



PUBLIC RELEASE MEMORANDUM

Date: August 24, 2021

Subject: **Fatal Officer-Involved Incident**

Involved Officers: Deputy Nicholas Collas,
San Bernardino County Sheriff's Department

Deputy Jim Musgrave,
San Bernardino County Sheriff's Department

Deputy Alejandro Ramos,
San Bernardino County Sheriff's Department

Involved Subject: Skyleur Antonio Young (DOB 02/21/1989)
Subject's Residence: Victorville, CA

Incident Date: June 24, 2020

Case Agent: Detective Eric Ogaz
San Bernardino County Sheriff's Department

Agency Report #: 172005611/602000106

DA STAR #: 2021-06134

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PREAMBLE

The summary of this fatal incident is drawn from a submission of materials prepared by the San Bernardino County Sheriff's Department (SBCSD). The case agent for this submission was SBCSD Detective Eric Ogaz.

The submission reviewed included the following: reports of law enforcement witnesses, transcripts of interviews of involved law enforcement, police dispatch audio recordings, audio and video recordings of the officer-involved shooting, other audio recordings of law enforcement and civilian witness interviews, civilian video recordings, law enforcement photographs, medical records and law enforcement scientific investigation reports.

FACTUAL SUMMARY

On June 24, 2020, at approximately 10:06 a.m., SBCSD Deputies Nicholas Collas, Alejandro Ramos and Jim Musgrave fired their duty weapons at Skyleur Antonio Young while in the westbound lanes of Interstate Freeway 210 ("I-210"), southwest of the southbound connector to Interstate Freeway 215 ("I-215") in San Bernardino. No law enforcement officer sustained physical injury during the encounter. Mr. Young sustained six gunshot wounds, received medical care at the scene and was transported to Arrowhead Regional Medical Center (ARMC), where he died later that day. Mr. Young was 31 years old.

The officer-involved shooting occurred after Mr. Young led deputies on a high-speed vehicle pursuit in a 2006 Ford Expedition for more than 30 miles, through city streets and freeways, from Victorville to San Bernardino.

Immediately prior to the pursuit, Deputy Collas attempted to contact Mr. Young while he sat in his vehicle across the street from a residence on the 13000-block of Ashmont Street in Victorville. A civilian called 9-1-1 at 9:17 a.m., to report a suspect vehicle with tinted windows and no license plates parked in front of her residence for more than an hour. Deputy Collas was dispatched to that location. The civilian was concerned that she didn't recognize the car, nor the man inside, who she described to be a black man in his 30's. Deputy Collas arrived at the front of the civilian's residence at approximately 9:32 a.m. in a marked SBCSD patrol unit. Deputy Collas pulled his patrol unit immediately behind Mr. Young's car. Mr. Young was the driver and only occupant of the gray Ford. Deputy Collas opened his driver door and stepped out, but before Deputy Collas could get close, Mr. Young sped away. Deputy Collas pursued Mr. Young with emergency lights and sirens to effectuate a traffic stop.

Mr. Young yielded three times before the pursuit ended yet made no serious indication that he intended to submit to authorities. Mr. Young made his first stop at Ashmont Street and Dos Palmas Road—a location approximately three blocks from where the pursuit started. Deputy Collas was able to get out of his car and ordered Mr. Young to turn off his car. Mr. Young ignored Deputy Collas's command and resumed his flight from Deputy Collas less than 15

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seconds after he stopped there. Deputy Collas gave chase once more with lights flashing and sirens blaring and announced over dispatch radio that he was engaged in a vehicle pursuit.

Mr. Young stopped again two minutes later, while in the roadway at Dos Palmas Road and Mesa Linda Avenue. SBCSD Sergeant John Rodriguez was the first additional law enforcement officer to assist Deputy Collas. Deputy Collas announced "Sheriff's Department" and again ordered Mr. Young to turn off his car, take his keys out of the ignition and throw them out the window. Deputy Collas made announcements with and without his unit public address system. Mr. Young did not turn off his car. Deputy Collas could hear Mr. Young say, "Leave me alone." Then, it appeared to Deputy Collas and Sergeant Rodriguez that Mr. Young was holding a phone up to his ear and was talking to someone. Mr. Young remained at this location for approximately three minutes. Just as additional marked units arrived at Dos Palmas Road and Mesa Linda Avenue, Mr. Young fled.

By the time Mr. Young made his third intervening stop, at least four or five marked SBCSD patrol units, all using emergency lights and sirens, had joined the pursuit. This third stop occurred on US Highway 395, just north of Main Street, in the City of Hesperia. Via a patrol unit loudspeaker, Mr. Young was asked to turn off his car and drop his keys outside his window many times. After approximately two minutes, during which time Mr. Young told deputies to "hold on" and that he was smoking a cigarette, Mr. Young abruptly drove off. Mr. Young led deputies through Hesperia to the southbound lanes of Interstate Freeway 15 ("I-15"). Here, Deputy Ramos took the lead position in the pursuit. Deputy Collas fell-in behind Deputy Ramos and Deputy Musgrave took the third position. Three additional marked SBCSD patrol units and Sergeant Rodriguez followed behind Deputy Musgrave.

Since the onset of the pursuit, deputies noted Mr. Young posed a danger to the public in his evasive and reckless driving, which included excessive speed, driving into opposing lanes of traffic and running multiple stop signs and red lights. Mr. Young's freeway driving was also dangerous. Pursuing deputies estimated Mr. Young's freeway speeds reached 100 mph or more. In addition, Mr. Young was observed making numerous evasive and erratic lane changes, driving on the freeway dirt shoulders and nearly striking other motorists. While pursuing Mr. Young over the Cajon Pass, a California Highway Patrol (CHP) helicopter ("H80") arrived overhead and began video recording the pursuit. Shortly thereafter, SBCSD aviation ("40-King") also arrived overhead and assumed the duty of announcing radio updates.

Despite the presence of two law enforcement helicopters and seven pursuing patrol units, Mr. Young continued to evade law enforcement by traveling south on the I-15 and I-215 freeways. It was during this stretch of the pursuit that Mr. Young's tires were damaged. Further, dispatch advised Mr. Young was unarmed, per Mr. Young's mother.

By the time Mr. Young attempted to negotiate the westbound connector to the I-210 freeway from the I-215 freeway, the rubber had torn completely away from one of Mr. Young's tires. Mr. Young proceeded to drive on a metal rim. Mr. Young lost control of his car on the I-210 freeway connector and spun across the westbound lanes before finally coming to rest facing east in the

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fast-lane shoulder. Deputies Collas, Musgrave and Ramos drove westbound and immediately to the front of Mr. Young's car to keep Mr. Young from proceeding forward into oncoming freeway traffic. Deputies Collas, Musgrave and Ramos each got out of their patrol cars and took cover behind their driver doors. Shortly thereafter, Deputies Collas, Musgrave and Ramos noticed Mr. Young get out of his car. Mr. Young appeared to the deputies to be getting ready to run. Deputies Collas and Ramos both ordered Mr. Young to show his hands. Mr. Young then began to turn around. Deputies Collas, Musgrave and Ramos saw that Mr. Young had a large revolver in his right hand. First, Deputy Musgrave, then Deputy Ramos each yelled out "He's got a gun! He's got a gun!" Just as Mr. Young brought up the revolver in his right hand and began to point it at deputies, Deputies Collas, Musgrave and Ramos fired their duty pistols at Mr. Young. In a matter of seconds, Deputies Collas, Musgrave and Ramos fired 15 times, collectively. Mr. Young appeared to step backwards, turn counterclockwise and away from deputies, then fall face down onto the ground and on top of his revolver.

Mr. Young lay motionless on the ground while additional SBCSD personnel arrived at the scene. Less than three minutes after the gunfire, a line of four SBCSD personnel approached Mr. Young behind a ballistic shield. One of the approaching deputies removed Mr. Young's revolver from under Mr. Young and lay the revolver on the ground several steps away. Then, Mr. Young was handcuffed, and life-saving measures were immediately started. Minutes later, H80 landed on the I-210 freeway and the CHP paramedics aboard took over medical treatment of Mr. Young. Mr. Young was transported by ambulance to ARMC, where he underwent emergency surgery. Mr. Young survived the surgery but not his injuries. Mr. Young was pronounced dead at 4:44 p.m.

After an examination of the scene and the collection of evidence, a total of 15 fired cartridge casings (FCC's) were recovered that were attributable to the semi-automatic pistols fired by Deputies Collas, Musgrave and Ramos. The weapons used by Deputies Collas, Musgrave and Ramos were collected and examined by a SBCSD Scientific Investigations Division (SID) Criminalist. No damage or malfunction was noted in the deputies' weapons. Mr. Young's weapon was also collected from the scene. Mr. Young's .357 Magnum caliber revolver contained 5 bullets and 1 FCC. A SBCSD SID Criminalist examined Mr. Young's gun and found it to be damaged but able to be fired without malfunction.

