from him. Avena wanted to continue reading all the messages. As he twisted his upper torso, his right elbow unintentionally struck her on the side of her face. Victim then fell over to her side which knocked down the entry table in the living room.

Avena then ran into the bedroom and locked the door to prevent her from coming in so he could continue reading the conversations in her cellular phone. Avena laid in the bed and continued to read the messages. Victim banged on the bedroom door and demanded he let her in for approximately two minutes. Avena ignored her requests and continued reading through the messages. Avena attempted to call the ex-boyfriend through the direct messages but failed to get in contact with him. The banging continued and then he observed the door was "busted open." Victim entered the bedroom and jumped on top of him. Avena had been with Victim for almost ten years and he wanted to continue to read the messages to find out exactly everything about the conversation. Avena explained Victim continued to reach for the cell phone. Avena pushed Victim off the bed and she fell off onto the carpet. Avena ran to the living room and continued to read the messages for approximately 20 more seconds before her cell phone battery died.

Avena then heard Victim vomiting in their bedroom. Avena went into the bedroom and observed her standing over the hamper. Victim began to vomit into the hamper and on herself. Victim asked if he could turn on the shower for her. Victim walked straight into the restroom and into the bathtub. Victim sat down with her with her clothes on. Victim tried to apologize about what he had discovered. Avena went back to the room because he still wanted to talk to the ex-boyfriend. Avena again attempted to get a hold of the ex-boyfriend over the phone but was not able to do so. Avena advised he was crying at this

time because he had just found out Victim had been cheating on him with her ex-boyfriend. Avena recalled he fell asleep around three in the morning.

At one point he woke up to Victim saying, "Babe, can you help me." Avena got up and observed Victim was still in the shower. Avena turned off the shower and gave Victim a towel. Avena handed her the towel and she told him she needed help getting out of the shower. Avena assisted her out of the bathroom and Avena returned to their bedroom, laid down on the bed, and fell asleep.

Later in the morning, Avena's cell phone alarm went off because he had set it up earlier when he knew he needed to drive Victim to work and then head out to work himself. Avena could not recall what time the alarm went off. As Avena attempted to wake Victim, he noticed her eye was swollen. Avena woke her up and told her to look at her face. Avena began to cry because he knew what was going to happen in situations like this.

Avena advised Victim they needed to get her medical attention and drove toward the hospital. Victim told him she wanted to be dropped off at RP 2 's residence. Victim wanted RP 2 to go with her to the hospital. Avena did not want RP 2 to see her with a black eye because he did not want any additional problems. Victim insisted she wanted to go to RP 2 's residence, so Avena drove her there. Avena dropped Victim off near the rear of the apartment gate. Victim began to apologize to Avena. Avena told Victim that he did not want to be with her anymore and Victim began to cry. At one-point Victim asked for her phone back. Avena advised he wanted to continue reading the messages. He told Victim the cell phone technically belonged to him since he paid for phone and the bills that came with it.

As Avena drove home, RP 2 called. She told him, "I'm going to ruin your fucking life. Watch motherfucker. I'm calling the police." Avena met up with Relevant Party 5 and 6 at his apartment. Relevant Party 5 and 6 advised him it would be best for him to surrender himself to the police. RP 5 drove Avena to the police station due to the fact he was very emotional. Avena advised he was very emotional during this time because he was in disbelief over the fact he had been cheated on. Avena explained Victim was his [redacted] and therefore this was his first heartbreak. Avena arrived at the BPPD station and advised the officers he was a Los Angeles Police Department officer and was there because Victim had reported a domestic incident. Avena met with an officer and detective and they placed him under arrest.

Avena denied telling Victim he did not want to go to jail and denied ever telling her he wanted to hurt himself. He added he did not know it would be important to remember what brand or size of drink he was drinking during the time he was out with Victim. He would have had a better recollection of those beer brand names if he had been interviewed earlier to the time of his arrest.

In hindsight, Avena would have preferred he would have chosen to stay home and gone to sleep that night. Avena denied that he and Victim had been involved in reported and unreported domestic violence incidents in the past.

INVESTIGATOR'S NOTES:

1. The I/O contacted the Baldwin Park Police Department (Dispatch and Records) and obtained the comments of one previous "415- Boy/Girl" radio call. BPPD however, verified no previous domestic violence reports had been taken prior to this incident. After the Avena's arrest, BPPD responded to Keep the Peace radio calls due to Avena and Victim requesting them to respond due to an active EPO and in the process of picking up personal belongings.

2. The I/O contacted Maria Foster, Victim advocate, who advised an automatic restraining order against Avena had been granted.

3. The I/O met with Detective Villalobos from the Baldwin Park Police Department to obtain Victim and Avena's photographs.

4. Baldwin Park Police Department did not request Avena provide a Blood Alcohol Content (BAC) sample at the time of his arrest. Due to the considerable time lapse between the incident and the time in which the IAD Call-out Team was able to interview Avena while in BPPD custody (over sixteen hours), a BAC sample was not ordered.

ADDENDA

1. Baldwin Park Crime and Arrest Police Report
2. Restraining Order
3. Photographs
4. 5-year history of Radio Call Incidents at CP's residence
5. October of 2020 Radio Call

SUBMITTED BY:

_____ 01/06/2023
MARTHA DELGADO, Sergeant Date
Complaint Investigation Section- Central
Internal Affairs Division

APPROVED BY:

_____ 01/06/2023
RUTHANN CHAVEZ, Lieutenant Date
Officer In Charge
Complaint Investigation Section- Central
Internal Affairs Division

LETTER OF TRANSMITTAL
CF NO. 22-000472

ADJUDICATION

Public Complaint By: Victim **City of Baldwin Park, CA**

The Complaint Investigation, CF No. 22-000472, resulted in seven allegations of misconduct against one Department employee:

Police Officer II Armando Avena — Pacific Patrol Division
Serial No. 42919

The allegations are listed below with recommendations for classification and supporting rationale.

ALLEGATION 1. Complainant Victim alleged that on February 13, 2022, Officer Avena, while off -duty, operated his private vehicle while under the influence of alcoholic beverages.

CLASSIFICATION

It is recommended that Allegations 1 be classified as **SUSTAINED.**

RATIONALE

The investigation confirmed without question that both Avena and [redacted], Complainant Victim, consumed alcoholic beverages throughout the evening. According to Victim, they had four beers and four shots of tequila. Avena acknowledged that he consumed the alcohol at multiple drinking establishments on the night of February 12, 2022, and early into morning of February 13, 2022. Avena was unable to recall the exact number and size of alcohol drinks he consumed nor the timeframe he spent at each establishment but remembered that both he and Victim finished all the drinks they had purchased. Avena admitted to driving his personal vehicle on two separate occasions that evening, immediately after consuming the alcohol. Although Avena believed he was not impaired to the point that he could not drive home, he also admitted he disregarded his level of intoxication because he was distracted by the thoughts of jealousy. Further evidence to support Avena's level of intoxication were statements provided by Victim herself. She believed Avena had only been "a little buzzed, not too intoxicated" throughout the evening. Victim indicated that she was concerned about Avena's reckless driving and feared for her safety when she was a passenger in the vehicle; so much so that she called [redacted] Relevant Party 2 as they drove, to share her fears.

Therefore, it is recommended that Allegation 1 be adjudicated as **SUSTAINED.**

ALLEGATION 2. Complainant Victim alleged that on February 13, 2022, Officer Avena, while off -duty, physically assaulted Victim causing injuries that required medical treatment.

CLASSIFICATION

It is recommended that Allegation 2 be classified as **SUSTAINED.**

RATIONALE

On February 12, 2022, Avena and Victim went out for drinks at a lounge in the City of Whittier. They consumed alcohol and became involved in an argument when Victim engaged in conversation with an unknown male patron. The couple mutually agreed to leave the lounge after their dispute. Despite having consumed alcohol, Avena made the decision to drive them home. When the couple arrived home, they continued their verbal argument.

During their argument, Avena pulled Victim's hair and dragged her into the bathroom. Avena forced her into the bathtub and turned on the shower head with cold water. He refused to let her out of the bathtub and punched her in the left side of her face while pulling her hair. Avena scratched, slapped, and choked Victim with both hands, causing visible injuries.

Avena denied the allegation that he physically assaulted Victim and explained her injuries that she sustained them herself and that any contact he had with her was merely unintentional.

Photographs and medical records documented the significant injuries from the incident and supported that they were sustained from a physical altercation. The criminal investigation was presented to the El Monte District Attorney's Office for review. The Deputy District Attorney filed one count of California Penal Code 273.5 (F)(2), Domestic Violence. Avena was scheduled to be arraigned on January 18, 2023.

Therefore, it is recommended that Allegation 2 be adjudicated as **SUSTAINED.**

ALLEGATION 3. Complainant Victim alleged that sometime in January of 2022, Officer Avena, while off-duty, threatened to kill Victim.

ALLEGATION 4. Complainant Victim alleged that sometime in January of 2022, Officer Avena, while off -duty, unnecessarily broke her eyeglasses and cellphone, and forcibly pulled her hair.

CLASSIFICATION

It is recommended that Allegations 3 & 4 be classified as **SUSTAINED.**

RATIONALE

Victim claimed that Avena had threatened her in the past and remembered the last time occurring sometime in January of 2022. Victim had gone out to dinner with her friends and when she returned home Avena was upset that she had missed his phone call. Avena broke her glasses and pulled her hair. He threatened to kill her if she ever went out again. Victim believed his threats were real but never reported the incident to the police. Statements made by Relevant Party 2, , were noted as they relate to these allegations. RP 2 disclosed a pattern of behavior in which Victim would call RP 2 in the middle of the night when she argued with Avena. RP 2 would become so concerned for Victim's safety that she felt compelled to respond to their residence, only to be told by Victim that "things were under control," and her presence was no longer necessary. RP 2 described Avena as having a temper and "could explode really quickly" when he consumes alcohol. Adding, that during numerous past telephone conversations with Victim, Avena could be heard being verbally aggressive toward Victim. RP 2 believed Avena's anger was only geared toward Victim. Also concerning was Avena's tendency to take away Victim's phone to prevent her from communicating, citing that be believed he could do so because he "paid the bill."

In his compelled interview, Avena denied that he was involved in any other domestic violence incidents. However, this investigation revealed undisputable evidence Baldwin Park Police Department responded to the couple's home on October 24, 2020, at 0140 hours, for a Domestic Dispute investigation. Upon the officers' arrival, Avena was asleep. Victim woke him to advise of the police presence. In this incident, there was no evidence of a crime, a police report was not taken, and Victim chose to go to RP 2 's residence.

Therefore, it is recommended that Allegation 3 & 4 be adjudicated as **SUSTAINED.**

ALLEGATION 5. Complainant Victim alleged that on unknown date and time, Officer Avena, while off -duty, pulled her hair during an argument.

CLASSIFICATION

It is recommended that Allegation 5 be classified as **SUSTAINED.**

RATIONALE

Victim alleged that Avena pulled her hair on an unknown date during a verbal dispute. Although Victim was unable to provide detailed information regarding this confrontation, Avena has established a pattern of physical violence that includes pulling Victim's hair. An act in which probable cause was determined to exist for his arrest and subsequent filing of one count of California Penal Code 273.5 (F)(2), Domestic Violence. This fact, coupled with the witness's statements regarding Avena's "explosive" temper that is "geared" toward Victim when he consumes alcohol, substantiates the recommendation for this allegation.

Therefore, it is recommended that Allegation 5 be adjudicated as **SUSTAINED.**

ALLEGATION 6. Complainant Victim alleged that on October 24, 2020, Officer Avena, while off -duty, threw a folding table at her direction, nearly striking her, during a domestic dispute.

ALLEGATION 7. Complainant Victim alleged that on October 24, 2020, Officer Avena, while off -duty, became involved in a domestic violence incident which resulted in the response of on-duty officers from the Baldwin Police Department.

CLASSIFICATION

It is recommended that Allegations 6 & 7 be classified as **SUSTAINED.**

RATIONALE

On October 24, 2020, Victim and Avena became involved in a verbal argument. During the incident Avena, while intoxicated, became upset and threw a folding table in the direction of Victim, nearly striking her. Victim was in fear for her safety and called the Baldwin Park Police Department. Victim advised the responding officers of the incident but was unsure if a police report was ever taken.

The investigation determined Baldwin Park Police Department did respond to a Domestic Dispute radio call at the couple's residence. Unbeknownst to Avena, Victim called 911 due being in fear for her safety during a dispute with Avena. Despite no evidence of a crime and no police report taken at this incident, the statements made by RP 2 resonate. RP 2 disclosed the numerous incidents in which Victim called RP 2 when she argued with Avena. RP 2 would become so concerned for Victim's safety that she felt compelled to respond to their residence, only to be told by Victim that "things were under control," and her presence was no longer necessary. RP 2 described Avena as having a temper and "could explode really quickly" when he consumes alcohol. Adding that during past telephone conversations with Victim, Avena can be heard being verbally aggressive toward Victim

Therefore, it is recommended that Allegation 6 & 7 be adjudicated as **SUSTAINED.**

DIGITAL IN-CAR VIDEO/BODY WORN VIDEO/AUDIO RECORDINGS

Due to this being an off-duty incident there is no BWV or DICV associated with this incident.

ADMINISTRATIVE INSIGHT – Police Officer II Armando Avena

Employee Development Plan.

None.

Penalty.

The allegations in this investigation are of a serious nature and go directly to the question of Avena's fitness to serve as a Law Enforcement Officer. Avena is accused of multiple incidents of domestic violence as well as alcohol abuse which led to domestic violence and possible DUI. If these allegations are sustained, it would disqualify Avena from being able to perform most of the duties of an officer due to disclosure requirements. The victim and principal witness are both credible and the evidence of criminal activity was strong enough that the Los Angeles County District Attorney filed felony criminal charges against Avena. If Avena was to continue serving as a police officer, any court case he was involved in would require the District Attorney or City Attorney to disclose the facts of this incident to the Defense which would seriously jeopardize any prosecution.

Furthermore, Avena's actions reflect poorly on the Department. If the Department were to fail to take forceful action in this case, it would appear that we do not take either domestic violence or DUI seriously. This could cause the public to lose confidence in the Department and lead to serious repercussions.

Therefore, it is recommended that the employee be order to a Board of Rights for termination consideration.

Work History Analysis.

Avena has been with the Department for six years and has worked at Wilshire, Custody Services and Pacific Division.

Avena's complaint history includes the following complaint:

22-003721 IAG/Pending

Avena has been involved in four NCUOF closed in policy.

Avena has been involved in two pursuits which are pending.

Avena has not been involved in any CUOF, collisions or civil litigation.

Work Permit Review.

A review of Avena's work permit history revealed that he currently has no work permits. No conflict of interest concerns, or impairment of performance or efficiency issues were identified.

Actions Taken.

None.

APPROVED BY:

MICHAEL APPLEGATE, Captain
Commanding Officer
Pacific Patrol Division

INVESTIGATIVE RESPONSIBILITY:

The Investigating Officer (I/O) for this case was Sergeant II Camille Spitaleri, Serial No. 38076, Internal Affairs Division (IAD) - South Section. She can be contacted at (213) 996-2921. Requests for a supplemental investigation must be approved by the IAD Commanding Officer (C/O) via an Intradepartmental Correspondence, Form 15.2.

STATUTE DATE

On December 11, 2022, Police Officer II Armando Avena, Serial No. 42919, Pacific Patrol Division, was arrested for California Penal Code Section (CPC) 647(f)PC-Public Intoxication. On December 12, 2022, Pasadena Police Department (PPD) declined to present Avena's arrest for filing consideration. Police Officer Raffi Badalian Serial No. 0701, PPD, released Avena per CPC Section 849 (b) 2 – Release from custody.[1] The statute date remained **December 11, 2023.**

SUMMARY

On December 11, 2022, Avena called 9-1-1 to report that [redacted], Witness Witness 1, was pushed down to the floor by security officers at Via Sorriso Bar located at 119 East Colorado Boulevard, Pasadena, California. Police Officers Duncan Conner, Serial No. 1940, and John Cybulski, Serial No. 1630, PPD, responded to a "Trouble Unknown" radio call at the Via Sorriso Bar and met with Avena, who was already speaking to Badalian. Avena demanded a private person's arrest for the battery of W-1, (Addendum 1- PPD Incident Recall) (Avena 911 Audio).

PPD spoke to the Via Sorriso Bar security officers, who alleged Avena spat at them and threw a drink at a bar patron. The security officers escorted Avena out of the bar, and W-1 was knocked to the floor during that process. PPD officers refused to take the private person's arrest, and Avena requested a supervisor. Avena identified himself as an off-duty Los Angeles Police Department (LAPD) officer to Pasadena Police Officer Michael Green, Serial No. 3134. Sergeant Chris Burchett, Serial No. 1187, PPD, arrived on the scene and spoke to Avena and W-1. Burchett told Avena that PPD would not accept a private person's arrest for the incident. During the PPD investigation, it was determined that Avena was overly intoxicated, and Avena was subsequently arrested for CPC Section - 647(f)PC-Public Intoxication. Badalian transported Avena to PPD for booking, (Addendum 2-Arrest Report).

Detective II Juan Gonzalez, Serial No. 33026, and Detective II Jared Witzer, Serial No. 39316, IAD-South Section, were assigned to the IAD On-Call team and responded to PPD to conduct an administrative investigation.

[1] CPC 849(b) A peace officer may release from custody, instead of taking the person before a magistrate, a person arrested without a warrant in the following circumstances:
(2) The person arrested was arrested for intoxication only, and no further proceedings are desirable.