A Riverside County Sheriff's Department Coroner, Forensic Pathologist determined after an autopsy that Mr. Young suffered gunshot wounds to the right arm, abdomen, right buttock and left leg. A total of six gunshot wounds were identified. The cause of death was determined to be due to multiple gunshot wounds. The forensic pathologist opined that Mr. Young's wounds would have resulted in death within hours.

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STATEMENTS BY LAW ENFORCEMENT OFFICERS¹

Sergeant John Rodriguez gave a voluntary interview to Detectives Stacey Spurlock and Nicolas Craig, on June 24, 2020, approximately eight hours after the shooting. At the time of the shooting incident, Sergeant Rodriguez was 32 years old and had been law enforcement officer for 15 years. During the pursuit, Sergeant Rodriguez wore plainclothes, including a grey t-shirt and blue jeans, and was driving an unmarked Dodge Charger. He did not fire his weapon during this incident.

Sergeant Rodriguez told detectives a traffic pursuit crossed in front of him as he was stopped at the intersection of Dos Palmas Road and US-395, in Victorville. Sergeant Rodriguez alerted dispatch that he would be designating himself as Deputy Collas's backing unit. Shortly thereafter, the fleeing SUV (Mr. Young) yielded at Dos Palmas Road and Mesa Linda Avenue. Sergeant Rodriguez heard Deputy Collas give commands using his patrol unit loudspeaker, including to turn off the vehicle, throw his keys out the window and put his hands out the window. However, as additional units began to arrive at that location, Mr. Young sped away from the scene. Sergeant Rodriguez fell back in the pursuit to allow marked units to get ahead of him and recalled that Deputy Collas was "calling" the pursuit. Sergeant Rodriguez stated that Mr. Young ran several red lights at 50 miles per hour, ran stop signs and the SUV had no license plates.

Mr. Young yielded again on US-395 and a felony traffic stop was attempted. However, after a few minutes, Mr. Young accelerated away again and fled down the I-15 freeway. While on the freeway, Sergeant Rodriguez recalled there were three marked SBCSD units between the sergeant's car and Mr. Young's SUV. When Mr. Young was in the area of the I-15 transition to I-215 freeway, the sergeant recalled that Mr. Young had a tire blow out and Mr. Young noticeably slowed down. Sergeant Rodriguez lost sight of the pursuit when it transitioned to the I-210 freeway. The next time Sergeant Rodriguez saw Mr. Young's SUV it had come to rest on the I-210 westbound lanes and was facing opposing traffic with marked units in position to make a felony traffic stop.

Sergeant Rodriguez stated that he positioned his unit to the right of the marked units. Sergeant Rodriguez then saw Mr. Young get out of his car and walk away from deputies. It appeared to Sergeant Rodriguez that Mr. Young limped or was disoriented. Mr. Young then turned around to face deputies. From approximately 15 feet, Sergeant Rodriguez saw Mr. Young's right hand lift; Mr. Young was holding a "big gun." Sergeant Rodriguez described Mr. Young's weapon as a revolver with a six-inch barrel. Mr. Young pointed the gun in the direction of Deputies Ramos and Musgraves' patrol units. Sergeant Rodriguez estimated that deputies were 10 feet away from Mr. Young. Sergeant Rodriguez stated that in that moment he was "a hundred percent certain" that Mr. Young was going to shoot and kill one of the deputies. Next, Sergeant Rodriguez saw

¹ Herein is a summary only. All shooting and witness officers were employed by the San Bernardino County Sheriff's Department. All reports submitted were reviewed, but not all are referenced here. No law enforcement personnel became aware of or used any civilian person's name until investigations revealed it, or as otherwise specified. All references to any witness or Skyleur Young by name are made here for ease of reference.

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Mr. Young fall to the ground. Sergeant Rodriguez believed that Mr. Young fell on top of his revolver.

Sergeant Rodriguez asked another deputy to get a ballistic shield because there was a chance that Mr. Young could be “playing possum.” Thereafter, the sergeant and other deputies approached Mr. Young where he lay motionless. Sergeant Rodriguez rolled Mr. Young over and exposed the revolver. Sergeant Rodriguez told a deputy to move Mr. Young’s gun away and first aid was started on Mr. Young.

Sergeant Rodriguez explained that in the moment he saw Mr. Young raise his revolver towards deputies, he believed that Mr. Young was going to shoot at the deputies. Sergeant Rodriguez opined that he also would have fired his duty weapon but that he wasn’t able to get Mr. Young in his sights fast enough. Also, Sergeant Rodriguez explained that the incident unfolded in seconds and there was no time to develop a tactical plan or less-lethal response because deputies were faced with a sudden lethal threat. Further, even if less-lethal munitions were immediately available, he wouldn’t have asked deputies to use less-lethal when faced with a large revolver.

Deputy Nicholas Collas gave a voluntary interview to Detectives Ogaz and Gerardo Moreno in the presence of Deputy Collas’s attorney, on July 1, 2020, one week after the shooting incident. Prior to the interview, Deputy Collas reviewed his belt recording and H80’s video recording of the pursuit and incident.

At the time of the shooting incident, Deputy Collas was 31 years old and had been a sheriff’s deputy for two and a half years. Deputy Collas also previously held the rank of sergeant and served in the National Guard for two and a half years. Deputy Collas has a graduate degree. Deputy Collas wore a SBCSD Class-A Uniform, including a tan long-sleeved shirt with SBCSD patches on both shoulders, a metal SBCSD star badge on the left chest, and an American flag and nameplate on his right chest. Deputy Collas also wore a green department-issued baseball cap with the word “Sheriff” in yellow block letters across the front. Deputy Collas’s duty weapon was a H&K VP9 model, 9mm caliber semi-automatic pistol that he had previously loaded with 16 total rounds. Deputy Collas believed he fired his weapon seven or eight times but learned afterwards that he fired 10 rounds.

On the morning of the incident, Deputy Collas recalled being at the Victorville sheriff’s station when he was dispatched to a residence regarding a suspicious vehicle. The reporting party told dispatch that an adult black male was inside the suspicious vehicle and had been in front of her house for an hour. Deputy Collas recalled arriving at the scene and making eye-contact with the driver (Mr. Young). Before Deputy Collas could say anything, Mr. Young sped away in his car. Deputy Collas got back in his patrol unit and pursued Mr. Young with his forward-facing emergency lights and siren activated. Deputy Collas believed that the car Mr. Young was driving may have been stolen due to Mr. Young’s unprovoked flight and that Mr. Young’s car had no license plates. Deputy Collas also believed that it was possible Mr. Young had been casing the reporting party’s residence to commit burglary.

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Shortly after Mr. Young began to evade Deputy Collas, Mr. Young yielded at Ashmont Street and Dos Palmas Road. While standing outside his door and behind Mr. Young's car, Deputy Collas said, "What are you doing man?" and told Mr. Young to turn off his car. Mr. Young neither responded nor complied. Instead, Mr. Young took off again and Deputy Collas resumed his pursuit.

Deputy Collas told detectives that Mr. Young stopped again at Dos Palmas Road and Mesa Linda Avenue. At this location Deputy Collas attempted a felony traffic stop—the deputy drew his duty weapon and announced, "Sheriff's Department!" Deputy Collas proceeded to order Mr. Young to turn off his vehicle and put his hands outside the window. Mr. Young said, "leave me alone" and resumed his flight.

Deputy Collas recalled that Mr. Young was driving through the City of Victorville in such a dangerous manner that the deputy believed that Mr. Young might injure someone. Deputy Collas saw Mr. Young run red lights at "full speed," make multiple lane changes without signaling and passing cars on the shoulder.

Deputy Collas stated that the next time Mr. Young stopped was on US-395, north of Main Street, in Hesperia. At that location, Deputy Collas attempted another felony traffic stop. Additional marked units assisted in this traffic stop and Mr. Young was issued commands using a patrol unit loudspeaker. Deputy Collas stated that Mr. Young was unphased by the presence of law enforcement; Mr. Young smoked a cigarette and told deputies, "Hold on man, I'm smoking a cigarette." Deputy Collas stated that Mr. Young accelerated away from deputies once more, but this time took to the freeways.

Deputy Collas stated that he fell back from the primary position to the secondary position during the freeway portion of the pursuit of Mr. Young. Still, Deputy Collas observed Mr. Young travel in excess of 100 mph, weave in and out of traffic, pass other motorists on the shoulder and almost hit dozens of cars. Deputy Collas stated that it appeared to him that Mr. Young tried to ram one or two cars while evading deputies on the freeway. Deputy Collas stated that as soon as 40-King could be heard overhead that pursuing deputies backed off the pursuit to get Mr. Young to slow down and surrender. However, Deputy Collas pointed out that Mr. Young did neither of those things in response to the de-escalation tactic. Later, Deputy Collas did see that Mr. Young was driving on damaged tires. Deputy Collas also recalled hearing dispatch alerts that Mr. Young may have mental issues and was unarmed according to Mr. Young's mother.

On the transition from the southbound I-215 to the westbound I-210, Deputy Collas saw Mr. Young take the curve too fast and spin out before coming to rest facing east in the westbound lanes along the center guardrail. Deputy Collas believed that he needed to pull close to the front of Mr. Young's car to prevent Mr. Young from driving into opposing traffic. Deputy Collas again attempted a felony traffic stop. Next, Deputy Collas saw Mr. Young open his car door and get out. Deputy Collas started to holster his weapon as he believed Mr. Young was getting ready to run and that deputies might have to give chase. Deputy Collas ordered Mr. Young to show his hands. Next, Deputy Collas saw that Mr. Young started to turn around and saw that Mr. Young

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had a gun in his hand. Deputy Collas described Mr. Young as holding his gun as if he was about to fire it. Deputy Collas believed he saw Mr. Young “lock eyes” with Deputy Ramos, who was next to Deputy Collas. Deputy Collas drew his duty weapon again, and from approximately 10-15 yards, fired it at Mr. Young. Deputy Collas stated that he was scared and believed that either he or his partners were going to get shot by Mr. Young. Deputy Collas stated that Mr. Young fell to the ground after being fired upon. Deputy Collas immediately radioed, “shots fired” and requested for medical assistance.

Deputy Alejandro Ramos gave a voluntary interview to Detectives Eric Dyberg and Ogaz in the presence of Deputy Ramos’s attorney, on July 2, 2020, eight days after the shooting incident. Prior to the interview, Deputy Ramos reviewed his belt recording and H80’s video recording of the pursuit and incident.

At the time of the shooting incident, Deputy Ramos was 42 years old and had served SBCSD as a deputy for his entire 15-and-a-half-year law enforcement career. Deputy Ramos had previously been involved in more than 15 traffic pursuits, as he served for four and a half years in Victorville’s city traffic division. Deputy Ramos wore a SBCSD Class-A Uniform, including a tan long-sleeved shirt with SBCSD patches on both shoulders, a metal SBCSD badge on the left chest, and an American flag and his nameplate on his right chest. Deputy Ramos also wore a green department-issued baseball cap with the word “Sheriff” in yellow block letters across the front. Deputy Ramos’s duty weapon was a Glock G17, 9mm caliber semi-automatic pistol, that he had previously loaded with 18 total rounds. Deputy Ramos believed he shot once or twice during the lethal force encounter.

On the morning of the incident, Deputy Ramos was on another call when he heard Deputy Collas was in a vehicle pursuit. Deputy Ramos immediately stopped what he was doing, activated his patrol unit lights and siren and tried to catch up with the pursuit. Deputy Ramos was near Dos Palmas Road and Topaz Street when he joined the pursuit as the fourth marked unit in line behind Mr. Young.

While on US-395, Deputy Ramos saw Mr. Young drive into oncoming traffic and run two red lights. When Mr. Young yielded on US-395, Deputy Ramos also yielded but was approximately four to five car-lengths back. Deputy Ramos waited five to ten seconds before getting out of his unit and walking forward, just in case Mr. Young decided to flee again. After getting out of his unit, Deputy Ramos approached Sergeant Rodriguez. After being told to set up spike strips ahead, Deputy Ramos got back in his unit to move forward. Suddenly, Deputy Ramos noticed that Mr. Young fled once more from deputies. Instantly, Deputy Ramos became the primary pursuing unit.

While in the primary pursuing position, Deputy Ramos observed Mr. Young make many unsafe lane changes, cut-off other motorists and pass on the road shoulders. Deputy Ramos estimated pursuit speeds based upon his own odometer readings, ranged from 70 to 105 mph. Deputy Ramos explained that at these speeds, even a tap on the bumper could cause another car to lose control or cause a collision. As such, it appeared to Deputy Ramos that Mr. Young might rear-

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end, injure or kill yielding civilians. Deputy Ramos backed off his pursuit to give Mr. Young room. Deputy Ramos also became aware that 40-King was overhead and resumed radio communication about Mr. Young's location. Deputy Ramos hoped that Mr. Young would pull over and stop. However, Deputy Ramos stated that 40-King's presence and backing off Mr. Young's vehicle did not change Mr. Young's dangerous driving behavior.

While pursuing Mr. Young on the I-15 freeway, Deputy Ramos noted that both of Mr. Young's right tires got deflated and appeared to be "shredding" away. Debris from Mr. Young's tires hit Deputy Ramos's patrol unit. When Mr. Young reached the I-215 freeway, Deputy Ramos believed that Mr. Young was swerving on purpose or trying to side-swipe other vehicles so that deputies would have to assist other motorists and stop pursuing Mr. Young. By the time Mr. Young committed to transitioning from the I-215 to the I-210 freeway, Deputy Ramos noted that Mr. Young's right tires had been worn down to the rim and backed away even further because he expected Mr. Young to lose control of his vehicle. Then, as expected, Deputy Ramos saw Mr. Young's car lose control, swipe the k-rail and move out of his sight.

The next time Deputy Ramos saw Mr. Young's car it was facing oncoming traffic on the westbound lanes of the I-210 freeway. Deputy Ramos feared that Mr. Young would drive into oncoming traffic, so the deputy drove to the front of Mr. Young's car to block Mr. Young's path forward. Deputy Ramos saw Mr. Young moving around in his car. It appeared to Deputy Ramos that Mr. Young was "spaced out or he wasn't all there." Deputy Ramos opened his patrol unit door and pointed his gun at Mr. Young. Next, Mr. Young immediately opened his car door and began jogging away in a northwest direction. Deputy Ramos shouted out commands that Mr. Young show his hands. Deputy Ramos believed that Mr. Young heard him because Mr. Young seemed to turn around toward the deputy and make eye-contact after Deputy Ramos yelled. At about the same time Deputy Ramos saw Mr. Young turn around, Deputy Ramos saw Mr. Young lift his right arm and point a long-barreled revolver in the deputy's direction. Deputy Ramos stated that when he saw that Mr. Young had a gun, he thought that he was going to get shot. Deputy Ramos yelled, "He's got a gun!" Deputy Ramos next recalled that he and Deputies Collas and Musgrave fired their weapons at Mr. Young. After Mr. Young fell to the ground, Deputy Ramos recalled continuing pointing his gun toward Mr. Young because he wasn't certain Mr. Young wasn't "faking it." Deputy Ramos estimated that he was approximately 20 feet away from Mr. Young at the time he fired his duty weapon. Deputy Ramos stated that he holstered his weapon after Mr. Young's weapon was secured. As Mr. Young received medical aid, Deputy Ramos remained at his patrol unit in shock.

Deputy Ramos stated that he never considered using less-lethal munitions during the incident because there was no time to do so. During the entire contact, Deputy Ramos believed that Mr. Young never gave any indications he was going to comply with law enforcement commands or give up.

Deputy Jim Musgrave gave a voluntary interview to Detectives Craig and Moreno in the presence of Deputy Musgrave's attorney, on July 3, 2020, nine days after the shooting incident. Prior to the interview, Deputy Musgrave reviewed his belt recording and H80's video recording

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of the pursuit and incident.

At the time of the shooting incident, Deputy Musgrave was 26 years old and had served as SBCSD deputy for two and a half years. Deputy Musgrave wore a SBCSD Class-A Uniform, including a tan long-sleeved shirt with SBCSD patches on both shoulders, a metal SBCSD badge on the left chest, and an American flag and his nameplate on his right chest. Deputy Musgrave's duty weapon was a Glock 21 semi-automatic pistol that the deputy had previously loaded with 14 total rounds. Deputy Musgrave believed that he fired two times at Mr. Young.

On the morning of the lethal force encounter, Deputy Musgrave heard Deputy Collas say over the radio that he was engaged in a vehicle pursuit. Deputy Musgrave responded in his marked patrol unit with activated emergency lights and siren. Deputy Musgrave recalled joining the pursuit of Mr. Young, behind Sergeant Rodriguez, in the area of Topaz Street and Dos Palmas Road. Deputy Musgrave saw Mr. Young driving in and out of lanes, speeding and running through stop signs. Deputy Musgrave stated that Mr. Young yielded on US-395 and a felony traffic stop was attempted. Deputy Musgrave saw two or three marked units ahead of him and he assumed the task of giving Mr. Young orders via patrol unit loudspeaker. At that time, Deputy Musgrave believed Mr. Young to be a black male adult with a tattoo on his face, who was smoking a cigarette in his car. Mr. Young did not respond to Deputy Musgrave's commands. Mr. Young instead fled from deputies once more. Deputy Ramos became the primary pursuing deputy, followed by Deputy Collas, and Deputy Musgrave was the third patrol unit behind Mr. Young.

Mr. Young led deputies to the I-15 freeway and when the pursuit reached the Cajon Pass, Deputy Musgrave saw that rubber pieces were starting to come off Mr. Young's wheels. Deputy Musgrave stated that Mr. Young was driving on both shoulders of the freeway, "flying in front of cars" and almost side-swiped a couple of them. Deputy Musgrave believed that Mr. Young's reckless manner of driving could have harmed or killed someone.