The I/O reviewed all relevant Body Worn Video (BWV) and Digital in Car Video System (DICVS) footage. The video showed Burchett and other PPD officers attempting to show W-1 surveillance footage of the incident inside the Via Sorriso Bar. Avena was seen moving closer to W-1 to view the video over W-1 's left shoulder. Burchett told Avena to move to the other side of W-1 . As Burchett tried to guide Avena to move away, his left hand made slight contact with Avena's right shoulder. Avena stumbled backward (as though pushed) and fell into a brick wall. Avena grabbed the back of his head and said to Burchett, "Fuck bro, you don't have to hit me that hard bro," (BWV-Avena arrest)

Note: The I/O requested but could not obtain video surveillance from the Via Sorriso Bar on the night of the incident.

ALLEGATION 1. The Department alleges that on December 11, 2022, Officer Avena, while off-duty, was intoxicated in public which caused the response and led to his arrest by the Pasadena Police Department.

ALLEGATION 2. The Department alleges that on December 11, 2022, Officer Avena, while off-duty, made discourteous remarks to on-duty Pasadena Police Department personnel.

Cybulski and his partner, Police Officer Duncan Conner, Serial No. 1940, PPD, were assigned to a foot beat in the City of Pasadena bar district. Cybulski and Conner responded to a "Trouble Unknown" at the Via Sorriso Bar. According to Cybulski, the dispatcher reported the caller, Avena, was extremely uncooperative but kept saying, "Black on Black." The dispatcher attempted to get clarification but could not because Avena was uncooperative. Badalian was first on the scene and spoke to Avena and W-1 . W-1 felt more comfortable speaking Spanish, so PPD requested a Spanish-speaking officer. W-1 told that officer that security officers at the Via Sorriso Bar pushed her down without provocation. According to Cybulski, Avena stood "face to face" with Badalian. Badalian continually asked Avena to step back. Cybulski said Avena was obviously intoxicated as he smelled like alcohol and was swaying. Badalian eventually had to move Avena away from him ((BWV Badalian tells Avena to move back).

W-1 asked if she could record and pulled out her cellular telephone. W-1 put her cellular phone in Badalian's face and continuously called him a "motherfucker." Cybulski told W-1 to step back, and W-1 responded by calling Cybulski a racist. Avena then requested that a supervisor respond.

Burchett arrived on the scene as the video footage from the Via Sorriso Bar became available to review. Burchett, Cybulski, and Badalian reviewed the video. In the video, Cybulski observed security officers talking to Avena. Cybulski then saw Avena throw a drink over his shoulder, at which time security officers forcefully pushed Avena toward the front door. Cybulski observed W-1 get in the middle of the security officers as they were moving Avena toward the exit, which is when W-1 fell. Cybulski did not see any security officer push W-1 down.

While Cybulski attempted to show W-1 the video, Avena kept putting his face between the video and W-1. Burchett told Avena to back up and pulled Avena back. Avena threw himself against the wall at his touch and accused Burchett of hitting him. Due to his belligerence, Avena was arrested for CPC Section - 647(f) Public Intoxication and was placed in the back of Badalian's police vehicle. An unknown person who claimed to be Avena's friend approached the car and advised Cybulski Avena was an LAPD officer from Pacific Division. The friend asked if Avena could be released to him. Cybulski advised the friend to return with his vehicle so that Avena could be released. The unknown person provided Cybulski with his telephone number and left. Cybulski called the number approximately 20 times, but there was no answer, and the unknown person never returned.

Badalian was assigned to a foot beat detail in Old Town, Pasadena. Badalian responded to a radio call of a male (later determined to be Avena) asking for help at the Via Sorriso Bar, located at 119 East Colorado Boulevard. The only information Badalian had was that four people hit the male's [redacted] (later determined to be W-1). As Badalian pulled along the sidewalk in front of the location, Avena approached him. Avena told Badalian that W-1 was hit and pushed down by security guards from the Via Sorriso Bar. Avena told Badalian that he could identify the security guards. Another unit responded, and those officers met with the security guards. Avena continually repeated his story about how W-1 was pushed down when they were leaving the bar. Badalian immediately noticed objective signs and symptoms indicating that Avena was intoxicated. Avena stood very close to Badalian, and Badalian had to ask Avena to step back repeatedly. Avena told Badalian he and W-1 were trying to leave the bar. Avena told Badalian that he wanted to call an Uber (ride service) and wait inside the bar because it was raining, but security guards pushed them out. Badalian completed an arrest report for this incident.

Burchett was assigned as the foot beat sergeant and supervised officers assigned to the bar corridor in Old Town Pasadena. Burchett responded to the Via Sorriso Bar for a supervisor request and spoke to Cybulski. Cybulski told Burchett that a citizen (Avena) was thrown out of a club and was not satisfied when PPD officers told him they would not accept a private person's arrest of the involved security guards. Burchett spoke to

Avena and, in doing so, observed that Avena was under the influence of alcohol. Burchett smelled a strong odor of alcohol emitting from Avena's person and observed Avena to have bloodshot watery eyes. Avena also continually repeated himself as he told Burchett his concerns. Avena stated that W-1 was pushed down, and he wanted a private person's arrest.

PPD Officers told Burchett that the incident began when security guards caught Avena and W-1 in the men's bathroom. Avena and W-1 were asked to leave the men's bathroom. As W-1 and Avena walked out, Avena spat at a security guard. The spit did not strike the security guard, and the security officers escorted Avena out of the bar. Burchett viewed video surveillance footage from inside the bar. Burchett observed Avena throw a drink over his shoulder. Burchett also observed several security officers pushing Avena towards the front door and observed an unknown female (later identified as W-1) attempting to intervene, which caused her to fall to the ground. Burchett was not sure if W-1 was also asked to leave. During Burchett's interview with Avena, Avena was not in custody and was free to leave at any time.

Burchett explained to Avena that he was more than willing to have his officers take a police report, but Avena demanded a private person's arrest. Officers attempted to show W-1 video footage of the incident inside the bar. Avena also tried to view the video but kept obscuring W-1 's view with his head. Burchett touched Avena's shoulder and told him to back up. Avena "flung" himself backward and against the wall. Avena told Burchett "That [Burchett] didn't have to hit [Avena] so hard." Burchett said he did not push Avena. Officers then detained Avena for being drunk in public. Several of Avena's friends approached once Avena was detained. Burchett told the friends to return with a vehicle, and Avena would be released to their care, but no one returned. While still on scene, officers also attempted to call a friend of Avena's to pick him up, but they did not reach anyone. Avena was then transported to the station for booking.

> **Note:** The I/O called witness W-1 but could not reach her nor leave a message due to her inactive voicemail system. The I/O identified another witness, Witness 2, identified by PPD. The I/O called W-2 with the telephone number W-2 provided PPD, but the telephone number was no longer in service. Neither W-1 nor W-2 was identified as Department employees.

Avena said that at approximately 1830 hours, a friend came over to his house. Avena and his friend had a couple of shots before taking an Uber to a small bar in Alhambra. Avena and his friend had more drinks and ate cheeseburgers while watching the UFC fight. Once the fight was over, another friend and his girlfriend showed up at the bar. From there, the girlfriend drove Avena and his friends to IX-tapa Cantina in Pasadena.

Avena was at the IX-tapa Cantina for approximately two hours.[2] Avena was drinking and hanging out with his friends when W-1, arrived. Avena had more drinks with W-1.

At some point, W-1 needed to use the restroom. Avena walked W-1 toward the Women's restroom. W-1 told Avena the Women's restroom line was too long, and she could not wait. W-1 decided to use the men's restroom and walked into the men's restroom. Avena could not recall going into the men's restroom but said he probably did to check on W-1. A security guard came into the men's restroom and told W-1 she could not be in the men's restroom. The security guard told Avena and W-1 they had to leave. At that time, Avena still had a drink in his hand. Avena and W-1 exited the men's restroom and began to walk toward the front exit. As Avena approached the exit, a security guard told Avena he had to leave his drink inside the bar. Avena threw his drink on a nearby table, and it spilled over on the table. A security guard behind Avena grabbed Avena's arm and forced him out the front door to make sure Avena would leave.

Once outside, Avena turned around and saw another bigger security guard, approximately 250 to 300 pounds, push W-1 from the back. According to Avena, W-1 fell to her knees. Avena began to question the security guards about their actions. The security guards refused to talk to Avena and told him to leave. Avena then saw PPD officers parked out in front of the bar and approached them. Avena told the PPD officers what happened, and the PPD officers told Avena they would not be able to do anything because that was the job of the security guards. Avena told the officers that he (Avena) worked around the police and that they were supposed to investigate. At some point during the incident, Avena told PPD officers he was a Los Angeles Police Officer, but he could not recall when that occurred. The PPD officers again told Avena there was nothing they could do. Avena then requested that a sergeant respond. The PPD officer told Avena that if he called his supervisor, Avena was going to jail. Avena told the officer that it was false and that he was trying to report what was happening. The officer requested a sergeant, and Avena waited approximately 10 minutes (outside the building) for the sergeant to respond.