As Mr. Young led the pursuit from the I-15 to the I-215 freeway, Deputy Musgrave recalled that 40-King and H80 were overhead. It was also around this time that Deputy Musgrave heard the dispatch operator announce that Mr. Young had skipped his medications and was unarmed.

As Mr. Young continued to the I-210 freeway, Deputy Musgrave stated that Mr. Young lost control of his car and spun across the westbound lanes before coming to rest on the shoulder and facing the opposite way. Deputy Musgrave said Deputy Ramos pulled to the front of Mr. Young's car and that Deputy Musgrave drove his patrol unit to the right of Deputy Ramos's unit. Deputy Musgrave stated that he positioned his unit so that he would be able to pursue Mr. Young if Mr. Young decided to take off again. Deputy Musgrave explained that he, together with Deputies Collas and Ramos, formed a "blockade" of patrol units to the front of Mr. Young's car, to keep Mr. Young from driving into oncoming traffic.

Deputy Musgrave stated that as he got out of his patrol unit, Mr. Young also got out of his car. Deputy Musgrave believed that Mr. Young was going to run away from deputies. But as Mr.

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Young got out of his car, Deputy Musgrave saw Mr. Young had a gun in his hand. Deputy Musgrave described the gun as a black revolver with a brown handle. Deputy Musgrave immediately tried to alert Deputies Collas and Ramos that Mr. Young had a gun when Mr. Young turned towards Deputies Collas and Ramos. Deputy Musgrave then saw Mr. Young start to lift his gun. Deputy Musgrave explained that in this moment he was afraid for his life and the lives of his partners. Deputy Musgrave stated that he fired his firearm twice as quickly as he could and saw Mr. Young fall to the ground. Shortly thereafter, a team of deputies approached Mr. Young from behind a ballistic shield. After Mr. Young's gun was put out of Mr. Young's reach, Deputy Musgrave approached and put handcuffs on Mr. Young. Deputy Musgrave then assisted other deputies in applying first aid to Mr. Young until CHP paramedics assumed medical care of Mr. Young.

Deputy Musgrave stated that the lethal force encounter happened quickly and there was no time to use less-lethal munitions, let alone formulate a plan of approach. Deputy Musgrave stated that had he tried to transition to a taser, for example, that it would have placed him and his partners in danger. Deputy Musgrave stated that Mr. Young never gave any indication that he was going to cooperate, comply with or surrender to law enforcement.

Additional SBCSD and CHP Personnel who participated in the pursuit and/or witnessed the shooting incident were interviewed as part of the submitted investigation. The additional pursuing personnel who followed Mr. Young did so in marked units with activated lights and sirens. The descriptive accounts given of Mr. Young's driving was generally consistent with that given by Sergeant Rodriguez and Deputies Collas, Musgrave and Ramos. Deputy Armon Zolfaghari told detectives that the only pursuing unit that was not a marked SBCSD patrol unit, was Sergeant Rodriguez's Dodge Charger. Deputy Zolfaghari explained that when he arrived on the I-210 freeway that he positioned his unit on the westbound lanes to block oncoming traffic. Deputy Starsun Fincel, who also pursued Mr. Young from Victorville, performed a traffic break on the I-210 freeway to protect deputies and on-coming motorists; Deputy Fincel was the first unit behind Deputies Collas, Musgrave and Ramos. After performing the traffic break, Deputy Fincel ran west on the fast-lane shoulder, towards Deputies Collas and Ramos. Deputy Fincel heard someone say, "He's got a gun." When Deputy Zolfaghari opened his unit door, he heard gunfire, ran towards the gunfire and saw Mr. Young on the ground 20 to 30 feet away from where Deputies Collas, Ramos and Musgrave were standing.

After forming an approach plan to secure Mr. Young's weapon and administer life-saving measures, Detective Eugene Mondragon approached Mr. Young behind Deputy Chris Haas, together with Deputy Zolfaghari and Detective Rodriguez. Detective Mondragon took hold of Mr. Young's right leg and pulled Mr. Young away from his weapon. Deputy Zolfaghari picked up the gun and moved it six to ten feet away while others detained and provided medical care to Mr. Young.

The non-shooting SBCSD personnel who were present when shots were fired at Mr. Young each explained that they did not fire at Mr. Young themselves either because they were still inside their patrol units or they were not able to see the gun threat posed by Mr. Young. Other SBCSD

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personnel interviewed did not arrive at the scene until after shooting had ceased.

SBCSD personnel who followed the pursuit of Mr. Young aboard 40-King also gave statements. Sergeant Daniel Futscher was the pilot of 40-King and stated that H80 began monitoring the pursuit of Mr. Young before 40-King did. Tactical Flight Officer Corey Lawrence, who was aboard 40-King, took over radio announcements on the pursuit while 40-King was in the area of Hesperia, south of the top of the Cajon Pass. At that time, Mr. Young was noted to be traveling at approximately 100 mph. Throughout the freeway pursuit, speeds fluctuated between 50 to 100 mph. Officer Lawrence described traffic during the freeway portion of the pursuit to range from light to moderate. Officer Lawrence stated that it appeared Mr. Young was driving on the freeway shoulders so he would not have to decrease his speed. Overall, Officer Lawrence agreed that Mr. Young drove “recklessly.” Sergeant Futscher stated that under the circumstances, medical aid couldn’t have been available to Mr. Young any faster than it was.

The CHP personnel aboard H80 also gave statements. CHP Pilot Ralph Scott Steele explained that H80 had a secondary role to 40-King in monitoring the pursuit of Mr. Young. Pilot Steele stated that he was able to land H80 within five minutes of shots being fired, so that the two CHP paramedics aboard—Training Flight Officer Michael Cole and Flight Officer Gustavo Aguirre, could render aid to Mr. Young. Officer Aguirre sat in the front left seat of H80 and recorded a portion of the pursuit and the officer-involved shooting using H80’s camera system, which was mounted under the craft, below his seat. Officer Aguirre estimated Mr. Young’s freeway speeds to fluctuate between 70 to 90 miles per hour and agreed that Mr. Young was driving recklessly.

Deputies Collas, Musgrave and Ramos’ firearms were collected after the shooting incident and an inventory of ammunition was taken by detectives. Deputy Collas’s firearm (as described below) contained five bullets. Deputy Collas also had two additional magazines for his firearm that contained 20 bullets in each. Deputy Musgrave’s firearm (as described below) contained 11 bullets. Deputy Musgrave also had three additional magazines for his firearm that contained 13 bullets in two, and nine bullets in the third. Deputy Ramos’s firearm (as described below) contained 15 bullets. Deputy Ramos also had four additional magazines for his firearm that contained 17 bullets in each.

SBCSD Criminalists were tasked with examining the weapons fired by Deputies Collas, Musgrave and Ramos during the lethal force encounter. Deputy Collas’s duty weapon was a Heckler and Koch semi-automatic pistol, model VP9, 9mm Luger caliber. Deputy Musgrave’s duty weapon was a Glock semi-automatic pistol, model 21 Gen4, .45 Auto caliber. Deputy Ramos’s duty weapon was a Glock semi-automatic pistol, model 17 Gen4, 9mm Luger caliber. Each deputy’s pistol was test-fired and determined to be functioning normally.

Mr. Young’s firearm was also examined. Mr. Young’s firearm was described as a Colt double-action revolver, Trooper model, .357 Magnum caliber. Mr. Young’s revolver contained five unfired bullets and one FCC. One of the unfired bullets was found to have a light primer strike. All six rounds were .357 Magnum caliber. The revolver had a damaged hammer and grip panels. The revolver was also found to be missing an ejector rod head and parts associated with the

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crane lock. Despite the noted damage and missing parts, the criminalist found Mr. Young's revolver fired without malfunction.

Several hours after Mr. Young's death, gunshot residue evidence was collected from both of his hands and submitted for analysis. A SBCSD Criminalist examined the submitted evidence and found it was negative for gunshot residue particles.

STATEMENTS BY CIVILIAN WITNESSES²

The reporting party who first spotted Mr. Young sitting in his car in front of her home was interviewed the day after the officer-involved shooting occurred. The reporting party told detectives that on the day of the incident she asked her adult son to go outside to take a closer look at what Mr. Young was doing in front of her house. The reporting party's son was also interviewed. The reporting party's son told detectives that Mr. Young was smoking marijuana, appeared to be a "gangbanger" or "thug" and believed that Mr. Young was there to commit a crime. On her son's urging, the reporting party called 9-1-1 and within 15 minutes a "police car" pulled in behind Mr. Young's car. The reporting party then saw Mr. Young take off at a high rate of speed and that the "police car" pursued Mr. Young with its red and blue lights flashing.

INCIDENT AUDIO/VIDEO³

Dispatch Recordings. The case agent's submission included audio files containing dispatch radio broadcasts, the reporting party's 9-1-1 call for service and 9-1-1 calls from Mr. Young's family.⁴ The dispatch recordings appear to have been submitted in real time. The actual timing of the recordings, however, was not apparent from the recordings themselves, except to make approximations based on the content of the calls. There is some indication of timing when the audio recordings are considered alongside the dispatch logs prepared by SBCSD, which notes approximate timestamps for radio communications delayed only by the time to receive and record the information.

The following is a summary of the submitted recordings:

The reporting party called 9-1-1 at approximately 9:17 a.m. and asked for police assistance. The reporting party told the dispatch operator that there was a "suspicious" car with neither front nor back license plates in front of her house. She had not previously

² Multiple civilian witnesses were interviewed pursuant to the submitted investigation. Every civilian statement and recorded statement submitted was reviewed in totality. However, only selected parts of those statements are included here. No civilian witness used the name of any person involved in the lethal force encounter, unless otherwise indicated. Names are included in this summary for ease of reference only.

³ All submitted audio and video recordings were reviewed and considered in the context of the entire submission. Only selected portions of selected items are summarized here.

⁴ The stated identity of the 9-1-1 callers are presumed genuine.

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seen the car in her neighborhood. The reporting party described the driver as a “black man in his 30’s.” The reporting party stated the man had been there for at least an hour, was smoking weed and looking at her house.⁵

The dispatch recordings submitted resumed with Deputy Collas’s radio announcement, “Paul-25, F-T-Y. Paul-25, F-T-Y. Eastbound Dos Palmas, Ford Explorer no plates, wanted for traffic.” The dispatch call log for the vehicle pursuit was created at 9:34 a.m., *after* Deputy Collas had already attempted to contact Mr. Young twice, and Mr. Young had already yielded and resumed flight once. Approximately a minute after the pursuit was announced, Sergeant Rodriguez alerted dispatch that he was on the pursuit with Deputy Collas. At 9:35 a.m., a felony traffic stop was attempted at Dos Palmas Road and Mesa Linda Avenue. Deputy Collas advised dispatch that the driver (Mr. Young) was refusing commands. Deputy Collas elaborated that Mr. Young was either talking to himself or was on the phone and refused to turn off his car. At 9:38 a.m., Deputy Collas radioed, “He’s F-T-Y’ing again, eastbound Dos Palmas.” Deputy Collas proceeded to call out three locations where Mr. Young ran a stop sign. At 9:41 a.m., Deputy Collas announced that he attempted to “PIT” [pursuit intervention technique] Mr. Young, but that was unsuccessful. Thereafter, Deputy Collas advised that Mr. Young ran a red light at Eagle Ranch and Bear Valley before going southbound on US-395.

At approximately 9:44 a.m., Deputy Sean Lenihan advised dispatch that Mr. Young was slowing down on US-395, north of Main Street. Deputy Lenihan thereafter advised dispatch that deputies were again attempting a felony traffic stop. At 9:46 a.m., Deputy Collas radioed that Mr. Young was refusing commands. Within 20 seconds, Deputy Collas reported “We’re F-T-Y again. Southbound 395. Traffic is light.”

At approximately 9:48 a.m., Deputy Collas alerted units that Mr. Young ran two more red lights and proceeded southbound on the I-15 freeway. By 9:50 a.m., Deputy Collas noted Mr. Young was moving at 100 mph near Oak Hills. At 9:53 a.m., SBCSD Aviation (40-King/Tactical Flight Officer Lawrence) announced that they were overhead. Flight Officer Lawrence advised units of Mr. Young’s movement from lane to lane, including that Mr. Young was moving at speeds of 90 to 100 mph. At approximately 9:56 a.m., Deputy Collas advised that units were giving Mr. Young some room since 40-King was overhead. Dispatch also alerted units that Mr. Young’s mother was on the phone, said that Mr. Young “skipped his clinic” and was not armed.

Dispatch recordings did include a 1-minute call to 9-1-1 from Mr. Young’s mother, who told the operator that her son was in a high-speed chase with police. Mr. Young’s mother identified Mr. Young by name and birthdate. She explained that Mr. Young was having a “schizophrenic moment” and was not armed. She told the operator that her daughter was talking to Mr. Young and trying to get him to stop. Mr. Young’s mother stated that Mr.

⁵ Deputy Collas was subsequently dispatched to respond to the reporting party’s location, but no dispatch recordings submitted reflect that. The call log submitted by the case agent indicates that Deputy Collas was dispatched to the call at 9:23 a.m., and that Deputy Collas arrived at the reporting party’s residence at 9:32 a.m.

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Young needed medicine and Mr. Young told her that he was in front of the police. Mr. Young's mother told the operator that she was also talking to "Skyleur" and thereafter could be heard saying "Pull that truck over right now."

At approximately 9:57 a.m., just as Mr. Young's mother was calling dispatch, Deputy Collas advised that Mr. Young had a blown tire. Flight Officer Lawrence noted that Mr. Young was moving at 90 mph in moderate traffic and approaching the I-215 freeway in Devore. At approximately 9:59 a.m., dispatch advised units that Mr. Young was "off his meds." Deputy Collas immediately asked dispatch to inquire whether Mr. Young was known to be armed. The dispatch operator replied, "We're on the phone with his mom and she's saying he's not armed."

At approximately 10:04 a.m., Deputy Ramos radioed, "He's running on both rims." Flight Officer Lawrence observed that Mr. Young's speed was down to 60 mph and appeared to be exiting the I-215 freeway at University. Shortly thereafter, Flight Officer Lawrence announced Mr. Young was continuing southbound on the freeway towards the I-215 and I-210 split.

By 10:05 a.m., Flight Officer Lawrence advised that Mr. Young committed to the westbound I-210. At 10:06 a.m., Flight Officer Lawrence radioed, "Spun out right there at the junction facing the opposite way of traffic. Careful you guys got traffic coming up behind you guys." Less than 10 seconds thereafter, Flight Officer Lawrence announced "felony T-stop" was in progress, Mr. Young's door was open; Mr. Young was getting out and walking backwards. The next aired broadcast by Deputy Collas was, "Shots fired. 25. Shots fired." Multiple calls for medical personnel to stand-by followed. Deputy Collas advised that Mr. Young was downed with a gun underneath him.

At approximately 10:08 a.m., Flight Officer Lawrence announced that deputies were approaching Mr. Young. Less than 30 seconds later, medical personnel were cleared to approach, and Sergeant Rodriguez advised that Mr. Young's weapon had been secured.

Belt Recordings. The submission included belt audio recordings from Deputies Collas, Musgrave and Ramos, in addition to other SBCSD personnel. The submitted belt recordings appear to have been made in real time, except for the recording taken by Deputy Ramos. Deputy Ramos told detectives that during the pursuit he paused his belt recorder for a period of time but re-initiated it once he realized he had done so. The audible sounds included in each belt recording was limited to the recording device's ability to capture sound at the wearer's location and the existence of ambient noise. Based upon that limitation, it is understood that the recorded audio may be different from what the wearer heard. Nonetheless, the submitted belt recordings were found to be generally consistent with the interviews given by the people who made them.

This is a summary of selected belt recordings that captured the officer-involved shooting:

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Deputy Collas submitted a belt recording that was approximately 37 minutes long and appeared to begin shortly before Deputy Collas arrived at the reporting party's location. Deputy Collas can be heard saying, "Hey wait," just before he gets back into his patrol unit and begins to drive with his emergency siren activated. About 20 seconds later, Deputy Collas's siren stops, and he can be heard getting out of his unit. Deputy Collas said, "What are you doing, man? Hey, turn your car off." Seconds thereafter, the sound of a car accelerating can be heard. Deputy Collas can also be heard getting back in his unit and resuming use of his emergency siren. About a minute and 40 seconds after the recording began (**1:40**), Deputy Collas can be heard radioing "Paul-25-F-T-Y."⁶

At (**2:34**) Deputy Collas radioed that the driver (Mr. Young) was yielding at Mesa Linda. Approximately ten seconds later, Deputy Collas is heard saying, "Hey, Sheriff's Department, turn off your vehicle." Then, over the next two minutes, Deputy Collas stated "Sheriff's Department" eight times, "turn off your vehicle" six times, and "take the key out of the ignition and throw it out of the window" five times. At first Deputy Collas appeared to be shouting these commands, but most of these commands were made with the assistance of his patrol unit loudspeaker. In the background at (**5:02**), Sergeant Rodriguez can be heard saying "Looks like he's on the phone. He's talking to somebody." Other emergency sirens were audible and became louder with time suggesting that additional units are approaching. Then, at (**5:42**) Sergeant Rodriguez said, "There he goes!" Deputy Collas got back into his unit and engaged his siren. At (**5:49**) Deputy Collas radioed, "Paul-25. He's F-T-Y-ing again..."