> **Note:** The I/O reviewed BWV from an unknown officer and heard the officer tell Avena if he requested a supervisor he would go to jail for being drunk in public. The I/O was unable to determine which officer made the statement because the video was not labeled (BWV-Avena supervisor request).

[2] The I/O contacted the manager of IX-Tapa Cantina, [redacted], who advised during the time of the incident, the IX-Tapa Cantina shared its location with Via Sorriso Ristorante & Bar and operated on Saturday and Sunday's nights only.

Burchett arrived on the scene and met with officers. Burchett later met with Avena and W-1. Burchett told Avena the officers would not be able to do anything. Avena asked Burchett if he was refusing a private person's arrest, which appeared to upset Burchett. According to Avena, Burchett had officers review video surveillance footage. An officer recorded the video on his cell phone and showed it to Avena and W-1. The officer told Avena the reason the security guards pushed W-1 to the ground was that Avena threw his drink on the table, and it spilled. Avena acknowledged that he spilled his drink, but Avena told the PPD officer that did not justify the officers pushing W-1. PPD officers told Avena they would not take a private person's arrest, but they would complete a police report.

At that time, another PPD officer had a different angle of the video and began to show W-1. Avena also wanted to see that video and stood beside W-1. As Avena stood next to W-1, Burchett reached towards Avena and possibly tapped Avena on his shoulder, which caught Avena by surprise. Avena stepped back and put his hand on his neck/head area. Avena said he most likely lost his balance and fell into the wall. Burchett just kept staring at Avena and then directed officers to take Avena into custody. Although Avena fell into the wall, he was not injured. Avena was compliant during the arrest and was put into the back of Badalian's PPD police vehicle. A few minutes later, Burchett opened the back door and told Avena someone named "Goofy" would respond, and Avena would be released. Avena did not know anyone named "Goofy." Avena said PPD officers waited approximately 10-20 minutes, and Burchett returned and told Avena "Goofy" never showed up, so he (Avena) would be transported to the PPD station. Avena could not recall if Badalian told him what he was being arrested for.

While being transported to the PPD station by Badalian, the police vehicle turned and proceeded straight. Due to Avena being handcuffed behind his back, intoxicated, and not having his seatbelt fastened, Avena lost his balance and fell to his left side. Avena hit the side of his face on the interior of the police vehicle. Avena told Badalian to stop the car and help him up. Badalian pulled the vehicle over and assisted Avena. Avena told Badalian he needed help. Badalian requested the Pasadena Fire Department (PFD) to respond. PFD responded and asked Avena several questions, and did a brief assessment. PFD asked Avena if he wanted to go with them, and Avena told them no. Avena was not injured and only complained of pain in his face.

> **Note:** During transport, Badalian's DICVS captured Avena requesting to have his seatbelt fastened because he was "sliding side to side" in the backseat of the police vehicle. Badalian was heard advising Avena that he would pull over and put Avena's seatbelt on. Immediately after requesting to have his seatbelt fastened, Avena was captured slowly falling to his left side and telling Badalian that because he was not seat belted, he fell and struck his head on the interior of

the police vehicle. Avena then said he needed an ambulance. Badalian requested PFD respond. PFD spoke to Avena, who refused to be transported and told PFD he did not need help. The I/O did not observe Avena sliding side to side and did not observe Avena hit his head on the interior of the police vehicle. The I/O also observed that when Avena fell to his left side, the patrol vehicle was proceeding straight and did not observe the police vehicle make any sudden turns, (Avena forward facing DICV).(Avena rear-facing DICV)

When Avena arrived at the PPD station, he was put in a holding cell. Avena advised that he needed to notify his LAPD Watch Commander of his arrest. The jailer told Avena that his (Avena's) Watch Commander had already been notified. Avena was in custody for six hours and then released to the custody of Captain I Michael Applegate, Serial No. 34613, Pacific Patrol Division.

Avena admitted to being intoxicated but said he could care for himself and did not meet the criteria for being drunk in public. Avena denied he ever spat on any security guards. Avena believes he has a drinking problem and expressed that he would take all the help he could get to deal with his drinking problem,(Addendum 3-PAS results).

INVESTIGATOR'S NOTES:

None.

ADDENDA:

1. Addendum 1-PPD CAD Call History CP# PA 2022-102530
2. Addendum 2-PPD # Police Report #2022-102530
3. Addendum 3- Breath test results

SUBMITTED:



Date: 04/20/2023

Camille Spitaleri, Sergeant II, South-Section
Internal Affairs Division.

APPROVED:



Date: 04/20/2023

Robert Peters, Lieutenant II
Officer in Charge, South-Section,
Internal Affairs Division

LETTER OF TRANSMITTAL
CF No. 22-003721

ADJUDICATION

Department Complaint

The Complaint Investigation, CF No. 22-003721, resulted in two allegations of misconduct against one Department employee:

Police Officer II Armando Avena — Pacific Area
Serial No. 42919

The allegations are listed below with the recommendations for classification and supporting rationale.

ALLEGATION 1. The Department alleges that on December 11, 2022, Officer Avena, while off-duty, was intoxicated in public which caused the response and led to his arrest by the Pasadena Police Department.

ALLEGATION 2. The Department alleges that on December 11, 2022, Officer Avena, while off-duty, failed to cooperate with on-duty Pasadena Police Department personnel.

> **Note:** Allegation 2 in the investigation originally alleged Avena made discourteous remarks to the Pasadena Police Department personnel. However, a review of the investigation revealed no discourteous remarks. The allegation was reframed by the adjudicator to better reflect Avena's actions.

CLASSIFICATION

It is recommended that Allegation 1-2 be classified as **SUSTAINED.**

RATIONALE

The investigation clearly supports the allegations. In his interview, Avena admitted that he started drinking at 1830 hours and then continued drinking at multiple locations until the police were called at approximately 0100 hours. Avena was then given a breath test at 0600 hours where he registered over twice the legal limit. This demonstrates that Avena was clearly under the influence of alcohol when he was dealing with security guards and Pasadena Police.

Avena's also failed to cooperate with either the security guards and the police. The 911 Operator who generated the call stated in the call notes that Avena was belligerent and refused her requests. The security camera footage as well as the officers' video shows Avena to be belligerent, demanding and refusing to follow the directions given by the officers. On two occasions, Avena appears to be attempting to get the police officers in trouble, both when an officer tries to get Avena to step back and Avena accuses the officer of pushing him, and then again when he claims to be injured because he was not seat belted into the patrol car.

The investigation has shown that Avena was intoxicated which led to the response of the Pasadena Police Department and his subsequent arrest as well as showing Avena being uncooperative with the officers.

Therefore, it is recommended that Allegation 1-2 be classified as **SUSTAINED.**

DIGITAL IN-CAR VIDEO/BODY WORN VIDEO/AUDIO RECORDINGS

The officer's actions were captured by BWV and were used in the adjudication of this complaint.

EMPLOYEE DEVELOPMENT PLAN

None.

PENALTY

Avena's actions show that he chose to drink past the point where he was still in control. His dealings with the security guards and later the Pasadena police officers demonstrate a lack of control and a lack of professionalism which the Department expects from her officers. Of further concern is the way Avena treated officers from a sister agency. It would be considered incumbent on LAPD employees to demonstrate some professional courtesy when dealing with other officers since better then anyone, we know the difficulties related to the job. But instead, Avena chose to be belligerent and demanding and appeared to even try and falsely accuse them of injuring him.

Avena's actions reflect poorly on the Department, both in the eyes of the public and the officers from the Pasadena Police Department and should be judged firmly.

Therefore, it is recommended that Avena receive a penalty of two suspension days.

WORK HISTORY ANALYSIS

Avena has been with the Department for six years. He has worked at Wilshire, Custody Services and Pacific Division.

Avena's complaint history includes the following complaints:

22-000472	IAG/Pending (DV allegation pending a BOR)

Avena has been involved in four NCUOF which have been closed in policy.

Avena has been involved in two pursuits which are pending.

Avena has not been involved in any CUOF, collisions or civil litigation.

Avena is currently being reviewed by RMEC due to his complaints.

WORK PERMIT REVIEW

A review of Avena's work permit history revealed that he currently has no work permits. No conflict of interest concerns, or impairment of performance or efficiency issues were identified.

RELIEF FROM DUTY RECOMMENDATIONS

None.

ACTIONS TAKEN

None.

APPROVED BY:

KRISTIN KOLENDA, Captain
Commanding Officer
Pacific Patrol Division

4-25-23
Date

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES	*FOR COURT USE ONLY*
COURTHOUSE ADDRESS EL MONTE COURTHOUSE 11234 E VALLEY BLVD EL MONTE CA 91731	
PLAINTIFF/PETITIONER	
DEFENDANT /RESPONDENT ARMANDO AVENA	CASE NUMBER ELM2EM00297-01
CLERK'S CERTIFICATION OF REPRODUCED COURT RECORDS	DEPARTMENT/UNIT CRIMINAL DEPARTMENT

I, DAVID W. SLAYTON, Executive Officer/Clerk of Court of the Superior Court of California, County of Los Angeles, certify that the reproduced court records, consisting of 18 pages, attached hereto are a true and correct copy of the original documents contained in the court file.