The sounds of driving followed. At (**8:37**), Deputy Collas stated, "As soon as he slows down, I'm gonna PIT" and immediately thereafter it sounded like Deputy Collas made contact with Mr. Young's car, with his unit. Ten seconds later, Deputy Collas radioed, "25. First PIT unsuccessful." Deputy Collas appeared to continue driving until the sound of his siren stopped at (**12:27**). These repeated announcements followed: "Driver turn off the vehicle," "Driver drop the keys out the window," and "This is the San Bernardino County Sheriff's Department," until (**14:17**), when Deputy Collas's unit siren resumed. At (**14:24**) Deputy Collas advised dispatch "we're F-T-Y-ing again." Deputy Collas's belt recording of the ensuing freeway pursuit was consistent with the dispatch radio summary included above.

At (**33:40**) Deputy Collas can be heard opening his unit door and stating, "Hey, show us your hands, show us your..." before another person was heard saying "He's got a gun, he's got a gun." The sound of successive gunfire is heard at (**33:49**) for approximately three seconds. Then, at (**33:54**) Deputy Collas called out "25. Shots fired. 25. Shots fired. 25 Shots fired. Let's get meds staged and airship rolling. We got one down. He's got a gun underneath him." By (**36:49**), Sergeant Rodriguez was heard radioing, "The weapon is secured."

⁶ The dispatch radio transmissions summarized above are partially audible during this belt recording, but will only be referenced in part, here.

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Deputy Musgrave submitted two separate belt recordings totaling just over 12 minutes in length. The first belt recording was recorded during the felony traffic stop attempted at US-395 and is consistent with the summaries above. The second of Deputy Musgrave's submitted belt recordings captured the officer-involved shooting and is also consistent with the summaries above. At (4:40) of the second belt recording, Deputy Musgrave is heard opening his unit door. At (4:44) Deputy Musgrave is heard saying, "Hey, he's got a gun." He repeats two seconds later, "He's got a gun." The sound of gunfire erupts at (4:47). At (4:56), Deputy Musgrave can be heard saying, "Hey, stage meds. Stage Meds."

Deputy Ramos submitted one belt recording that was almost 19 minutes long. The relevant portions of Deputy Ramos's belt recording are consistent with the summaries above. At (13:32), Deputy Ramos is heard saying "He's riding on both rims. If he tries to exit, I'm going to PIT him." Less than ten seconds later, Deputy Ramos can be heard opening his patrol unit door. At (15:48) Deputy Ramos states "Show us your hands. Show us your hands. Show us your hands." At (15:51) Deputy Ramos stated, "He's got a gun. He's got a gun." The sound of gunfire is heard at (15:53).

Presuming Deputies Musgrave and Ramos stated Mr. Young had a gun immediately as they saw Mr. Young's gun, the belt recordings suggest that Deputy Musgrave saw Mr. Young's gun approximately nine seconds before Deputy Ramos did. After shots were fired, multiple recordings captured Deputy Collas telling Deputy Ramos that Mr. Young pointed his gun at Deputy Ramos. Deputy Ramos said in response, "Yeah, that's why I shot."

Video Recordings. One hundred surveillance video files were produced by the reporting party, only 15 of which contained any relevant footage. The reporting party's video did not include audio. The relevant video footage provided by the reporting party was generally consistent with the statements the reporting party and her son gave to detectives, which are summarized above. Based on the timestamp included in the reporting party's video, Mr. Young was in front of the reporting party's residence for approximately an hour. The reporting party's video surveillance showed Deputy Collas stopping his patrol unit immediately behind Mr. Young's car without any emergency lights activated. Deputy Collas took two steps out of the patrol unit, then Mr. Young drove off. Deputy Collas got back into his patrol unit and pursued Mr. Young with emergency lights flashing.

H80's video referenced above is approximately 25 minutes long. The footage began with H80 flying towards the traffic pursuit of Mr. Young and ended as H80 landed on the I-210 freeway after the officer-involved shooting. At approximately (2:30) pursuing units came into view and appeared to be moving on the I-15 freeway near Highway 138. Six patrol units can be seen pursuing with flashing emergency lights, and one dark-colored vehicle with a flashing red light (Sergeant Rodriguez) also pursued Mr. Young. The video showed numerous uninvolved vehicles in traffic, including many semi-trucks with trailers, prior to the pursuit reaching the summit of the Cajon Pass. Mr. Young's vehicle appeared to weave through all lanes of traffic and both

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freeway shoulders while evading pursuing deputies. Just as 40-king assumed radio traffic regarding the pursuit, at **(5:25)** the pursuit moved out of the frame of the recording and did not reappear until **(7:40)**. H80's video captured Mr. Young's continued flight to San Bernardino and was visually consistent with the radio broadcasts and statements provided by witness law enforcement officers included in the submission.

At **(19:26)**, H80's video showed Mr. Young fish-tailing while navigating the transition from the southbound lanes of the I-215 freeway to the westbound lanes of the I-210 freeway. Mr. Young's vehicle hit a guardrail on the transition at **(19:28)**. Mr. Young's vehicle slid across westbound I-210 lanes, narrowly missed by at least two westbound motorists, and spun clockwise before coming to rest in the fast-lane shoulder at **(19:35)**. Mr. Young's vehicle faced oncoming traffic. Mr. Young opened his driver door at **(19:43)**. Mr. Young took several steps away from Deputies Collas, Musgrave and Ramos, who were all standing outside of their units. Mr. Young took approximately four steps away from the deputies with his back towards deputies. Deputy Collas appeared to be holstering his side-arm and Deputy Musgrave was closing his unit door when at **(19:47)** Mr. Young turned his head and upper body towards facing the deputies. By **(19:48)** Deputies Collas, Musgrave and Ramos each appeared to be in a two-handed shooting stance. At the same time, Mr. Young appeared to have a gun in his right hand. Gunfire cannot subsequently be seen nor heard, though at **(19:49)** Mr. Young shuffled his feet backwards. The captured video frame jumped momentarily, and when the frame returned to Mr. Young at **(19:52)**, Mr. Young was face down on the ground with both of his hands under him.⁷

At **(21:14)** Deputy Zolfaghari can be seen running forward with a ballistic shield. At **(21:56)** Deputy Collas can be seen climbing on top of the hood of Mr. Young's car and looking in through the windshield then giving a thumb's up. At **(22:09)**, Sergeant Rodriguez, Detective Mondragon and Deputies Haas and Zolfaghari are shown moving towards Mr. Young in a line formation behind the shield. At **(22:21)**, Detective Mondragon reached down and appeared to pull Mr. Young's right leg. At **(22:29)**, Deputy Zolfaghari bent down to pick up Mr. Young's gun and placed it down again several steps away. Emergency medical aid then followed, including the landing of H80 at **(24:11)**. H80's video images cease at **(24:21)**, but radio traffic is audible for a brief time thereafter.

INCIDENT SCENE INVESTIGATION

The case agent managed the crime scene investigation with the assistance of a SBCSD Crime Scene Specialist. The incident occurred in the westbound lanes of the I-210 freeway, approximately 52 feet southeast of the Cajon Boulevard OH bridge #54-0946L. There were three marked lanes at that location. A 15 foot and five-inch-wide shoulder abutted the fast lane. Gouge marks caused by Mr. Young's tire rim were noted in the southbound I-215 merger lane, that continued onto the I-210 westbound lanes.

⁷ The footage provided appeared to run continuously. There were other moments throughout the entire video where the focus and frame jumped. This is not surprising considering that the video camera was affixed to a moving aircraft.

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Mr. Young's vehicle was described as a 2006 Ford Expedition SUV with no attached license plates. The Expedition faced east in the fast-lane shoulder. Only the metal rim remained on the right rear tire of the Expedition. The Expedition also bore damage along the entire right side consistent with striking the freeway guardrail. The freeway guardrail also showed damage. Detective Ogaz indicated that there was paint transfer on the right rear quarter panel of Mr. Young's vehicle that would be consistent with an attempted PIT maneuver. Detective Ogaz also noted two fired bullet strikes to the Expedition. A photograph of the bullet strikes showed two elongated oval-shaped holes in the driver's doorframe area between the windshield and the driver's side mirror. Detective Ogaz opined that the strikes appeared to travel from left (passenger-side) to right (driver-side), front-to-back, and exit into the interior plastic door panel.

During an authorized search, Detective Ogaz located a backpack on the right front passenger seat that contained mail addressed to Mr. Young and one unfired .357 Magnum bullet. The backpack also contained one California vehicle license plate for Mr. Young's car with no registration stickers. Under the backpack, the detective found another license plate for Mr. Young's vehicle *with* June 2020 registration stickers. Multiple cans of beer and bottles of alcohol were found throughout the vehicle.

Seven marked SBCSD patrol units were parked immediately to the front (east) of Mr. Young's vehicle; all units faced west. The first row of patrol units were the assigned units of Deputies Collas, Ramos and Musgrave. The units of Deputies Collas and Ramos were in the fast-lane shoulder. Deputy Musgrave's unit straddled the #1 and #2 lanes. Sergeant Rodriguez's unmarked dark grey Dodge Charger was parked next to Deputy Musgrave's unit in the #3 lane. A second row of patrol units were the units assigned to Deputies Fincel, Wetzel and Cruz. Deputy Fincel's unit was in the fast-lane shoulder. Deputy Wetzel's unit was in the #1 lane. Deputy Cruz's unit was in the #2 lane. Deputy Zolfaghari's marked unit was behind Deputy Cruz's unit.

Two .45 caliber FCCs were recovered from atop Deputy Musgrave's patrol unit. Seven 9mm FCCs were recovered from the roof of Deputy Ramos's patrol unit. Six additional 9mm FCCs were recovered from the ground around Deputy Collas's patrol unit. Deputy Collas's patrol unit showed collision damage to the right front fender and headlight area. Deputy Ogaz determined that this damage was consistent with an attempted PIT maneuver.

Detective Ogaz also noted Mr. Young's .357 Magnum blue steel revolver with wooden grips at the scene and on the ground, west of Mr. Young's blood-stained clothing and patrol units. The detective described the revolver as containing six bullets, one with a full primer strike and another with a partial primer strike.

The front of Deputy Musgrave's patrol unit appeared to be approximately 30 feet east of the debris field consisting of Mr. Young's blood-stained clothing and used medical supplies. Mr. Young's gun was noted approximately 10 feet west of the same debris field. Detective Ogaz estimated based upon his scene investigation that at the time shooting deputies fired their weapons, that Deputy Musgrave was closest to Mr. Young at 21.5 feet, followed by Deputy

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Collas at 30 feet and furthest was Deputy Ramos, at 32 feet.

DECEDENT

Medical Treatment. H80 landed on the westbound lanes of the I-210 freeway and CHP paramedics aboard took over medical treatment of Mr. Young at approximately 10:11 a.m. AMR paramedics arrived at approximately 10:22 a.m. Mr. Young was transported by AMR ambulance and arrived at ARMC at approximately 10:39 a.m. Mr. Young underwent emergency surgery at approximately 11:26 a.m. Mr. Young survived the surgery but not his injuries. Mr. Young was pronounced dead by an ARMC physician at 4:44 p.m.

Autopsy. A Riverside County Sheriff's Department Coroner, Forensic Pathologist performed the autopsy of Mr. Young on July 1, 2020. The forensic pathologist found Mr. Young to be a 31-year-old black male, approximately six foot and two inches tall, weighing 262 pounds.

In the Autopsy Protocol report, the forensic pathologist identified six gunshot wounds as follows: (1) right shoulder, (2) right forearm, (3) right wrist, (4) mid-abdomen, (5) right buttock, and (6) left leg. Gunshot (1) was noted to bear a right to left trajectory. Gunshots (2) and (5) had a back to front trajectory. Gunshots (3) and (4) had a left to right trajectory. The trajectory of gunshot (6) could not be determined by the pathologist due to the medical intervention procedures that Mr. Young received prior to examination. In the forensic pathologist's opinion, Mr. Young's death was caused by multiple gunshot wounds. The forensic pathologist did not indicate which of the sustained gunshot wounds was fatal. However, the forensic pathologist did indicate that gunshots (4) and (5) impacted no significant or vital structures. The forensic pathologist further opined that death would have occurred within hours.

Urine, blood and vitreous fluid that was obtained by the forensic pathologist was processed for toxicology and determined to contain .21, .074, and .064 percent weight/volume of ethyl alcohol, respectively. Toxicology reports also indicated the presence of narcotics in Mr. Young's urine, blood and vitreous fluid. However, those narcotics are attributable to the medical care Mr. Young received.

Criminal History. The case agent's submission included Mr. Young's criminal history, which included one theft-related felony in 2009. Mr. Young was also convicted of six misdemeanors between 2007 and 2018, including a conviction for assault in 2010.

APPLICABLE LEGAL PRINCIPLES

To preface, the public "expects" a responding officer to investigate a 9-1-1 call, as part of the officer's proper exercise of his duties. (*People v. Brown* (2015) 61 Cal.4th 968, 981-982.) Distinct from their duties to investigate crime, police officers are also expected to serve a "community caretaking" function by providing emergency services or helping those in danger of

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harm. (*People v. Ray* (1999) 21 Cal.4th 464, 471-472.) If a police officer witnesses a moving vehicle commit traffic violations, it is both reasonable and lawful for the officer to initiate a traffic stop of that vehicle. (*People v. Lomax* (2010) 49 Cal.4th 530, 564.) When a detainee on a traffic stop gives chase and during a high-speed pursuit engages in hazardous maneuvers threatening the lives of others, police officers can be justified in using deadly force to end the chase. (*Plumhoff v. Rickard* (2014) 572 U.S. 765, 777. See also *Weaver v. State of California* (1998) 63 Cal.App.4th 188, 209.)

A peace officer may use objectively reasonable force to effect an arrest, to prevent escape or to overcome resistance. (Calif. Penal Code §835a(b)).⁸ An arrestee or detainee may be kept in an officer's presence by physical restraint, threat of force, or assertion of the officer's authority. (*In re Gregory S.* (1980) 112 Cal. App. 3d 764, 778, citing, *In re Tony C.* (1978) 21 Cal.3d 888, 895.) An arrestee has a duty to refrain from using force or any weapon to resist arrest, if he knows or should know that he is being arrested. (Penal C. §834a) The force used by the officer to effectuate the arrest or detention can be justified if it satisfies the Constitutional test in *Graham v. Connor* (1989) 490 U.S. 386, 395. (*People v. Perry* (2019) 36 Cal. App. 5th 444, 469-470.)

PENAL CODE SECTION 196. Police officers may use *deadly* force in the course of their duties, under circumstances not available to members of the general public. Penal Code §196 states that homicide by a public officer is justifiable when it results from a use of force that “is in compliance with Section 835a.” Section 835a(c)(1) specifies a ***police officer is justified in using deadly force*** when he reasonably believes based upon the totality of the circumstances, that it is necessary “defend against an imminent threat of death or serious bodily injury to the officer or another.” The “[t]otality of the circumstances’ means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.” (Penal C. §835a(e)(3).)

A peace officer need not retreat or desist from efforts to arrest a resistant arrestee. (Penal C. §834a(d).) A peace officer is neither deemed the aggressor in this instance, nor does he lose the right of self-defense using objectively reasonable force to effect the arrest, prevent escape or overcome resistance. (*Id.*)

PENAL CODE SECTION 197. California law permits *all persons* to use deadly force to protect themselves from the imminent threat of death or great bodily injury. Penal Code §197 provides that the use of deadly force by any person is justifiable when used in self-defense or in defense of others.

The pertinent criminal jury instruction to this section is CALCRIM 505 (“Justifiable Homicide: Self-Defense or Defense of Another”). The instruction, rooted in caselaw, states that a person acts in lawful self-defense or defense of another if :

⁸ All references to code sections here pertain to the California Penal Code.

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- (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury;
- (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and
- (3) he used no more force than was reasonably necessary to defend against that danger.

(CALCRIM 505.) The showing required under section 197 is principally equivalent to the showing required for a police officer to use lethal force under section 835a(c)(1), as stated above.

While the appearance of these principals was new to section 835a in 2020,⁹ the courts have been defining the constitutional parameters of use of deadly force for many years. In 1985, the United States Supreme Court held that when a police officer has probable cause to believe that the suspect he is attempting to apprehend has “threatened infliction of serious physical harm” to the officer, using deadly force to prevent escape is not constitutionally unreasonable. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11-12.) California courts have held that when a police officer’s actions are reasonable under the Fourth Amendment of our national Constitution, that state statutory requirements may also be satisfied. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 349; *Brown v. Grinder* (E.D. Cal., Jan. 22, 2019) 2019 WL 280296, at *25.) There is also a vast body of caselaw that has demonstrated *how* to undertake the analysis of what is a reasonable use of force under the totality of the circumstances. (See *Reasonableness* discussion, *infra*.) As such, our pre-2020 state caselaw is still relevant.

There is one additional pertinent and new factor in section 835a that did not appear in the section previously, nor was it developed in prior caselaw: deadly force cannot be used against a person who only poses a danger to themselves. (Penal C. §835a(c)(2).)

In addition, the legislature included generalized findings and declarations at subsection (a) of Section 835a that are instructive. These findings and declarations lend guidance to our analysis but are distinct from the binding standards that succeed them within the section. In sum, the findings are as follows:

- (1) that the use of force should be exercised judiciously and with respect for human rights and dignity; that every person has a right to be free from excessive uses of force;
- (2) that use of force should be used only when necessary to defend human life and peace officers shall use de-escalation techniques if it is reasonable, safe and feasible to do so;

⁹ Assem. Bill No. 392 (2019-2020 Reg. Sess.) approved by the Governor, August 19, 2019. [Hereinafter “AB-392”]

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- (3) that use of force incidents should be evaluated thoroughly with consideration of gravity and consequence, lawfulness and consistency with agency policies;¹⁰
- (4) that the evaluation of use of force is based upon a totality of the circumstances, from the perspective of a reasonable officer in the same situation; and
- (5) that those with disabilities may be affected in their ability to understand and comply with peace officer commands and suffer a greater instance of fatal encounters with law enforcement, therefore.