Dated: 10/03/2024

DAVID W. SLAYTON, Executive Officer/Clerk of Court

M. Carcleso

By: Deputy Clerk

Court Seal

DOMESTIC VIOLENCE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,

v.

ARMANDO AVENA (DOB: [redacted]),
aka ARMANDO AVENAHERNANDEZ

Defendant(s).

CASE NO.

2EM00297

MISDEMEANOR COMPLAINT
PURSUANT TO
PENAL CODE SEC. 17(b)4

FILED
Superior Court of California
County of Los Angeles

FEB 15 2022

Sherri R. Carter, Executive Officer/Clerk
By _____ Deputy
Mai Ngoc Tuong

The undersigned is informed and believes that:

COUNT 1

On or about February 13, 2022, in the County of Los Angeles, the crime of INJURING A SPOUSE, COHABITANT, FIANCÉ, BOYFRIEND, GIRLFRIEND OR CHILD'S PARENT, in violation of PENAL CODE SECTION 273.5(a), a Misdemeanor, was committed by ARMANDO AVENA, who willfully inflicted corporal injury resulting in a traumatic condition upon [redacted] who was [redacted]

NOTICE: Upon a felony conviction for the above offense, prison custody time is to be served in state prison pursuant to Penal Code section 1170.

* * * * *

NOTICE: Conviction of this offense will require the defendant to provide DNA samples and print impressions pursuant to Penal Code sections 296 and 296.1 if the defendant has suffered a prior felony conviction. Willful refusal to provide the samples and impressions is a crime.

NOTICE: The People of the State of California intend to present evidence and seek jury findings regarding all applicable circumstances in aggravation, pursuant to Penal Code section 1170(b) and *Cunningham v. California* (2007) 549 U.S. 270.

NOTICE: A Suspected Child Abuse Report (SCAR) may have been generated within the meaning of Penal Code §§ 11166 and 11168 involving the charges alleged in this complaint. Dissemination of a SCAR is limited by Penal Code §§ 11167 and 11167.5 and a court order is required for full disclosure of the contents of a SCAR.

NOTICE: Conviction of this offense prohibits you from owning, purchasing, receiving, possessing, or having under your custody and control any firearms, and effective January 1, 2018, will require you to complete a Prohibited Persons Relinquishment Form ("PPR") pursuant to Penal Code § 29810.

Further, attached hereto and incorporated herein are official reports and documents of a law enforcement agency which the undersigned believes establish probable cause for the arrest of defendant(s) ARMANDO AVENA for the above-listed crimes.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT AND THAT THIS COMPLAINT CONSISTS OF 1 COUNT(S).

Executed at EL MONTE, County of Los Angeles, on February 15, 2022.

TONY GAMBOA
DECLARANT AND COMPLAINANT

GEORGE GASCÓN, DISTRICT ATTORNEY ..... BY: EDWARD A. MILLER, DEPUTY

AGENCY:	BALDWIN PARK PD	I/O: TONY GAMBOA	ID NO.: 2870	PHONE : (626) 960-1955 EXT: 413
DR NO.:	2203761	OPERATOR: CT		

DEFENDANT	CII NO.	CITATION NO.	BOOKING NO.	BAIL RECOM'D	CUSTODY R'TN DATE
AVENA, ARMANDO	033838343	CUSTODY	6324685		02/15/2022

Pursuant to Penal Code Section 1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code Section 1054.3.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA VS.
ARMANDO AVENA

CASE NUMBER : 2EM00297 (ELM-2EM00297-01)
VIOLATION DATE : 02/13/22
CASE FILING DATE: 02/15/22
WITH THE FOLLOWING OFFENSE(S):

COUNT 01: 273.5(A) PC MISDEMEANOR

02/15/22 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR ARRAIGNMENT

PARTIES: JAVIER PEREZ (JUDGE) ROSA HIDALGO (CLERK)
ELECTRONIC RECORDING (REP) DEANNE B CASTORENA (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY ROBIN D. PERRY PRIVATE COUNSEL

A COPY OF THE COMPLAINT AND THE ARREST REPORT GIVEN TO DEFENDANTS COUNSEL.

DEFENDANT WAIVES ARRAIGNMENT, READING OF COMPLAINT, AND STATEMENT OF CONSTITUTIONAL AND STATUTORY RIGHTS.

DEFENDANT PLEADS NOT GUILTY TO COUNT 01, 273.5(A) PC.

COURT ORDERS AND FINDINGS:

-STAY 100 YARDS AWAY FROM [redacted].

-OBEY THE PROTECTIVE ORDER ISSUED IN THIS OR ANY OTHER CASE.

-DEFENDANT IS SERVED WITH A COPY OF THE PROTECTIVE ORDER IN OPEN COURT.

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

DEFENSE COUNSEL'S REQUEST FOR THE DEFENDANT TO BE RELEASED ON HIS OWN RECOGNIZANCE IS GRANTED.
.
THE MATTER IS SET FOR PRETRIAL HEARING ON MARCH 15, 2022, AT 8:30 A.M. IN DEPARTMENT 3, AS 0 OF 45 DAYS.
.
RELEASE ORDER #AS054882 IS ISSUED.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
03/15/22 830 AM PRETRIAL HEARING DIST EL MONTE COURTHOUSE DEPT 003

DAY 00 OF 45

CUSTODY STATUS: RELEASED ON OWN RECOGNIZANCE

03/15/22 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PRETRIAL HEARING

PARTIES: WESLEY L. HSU (JUDGE) SARAH GUEVARA (CLERK)
ELECTRONIC RECORDING (REP) DEANNE B CASTORENA (DA)

DEFENDANT IS NOT PRESENT IN COURT, BUT REPRESENTED BY ROBIN D. PERRY PRIVATE COUNSEL
DEFENDANT APPEARING BY COUNSEL PURSUANT TO PENAL CODE SECTION 977 ET SEQ, BY ROBIN D. PERRY PRIVATE COUNSEL

THE MATTER IS CALLED IN DEPARTMENT 2 FOR DEPARTMENT 3, AS DEPARTMENT 3 IS DARK THIS DATE.
.
SUBPOENA DOCUMENTS ARE RELEASED TO DEFENSE COUNSEL IN OPEN COURT.
.
PURSUANT TO THE REQUEST OF DEFENSE COUNSEL, THE MATTER IS CONTINUED FOR PRETRIAL HEARING TO APRIL 11, 2022, AT 8:30 A.M. IN DEPARTMENT 3, AS 0 OF 45 DAYS.

.
ENTRY MADE BY R. HIDALGO
.
NUNC PRO TUNC LANGUAGE IS GENERATED IN ERROR.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
04/11/22 830 AM PRETRIAL HEARING DIST EL MONTE COURTHOUSE DEPT 003

DAY 00 OF 45

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE.

04/11/22 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PRETRIAL HEARING

PARTIES: JAVIER PEREZ (JUDGE) ROSA HIDALGO (CLERK)
ELECTRONIC RECORDING (REP) MEGAN RYAN CALLAGHAN (DA)

DEFENDANT IS NOT PRESENT IN COURT, BUT REPRESENTED BY ROBIN D. PERRY PRIVATE COUNSEL
DEFENDANT APPEARING BY COUNSEL PURSUANT TO PENAL CODE SECTION 977 ET SEQ, BY ROBIN D. PERRY PRIVATE COUNSEL

PURSUANT TO THE REQUEST OF DEFENSE COUNSEL, THE MATTER IS CONTINUED FOR PRETRIAL HEARING TO MAY 18, 2022, AT 8:30 A.M. IN DEPARTMENT 3, AS 0 OF 45 DAYS.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
05/18/22 830 AM PRETRIAL HEARING DIST EL MONTE COURTHOUSE DEPT 003

DAY 00 OF 45

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE.

05/18/22 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PRETRIAL HEARING

PARTIES: JAVIER PEREZ (JUDGE) ROSA HIDALGO (CLERK)
ELECTRONIC RECORDING (REP) NICOLE SOKOLOWSKI (DA)

DEFENDANT IS NOT PRESENT IN COURT, BUT REPRESENTED BY ROBIN D. PERRY PRIVATE COUNSEL
DEFENDANT APPEARING BY COUNSEL PURSUANT TO PENAL CODE SECTION 977 ET SEQ, BY ROBIN D. PERRY PRIVATE COUNSEL

PURSUANT TO THE REQUEST OF DEFENSE COUNSEL, THE MATTER IS CONTINUED FOR PRETRIAL HEARING TO JUNE 15, 2022, AT 8:30 A.M. IN DEPARTMENT 3, AS 0 OF 45 DAYS.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
06/15/22 830 AM PRETRIAL HEARING DIST EL MONTE COURTHOUSE DEPT 003

DAY 00 OF 45

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE.

06/15/22 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PRETRIAL HEARING

PARTIES: JAVIER PEREZ (JUDGE) FADILA VILLAGOMEZ (CLERK)
ELECTRONIC RECORDING (REP) CASEY CONAN HIGGINS (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY ROBIN D. PERRY PRIVATE COUNSEL

PURSUANT TO DEFENSE COUNSEL, PRETRIAL HEARING IS CONTINUED TO JULY 13, 2022 AT 8:30 A.M., IN DEPARTMENT 3, AS DAY 0 OF 45.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
07/13/22 830 AM PRETRIAL HEARING DIST EL MONTE COURTHOUSE DEPT 003

DAY 00 OF 45

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE.

07/13/22 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PRETRIAL HEARING

PARTIES: WESLEY L. HSU (JUDGE) SARAH GUEVARA (CLERK)
ELECTRONIC RECORDING (REP) CASEY CONAN HIGGINS (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY ROBIN D. PERRY PRIVATE COUNSEL

THE MATTER IS CALLED IN DEPARTMENT 2, AS DEPARTMENT 3 IS DARK THIS DATE.

.

PURSUANT TO THE REQUEST OF DEFENSE COUNSEL, THE MATTER IS CONTINUED FOR PRETRIAL HEARING TO AUGUST 31, 2022, AT 8:30 A.M. IN DEPARTMENT 3, AS 0 OF 45 DAYS.

.

ENTRY MADE BY R. HIDALGO

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
08/31/22 830 AM PRETRIAL HEARING DIST EL MONTE COURTHOUSE DEPT 003

DAY 00 OF 45

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE.

08/31/22 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PRETRIAL HEARING

PARTIES: ANGEL NAVARRO (JUDGE) ANGELA CUNNINGHAM (CLERK)
ELECTRONIC RECORDING (REP) SARANYA KALAI (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY ROBIN D. PERRY PRIVATE COUNSEL

THE MATTER IS CALLED IN DEPARTMENT 4, AS DEPARTMENT 3 IS DARK THIS DATE.

.

PURSUANT TO DEFENSE COUNSEL'S REQUEST, THE MATTER IS CONTINUED FOR PRETRIAL HEARING TO OCTOBER 6, 2022, AT 8:30 A.M. IN DEPARTMENT 003, AS 0 OF 45 DAYS.

.

ENTRY MADE BY R. HIDALGO

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
10/06/22 830 AM PRETRIAL HEARING DIST EL MONTE COURTHOUSE DEPT 003

DAY 00 OF 45

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE.

10/06/22 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PRETRIAL HEARING

PARTIES: JAVIER PEREZ (JUDGE) ROSA HIDALGO (CLERK)
ELECTRONIC RECORDING (REP) PRIANCA MURTHI (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY ROBIN D. PERRY PRIVATE COUNSEL

PURSUANT TO DEFENSE COUNSEL'S REQUEST, THE MATTER IS CONTINUED FOR PRETRIAL HEARING TO NOVEMBER 17, 2022, AT 8:30 A.M. IN DEPARTMENT 003, AS 0 OF 60 DAYS.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
11/17/22 830 AM PRETRIAL HEARING DIST EL MONTE COURTHOUSE DEPT 003

DAY 00 OF 60

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE.

11/17/22 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PRETRIAL HEARING

PARTIES: JAVIER PEREZ (JUDGE) ROSA HIDALGO (CLERK)
ELECTRONIC RECORDING (REP) EDWIN ANTHONY MORENO (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY ROBIN D. PERRY PRIVATE COUNSEL

PURSUANT TO DEFENSE COUNSEL'S REQUEST, THE MATTER IS CONTINUED FOR PRETRIAL HEARING TO JANUARY 18, 2023, AT 8:30 A.M. IN DEPARTMENT 003, AS 0 OF 30 DAYS.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
01/18/23 830 AM PRETRIAL HEARING DIST EL MONTE COURTHOUSE DEPT 003

DAY 00 OF 30

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE.

01/18/23 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PRETRIAL HEARING

PARTIES: JAVIER PEREZ (JUDGE) ROSA HIDALGO (CLERK)
ELECTRONIC RECORDING (REP) MELVIN O LOPEZ (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY ROBIN D. PERRY PRIVATE

COUNSEL

PURSUANT TO DEFENSE COUNSEL'S REQUEST, THE MATTER IS CONTINUED
FOR PRETRIAL HEARING TO MARCH 21, 2023, AT 8:30 A.M.
IN DEPARTMENT 003, AS 0 OF 20 DAYS.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
03/21/23 830 AM PRETRIAL HEARING DIST EL MONTE COURTHOUSE DEPT 003

DAY 00 OF 20

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE.

03/21/23 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PRETRIAL HEARING

PARTIES: JAVIER PEREZ (JUDGE) ROSA HIDALGO (CLERK)
ELECTRONIC RECORDING (REP) MARYAM S SONBOLI (DA)

DEFENDANT IS NOT PRESENT IN COURT, BUT REPRESENTED BY ROBIN D. PERRY PRIVATE COUNSEL
DEFENDANT APPEARING BY COUNSEL PURSUANT TO PENAL CODE SECTION 977 ET SEQ, BY ROBIN D. PERRY PRIVATE COUNSEL

DEFENSE COUNSEL APPEARS TELEPHONICALLY.
.
PURSUANT TO DEFENSE COUNSEL'S REQUEST, THE MATTER IS CONTINUED
FOR PRETRIAL HEARING TO APRIL 12, 2023, AT 8:30 A.M.
IN DEPARTMENT 003, AS 0 OF 20 DAYS.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

WAIVES STATUTORY TIME.

NEXT SCHEDULED EVENT:
04/12/23 830 AM PRETRIAL HEARING DIST EL MONTE COURTHOUSE DEPT 003

DAY 00 OF 20

CUSTODY STATUS: DEFENDANT REMAINS ON OWN RECOGNIZANCE.

04/12/23 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PRETRIAL HEARING

PARTIES: JAVIER PEREZ (JUDGE) ROSA HIDALGO (CLERK)
ELECTRONIC RECORDING (REP) MARYAM S SONBOLI (DA)

DEFENDANT IS PRESENT IN COURT, AND REPRESENTED BY ROBIN D. PERRY PRIVATE COUNSEL

ON PEOPLE'S MOTION, COURT ORDERS COMPLAINT AMENDED BY INTERLINEATION TO ADD

VIOLATION 243(E)(1) PC MISD AS COUNT 02.

DEFENDANT ADVISED OF AND PERSONALLY AND EXPLICITLY WAIVES THE FOLLOWING RIGHTS:

TRIAL BY COURT AND TRIAL BY JURY

CONFRONTATION AND CROSS-EXAMINATION OF WITNESSES;

SUBPOENA OF WITNESSES INTO COURT TO TESTIFY IN YOUR DEFENSE;

AGAINST SELF-INCRIMINATION;

DEFENDANT ADVISED OF THE FOLLOWING:

THE NATURE OF THE CHARGES AGAINST HIM, THE ELEMENTS OF THE OFFENSE IN THE COMPLAINT, AND POSSIBLE DEFENSES TO SUCH CHARGES;

THE POSSIBLE CONSEQUENCES OF A PLEA OF GUILTY OR NOLO CONTENDERE, INCLUDING THE MAXIMUM PENALTY AND ADMINISTRATIVE SANCTIONS AND THE POSSIBLE LEGAL EFFECTS AND MAXIMUM PENALTIES INCIDENT TO SUBSEQUENT CONVICTIONS FOR THE SAME OR SIMILAR OFFENSES;

THE EFFECTS OF PROBATION;

IF YOU ARE NOT A CITIZEN, YOU ARE HEREBY ADVISED THAT A CONVICTION OF THE OFFENSE FOR WHICH YOU HAVE BEEN CHARGED WILL HAVE THE CONSEQUENCES OF DEPORTATION, EXCLUSION FROM ADMISSION TO THE UNITED STATES, OR DENIAL OF NATURALIZATION PURSUANT TO THE LAWS OF THE UNITED STATES.

COUNSEL FOR THE DEFENDANT JOINS IN THE WAIVERS AND CONCURS IN THE PLEA.

COURT FINDS THAT EACH SUCH WAIVER IS KNOWINGLY, UNDERSTANDINGLY, AND EXPLICITLY MADE;

THE DEFENDANT WITH THE COURTS APPROVAL, PLEADS NOLO CONTENDERE TO COUNT 02 A VIOLATION OF SECTION 243(E)(1) PC. THE COURT FINDS THE DEFENDANT GUILTY.

COUNT (02) : DISPOSITION: CONVICTED

COURT FINDS THAT THERE IS A FACTUAL BASIS FOR DEFENDANT'S PLEA, AND COURT ACCEPTS PLEA.

WAIVES TIME FOR SENTENCE.

NEXT SCHEDULED EVENT:
SENTENCING

DEFENDANT WAIVES ARRAIGNMENT FOR JUDGMENT AND STATES THERE IS NO LEGAL CAUSE WHY SENTENCE SHOULD NOT BE PRONOUNCED. THE COURT ORDERED THE FOLLOWING JUDGMENT:

AS TO COUNT (02):

IMPOSITION OF SENTENCE SUSPENDED

DEFENDANT PLACED ON SUMMARY PROBATION

FOR A PERIOD OF 003 YEARS UNDER THE FOLLOWING TERMS AND CONDITIONS:

PERFORM 8 HOURS OF COMMUNITY SERVICE

THE COURT ORDERS PROBATION TO PREPARE A FIREARMS PROHIBITION AND RELINQUISHMENT REPORT PURSUANT TO PENAL CODE SECTION 29810.

IN ADDITION:

-DEFENDANT IS ORDERED TO PAY A PROBATION REVOCATION RESTITUTION

FINE PURSUANT TO PENAL CODE SECTION 1202.44, IN THE AMOUNT OF $ 150.00. THIS FINE SHALL BECOME EFFECTIVE UPON THE REVOCATION OF PROBATION.

-NOT OWN, USE OR POSSESS ANY DANGEROUS OR DEADLY WEAPONS,

INCLUDING ANY FIREARMS, KNIVES OR OTHER CONCEALABLE WEAPONS.

-STAY 100 YARDS AWAY FROM [redacted] Victim .

-OBEY THE PROTECTIVE ORDER ISSUED IN THIS OR ANY OTHER CASE.

-DEFENDANT IS SERVED WITH A COPY OF THE PROTECTIVE ORDER IN OPEN COURT.

-ENROLL WITHIN 30 DAYS AND SUCCESSFULLY COMPLETE A 52-WEEK DOMESTIC VIOLENCE TREATMENT PROGRAM APPROVED BY THE PROBATION DEPARTMENT. ATTEND ALL COUNSELLING SESSIONS, KEEP ALL PROGRAM

APPOINTMENTS AND PAY ALL PROGRAM FEES IN ACCORDANCE WITH YOUR ABILITY TO PAY.

-SUBMIT YOUR PERSON AND PROPERTY TO SEARCH AND SEIZURE AT ANY TIME OF THE DAY OR NIGHT, BY ANY PROBATION OFFICER OR OTHER PEACE OFFICER, WITH OR WITHOUT A WARRANT, PROBABLE CAUSE OR REASONABLE SUSPICION.

-OBEY ALL LAWS AND ORDERS OF THE COURT.

-DEFENDANT ACKNOWLEDGES TO THE COURT THAT THE DEFENDANT UNDERSTANDS AND ACCEPTS ALL THE PROBATION CONDITIONS, AND DEFENDANT AGREES TO ABIDE BY SAME.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

ANY MANDATORY AND NON-PUNITIVE FEES OR ASSESSMENTS ORDERED IN THIS CASE ARE NOT CONDITIONS OF PROBATION

-PURSUANT TO PENAL CODE SECTION 12021(C)(1), YOU ARE PROHIBITED FROM OWNING OR POSSESSING ANY FIREARM FOR THE NEXT 10 YEARS.
.
ALL OTHER MANDATORY FEES ARE WAIVED BASED ON AN INABILITY TO PAY IN ACCORDANCE WITH THE CASE OF PEOPLE VERSUS DUENAS.
.
THE MATTER IS SET FOR PROOF OF ENROLLMENT IN THE DOMESTIC VIOLENCE COUNSELING PROGRAM AND PROPOSITION 63 REPORT ON MAY 24, 2023, AT 8:30 A.M. IN DEPARTMENT 3.
.
PROOF OF COMPLETION OF 8 HOURS OF COMMUNITY SERVICE IS DUE ON OR BEFORE APRIL 12, 2024 IN THE CLERK'S OFFICE.

COUNT (02): DISPOSITION: CONVICTED

REMAINING COUNTS DISMISSED:

COUNT (01): DISMISSED DUE TO PLEA NEGOTIATION

DMV ABSTRACT NOT REQUIRED

NEXT SCHEDULED EVENT:
05/24/23 830 AM PROOF OF DOMESTIC VIOL CLASS DIST EL MONTE COURTHOUSE DEPT 003

NEXT SCHEDULED EVENT:
04/12/24 900 AM PROOF OF COMPLETION/FINE DIST EL MONTE COURTHOUSE DEPT

CLK

CUSTODY STATUS: ON PROBATION

ON 04/14/23 at 2330:

ARREST DISPOSITION REPORT SENT VIA FILE TRANSFER TO DEPARTMENT OF JUSTICE

05/24/23 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PROOF OF DOMESTIC VIOL CLASS

PARTIES: JAVIER PEREZ (JUDGE) YOLANDA THOMAS (CLERK)

ELECTRONIC RECORDING (REP) MARYAM S SONBOLI (DA)

DEFENDANT IS PRESENT IN COURT, AND NOT REPRESENTED BY COUNSEL
DEFENDANT APPEARS IN PRO PER

PROOF OF ENROLLMENT IN DOMESTIC VIOLENCE PROGRAM AND
COMMUNITY SERVICE IS RECEIVED AND FILED THIS DATE.
.
THE MATTER IS CONTINUED FOR PROGRESS OF DOMESTIC VIOLENCE
PROGRAM ON AUGUST 24, 2023, AT 8:30 A.M. IN DEPARTMENT 3.
.
PROOF OF COMPLETION OF COMMUNITY SERVICE AND FEES ARE DUE
IN THE CLERK'S OFFICE BY APRIL 12, 2024.
.
THE COURT ORDERS PROBATION TO PREPARE AND SUBMIT FIREARMS
RELINQUISHMENT AND INVESTIGATIONS REPORT. THE REPORT IS DUE
ON AUGUST 24, 2023, AT 8:30 A.M. IN DEPARTMENT 3.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:
08/24/23 830 AM PROOF OF DOMESTIC VIOL CLASS DIST EL MONTE COURTHOUSE DEPT
003

CUSTODY STATUS: ON PROBATION

08/24/23 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR PROOF OF DOMESTIC VIOL CLASS

PARTIES: JAVIER PEREZ (JUDGE) YOLANDA THOMAS (CLERK)
ELECTRONIC RECORDING (REP) KIMBERLY A. BAINS (DA)

DEFENDANT IS PRESENT IN COURT, AND NOT REPRESENTED BY COUNSEL
DEFENDANT APPEARS IN PRO PER

THE MATTER IS CALLED FOR HEARING.
.
PROOF OF 12/52 DOMESTIC VIOLENCE SESSIONS IS RECEIVED AND
FILED THIS DATE.
.
THE COURT READS AND CONSIDERS FIREARMS RELINQUISHMENT
INVESTIGATIONS REPORT, FILED THIS DATE.
.
THE MATTER IS CONTINUED FOR FURTHER PROCEEDINGS RE

STATUS OF WEAPONS OWNED BY DEFENDANT THAT ARE CURRENTLY
IN THE CUSTODY OF BALDWIN PARK POLICE DEPARTMENT. THE HEARING
IS SET ON AUGUST 31, 2023, AT 8:30 A.M. IN DEPARTMENT 3.
.
BAR PANEL ATTORNEY TO BE PRESENT ON THE NEXT HEARING DATE TO

REPRESENT THE DEFENDANT. BAR PANEL IS NOTIFIED VIA EMAIL
REGARDING THIS MATTER.

COURT ORDERS AND FINDINGS:

-COURT FINDS THAT THE DEFENDANT DOES OWN, POSSESS, OR HAVE UNDER
HIS/HER CUSTODY OR CONTROL, FIREARMS THAT MUST BE RELINQUISHED.

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:
08/31/23 830 AM FURTHER PROCEEDINGS DIST EL MONTE COURTHOUSE DEPT 003

CUSTODY STATUS: ON PROBATION

08/31/23 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR FURTHER PROCEEDINGS

PARTIES: JAVIER PEREZ (JUDGE) ROSA HIDALGO (CLERK)
ELECTRONIC RECORDING (REP) HOLDEN JUNE WI (DA)

DEFENDANT IS PRESENT IN COURT, AND NOT REPRESENTED BY COUNSEL
DEFENDANT APPEARS IN PRO PER

THE MATTER IS CALLED FOR FURTHER PROCEEDINGS RE STATUS OF
WEAPONS.
.
AN OFF THE RECORD DISCUSSION IS HELD.
.
THE DEFENDANT WAIVES HIS RIGHT TO AN ATTORNEY FOR THIS HEARING.
.
THE DEFENDANT INDICATES THAT HE IS IN THE PROCESS OF
TRANSFERRING POWER OF ATTORNEY TO A LICENSE FIREARM DEALER.
THE DEFENDANT IS ADMONISHED THAT THE FIREARM MUST BE EITHER
TRANSFERRED TO ANOTHER PEACE OFFICER LEGALLY OR THE FIREARM
DEALER WILL KEEP POSSESSION OF THE FIREARM.
.
THE MATTER IS CONTINUED FOR FURTHER PROCEEDINGS RE STATUS OF

TRANSFERRING THE FIREARM TO A LICENSE FIREARM DEALER TO
SEPTEMBER 14, 2023, AT 8:30 A.M. IN DEPARTMENT 3.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:
09/14/23 830 AM FURTHER PROCEEDINGS DIST EL MONTE COURTHOUSE DEPT 003

CUSTODY STATUS: ON PROBATION

09/14/23 AT 830 AM IN EL MONTE COURTHOUSE DEPT 003

CASE CALLED FOR FURTHER PROCEEDINGS

PARTIES: JAVIER PEREZ (JUDGE) ROSA HIDALGO (CLERK)
ELECTRONIC RECORDING (REP) KIMBERLY A. BAINS (DA)

DEFENDANT IS PRESENT IN COURT, AND NOT REPRESENTED BY COUNSEL
DEFENDANT APPEARS IN PRO PER

THE COURT ORDERS PROBATION TO PREPARE A FIREARMS PROHIBITION AND RELINQUISHMENT REPORT PURSUANT TO PENAL CODE SECTION 29810.

THE MATTER IS CALLED FOR PROOF OF TRANSFER OF THE FIREARM TO A LICENSED FIREARM DEALER.

.

THE DEFENDANT PROVIDES PROOF OF TRANSFER TO A LICENSED FIREARM DEALER.

.

THE COURT ORDERS THAT ANOTHER FIREARMS RELINQUISHMENT INVESTIGATION REPORT BE PREPARED BY THE PROBATION DEPARTMENT BY THE NEXT COURT DATE.

.

THE MATTER IS CONTINUED FOR PROOF OF PROGRESS REPORT IN THE DOMESTIC VIOLENCE COUNSELING PROGRAM AND FIREARMS RELINQUISHMENT

INVESTIGATION REPORT TO DECEMBER 11, 2023, AT 8:30 A.M. IN DEPARTMENT 3.

COURT ORDERS AND FINDINGS:

-THE COURT ORDERS THE DEFENDANT TO APPEAR ON THE NEXT COURT DATE.

NEXT SCHEDULED EVENT:
12/11/23 830 AM PROOF OF DOMESTIC VIOL CLASS DIST EL MONTE COURTHOUSE DEPT 003

NEXT SCHEDULED EVENT:
12/11/23 900 AM FURTHER PROCEEDINGS DIST EL MONTE COURTHOUSE DEPT 003

CUSTODY STATUS: ON PROBATION

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Criminal Division

El Monte Dept. - 3

ELM2EM00297-01 **December 11, 2023**

The People of the State of California vs. AVENA, ARMANDO **8:30 AM**

Honorable Angel Navarro, Judge
R. Hidalgo, Judicial Assistant

Proceedings Electronically Recorded,
Court Reporter

PC273.5(a), PC243(e)(1)

NATURE OF PROCEEDINGS: Progress Report

The following parties are present for the aforementioned proceeding:

ARMANDO AVENA, Defendant
Holden June Wi, Deputy District Attorney

The Defendant is present and representing themself.

The matter is called for Progress Report.

Proof of 27 of 52 domestic violence counseling sessions is received and filed.

Progress Report Domestic Violence Counseling is continued to **Monday, March 11, 2024**, at **8:30 AM, El Monte Dept. - 3**.

The Defendant is ordered to return on the above date.

Defendant On Probation.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Criminal Division

El Monte Dept. - 3

ELM2EM00297-01 **December 11, 2023**

The People of the State of California vs. AVENA, ARMANDO **8:30 AM**

Honorable Angel Navarro, Judge
R. Hidalgo, Judicial Assistant

Proceedings Electronically Recorded,
Court Reporter

PC273.5(a), PC243(e)(1)

NATURE OF PROCEEDINGS: Further Proceedings

The following parties are present for the aforementioned proceeding:

ARMANDO AVENA, Defendant
Holden June Wi, Deputy District Attorney

The Defendant is present and representing themself.

The matter is called for Further Proceedings/status of transfer of firearms.

The Court has read and considered the probation report which is filed this date.

The Court finds that the defendant has surrendered all firearms to a firearms dealer.

The Defendant has relinquished all firearms pursuant to the Probation Officer's report.

Defendant On Probation.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Criminal Division

El Monte Dept. - 3

ELM2EM00297-01 **March 11, 2024**

The People of the State of California **8:30 AM**

vs.

AVENA, ARMANDO

Honorable Javier Perez, Judge
R. Hidalgo, Judicial Assistant

Proceedings Electronically Recorded,
Court Reporter

PC273.5(a), PC243(e)(1)

NATURE OF PROCEEDINGS: Progress Report

The following parties are present for the aforementioned proceeding:

ARMANDO AVENA, Defendant
Holden June Wi, Deputy District Attorney

The Defendant is present and representing themself.

The matter is called for Progress Report.

The following document(s) is/are filed this date:

Miscellaneous Document 39 of 52 Domestic Violence

Progress Report Domestic Violence is continued to **Tuesday, June 11, 2024**, at **8:30 AM, El Monte Dept. - 3.**

The Defendant is ordered to return on the above date.

Defendant On Probation.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Criminal Division

El Monte Dept. - 3

ELM2EM00297-01 **June 11, 2024**

The People of the State of California **8:30 AM**

vs.

AVENA, ARMANDO

Honorable Javier Perez, Judge
R. Hidalgo, Judicial Assistant

Proceedings Electronically Recorded,
Court Reporter

PC273.5(a), PC243(e)(1)

NATURE OF PROCEEDINGS: Progress Report

The following parties are present for the aforementioned proceeding:

ARMANDO AVENA, Defendant
Holden June Wi, Deputy District Attorney

The Defendant is present and representing themself.

The matter is called for Progress Report.

The following document(s) is/are filed this date:

Proof of Completion: Domestic Violence Counseling

All other previous orders remain in full force and effect.

Defendant On Probation.

CR-160

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
STREET ADDRESS: 11234 Valley Blvd, El Monte, CA 91731
MAILING ADDRESS: 11234 Valley Blvd, El Monte, CA 91731
CITY AND ZIP CODE: El Monte, 91731
BRANCH NAME: El Monte Courthouse

FOR COURT USE ONLY

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles
APR 12 2023
David W. Slayton, Executive Officer/Clerk of Court

PEOPLE OF THE STATE OF CALIFORNIA
DEFENDANT: Armando Avena

CASE NUMBER: 2EM00297

CRIMINAL PROTECTIVE ORDER—DOMESTIC VIOLENCE (CLETS-CPO)

☐ ORDER PENDING TRIAL (Pen. Code, § 136.2) ☐ MODIFICATION
☐ PROBATION CONDITION ORDER (Pen. Code, § 1203.097(a)(2))
ORDER UPON CONVICTION: ☒ PENAL CODE, § 136.2(i) ☐ PENAL CODE, § 273.5(j) ☐ PENAL CODE, § 368(l) ☐ PENAL CODE, § 646.9(k)

This order may take precedence over other conflicting orders; see item 4 on page 4.

1. **Restrained person**
*Name: Armando Avena *Gender: [redacted] *Race: [redacted]
*Date of birth: [redacted] Height: [redacted] Weight: [redacted] Hair color: [redacted] Eye color: [redacted]

2. **Protected person**
*Name: Victim *Gender: [redacted] Age: [redacted]

3. **Additional protected persons**

*Name	*Gender	Relationship to person in item 2

a. ☐ The court finds that the protected person's family members have been targeted or harmed by the defendant (finding required for postconviction orders issued under Penal Code section 136.2(i)).

b. ☐ The court finds by clear and convincing evidence that the above named percipient witnesses have been harassed by the defendant (finding required for postconviction orders issued under Penal Code section 136.2(i)(2)).

(For items 1, 2, and 3: Information that has a star (*) next to it is required to add this order into the California Restraining and Protective Order System. Please provide all known information.)

4. **Expiration date**
a. For pretrial orders, this order remains in effect until further court order. To terminate, courts must use *Notice of Termination of Protective Order in Criminal Proceeding* (form CR-165).
b. For postconviction orders, this order expires on *(date)*: 4/12/2028 . (Postconviction orders under Penal Code sections 136.2(i), 273.5(j), 368(l), and 646.9(k) may be valid for up to 10 years.)

5. **Hearing**
This proceeding was heard on (date): 4/12/2023 at *(time)*: 9:45 AM in Dept.: 3
by (judicial officer): Hon. Javier Perez

6. **Personal service**
☒ Defendant was personally served with a copy of this order at the court hearing, and no additional proof of service of this or is required.

7. The court finds good cause to grant a protective order. See items 8–17.

To the defendant

- If you do not obey these orders, you can be charged with a crime, go to jail or prison, and/or pay a fine.
- It is a felony to take or hide a child in violation of this order.
- Traveling across state or tribal boundaries with the intent to violate the order may be punishable as a federal offense. (18 U.S.C. § 2261(a)(1).)






280
300


REMOVE
cardinalHealth
COLD PACK
COACH


TEAR TOWARD BACKING
CardinalHealth
COLD PAC