(Penal C. §835a(a).)

IMMINENENCE. “Imminence is a critical component” of self-defense. (*People v. Humphrey* (1996) 13 Cal.4th 1073, 1094.) A person may resort to the use of deadly force in self-defense, or in defense of another, where there is a reasonable need to protect oneself or someone else from an apparent, *imminent* threat of death or great bodily injury. “An imminent peril is one that, from appearances, must be instantly dealt with.” (*In re Christian S.* (1994) 7 Cal.4th 768, 783.) The primary inquiry is whether action was instantly required to avoid death or great bodily injury. (*Humphrey, supra*, 13 Cal.4th at 1088.) What a person knows, and his actual awareness of the risks posed against him are relevant to determine if a reasonable person would believe in the need to defend. (*Id.* at 1083.) In this regard, there is no duty to wait until an injury has been inflicted to be sure that deadly force is indeed appropriate. (*Scott v. Henrich, supra*, 39 F. 3d at 915.)

Imminence more recently defined in the context of police use of lethal force is similar:

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 Penal C. §835a (a)(3) conflates a demand for thorough evaluation of a use of force incident with a dictate that it be done “in order to ensure that officers use force consistent with law and agency policies.” On its face, the section is clumsily worded. Nothing included in AB-392 plainly requires that a use of force also be in compliance with agency policies. A provision in the companion bill to AB-392—Senate Bill No. 230 [(2019-2020 Reg. Sess.) approved by the Governor, September 12, 2019] (Hereinafter “SB-230”), does explicitly state that “[a law enforcement agency’s use of force policies and training] may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably, but shall not be considered as imposing a legal duty on the officer to act in accordance with such policies and training.” (Sen. Bill No. 230 (2019-2020 Reg. Sess.) §1.) It is noteworthy, however, that this portion of SB-230 is uncodified, unlike the aforementioned portion of Penal C. §835a (a)(3).

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(Penal C. §835a(e)(2).)

In addition, police officers are not constitutionally required to use all feasible alternatives to avoid a situation where the use of deadly force is reasonable and justified. (*Martinez v. County of Los Angeles, supra*, 47 Cal.App.4th at 348.) The court in *Scott* explained:

Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment...Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves.

(*Scott, supra*, 39 F.3d at 915.)

REASONABLENESS. Self-defense requires both subjective honesty and objective reasonableness. (*People v. Aris* (1989) 215 Cal.App.3d 1178, 1186.) The United States Supreme Court has held that an officer's right to use force in the course of an arrest, stop or seizure, deadly or otherwise, must be analyzed under the Fourth Amendment's "reasonableness" standard. (*Graham v. Connor, supra*, 490 U.S. at 395.)

The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on 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.

(*Id.* at 396-397, citations omitted.)

The "reasonableness" test requires an analysis of "whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." (*Id.* at 397, citations omitted.) What constitutes "reasonable" self-defense or defense of others is controlled by the circumstances. A person's right of self-defense is the same whether the danger is real or merely apparent. (*People v. Jackson* (1965) 233 Cal.App.2d 639.)

The *Graham* court plainly stated that digestion of the "totality of the circumstances" is fact-driven and considered on a case-by-case basis. (*Graham v. Connor, supra*, 490 U.S. at 396.) As such, "reasonableness" cannot be precisely defined nor can the test be mechanically applied. (*Id.*) Still, *Graham* does grant the following factors to be considered in the "reasonableness" calculus: the severity of the crime committed, whether the threat posed is immediate, whether the person seized is actively resisting arrest or attempting to flee to evade arrest. (*Id.*)

Whether the suspect posed an immediate threat to the safety of the officer or others has been touted as the "most important" *Graham* factor. (*Mattos v. Agarano* (9th Cir. 2011) 661 F.3d 433,

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441-442.) The threatened use of a gun is the sort of immediate threat contemplated by the United States Supreme Court, that justifies an officer's use of deadly force. (*Reynolds v. County of San Diego* (9th Cir. 1994) 858 F.Supp. 1064, 1071-72.) An officer may reasonably use deadly force when he confronts an armed suspect in close proximity whose actions indicate an *intent* to attack. (*Id.*) Again, the specified factors of *Graham* were not meant to be exclusive; other factors are taken into consideration when "necessary to account for the totality of the circumstances in a given case." (*Mattos v. Agarano, supra*, 661 F.3d at 441-442.)

The use of force policies and training of an involved officer's agency *may* also be considered as a factor to determine whether the officer acted reasonably. (Sen. Bill No. 230 (2019-2020 Reg. Sess) §1. See fn. 8, *supra*.)

When undertaking this analysis, courts do not engage in *Monday Morning Quarterbacking*, and nor shall we. Our state appellate court has warned,

under *Graham* we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes 'reasonable' action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.

(*Martinez v. County of Los Angeles, supra*, 47 Cal.App.4th at 343, citing *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.) The Supreme Court's definition of reasonableness is, therefore, "comparatively generous to the police in cases where potential danger, emergency conditions or other exigent circumstances are present." (*Martinez v. County of Los Angeles, supra*, 47 Cal.App.4th at 343-344, citing *Roy v. Inhabitants of City of Lewiston* (1st Cir. 1994) 42 F.3d 691, 695.)

ANALYSIS

This report evaluates the use of deadly force by SBCSD Deputies Nicholas Collas, Jim Musgrave and Alejandro Ramos. As indicated above, there are legal bases that must be met before a use of force is justified and the right to self-defense ripens. We draw our conclusion here based upon those principles and the required careful examination of the totality of the circumstances evidenced by the case agent's submission.

A use of force must be "reasonable" in order to be deemed lawful. When considered in the context of self-defense, whether Deputies Collas, Musgrave and Ramos were justified in employing lethal force involves a two-part analysis: (1) did each deputy subjectively and honestly believe he needed to protect himself or others from an apparent, imminent threat of death or great bodily injury; and (2) was the deputy's belief in the need to protect himself from an apparent, imminent threat of death or great bodily injury objectively reasonable.

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Subjective Belief of Imminent Need to Protect. The subjective belief Deputies Collas, Musgrave and Ramos are stated here based upon each officer's statement.

Deputy Collas believed that he was responding to a call involving a suspicious person who may have been casing a residence to burgle it. When Deputy Collas arrived at the scene, Deputy Collas's suspicions were heightened as Mr. Young fled, unprovoked, in a vehicle with no license plates. Deputy Collas believed that Mr. Young's car may have been stolen. Thereafter, and throughout Deputy Collas's pursuit of Mr. Young, Deputy Collas perceived Mr. Young to be driving in a manner that posed a danger to the public. By the time the pursuit reached the I-210 freeway, Deputy Collas stated that he felt he needed to block Mr. Young's car to keep Mr. Young from driving into oncoming traffic. Deputy Collas stated that Mr. Young's driving was going to kill someone if the pursuit continued. Deputy Collas did hear a dispatch broadcast that Mr. Young was *not* armed prior to the termination of the pursuit. Deputy Collas admitted that he would not have pulled his patrol unit so close to Mr. Young's car, had he received information that Mr. Young *was* armed. Deputy Collas recognized that in addition to the danger posed by Mr. Young driving into oncoming traffic that deputies were in danger of being hit by traffic approaching from behind them.

As soon as Deputy Collas got out of his patrol unit on the I-210 freeway, he drew his weapon to conduct a felony traffic stop. Deputy Collas ordered Mr. Young to show his hands. Believing that Mr. Young was going to run away, Deputy Collas began to holster his weapon in anticipation of running after Mr. Young. However, Mr. Young turned around, instead, and Deputy Collas saw that Mr. Young had a revolver in his right hand. Deputy Collas stated that he saw Mr. Young look at Deputy Ramos, who was next to him and that Mr. Young was holding the revolver like he was going to fire it. Deputy Collas said, "as [Mr. Young] was spinning back, lifting his arms, I believed [Mr. Young] was willing to shoot and kill me or Deputy Ramos." Deputy Collas expanded, "I felt that there was no other way to resolve that situation. If we didn't shoot...me or one of my partners would have been shot."

Deputy Collas spoke to Deputy Ramos less than two minutes after they shot at Mr. Young. Deputy Collas told Deputy Ramos, "He pointed that thing at you dude. That scared me." To which Deputy Ramos responded, "Yeah, that's why I shot." This is the crux of both Deputy Collas and Ramos's statements.

As with Deputy Collas, Deputy Ramos also recognized the dangerous maneuvers Mr. Young made from Victorville to San Bernardino, to escape pursuing patrol units. Deputy Ramos stated that Mr. Young's driving could have been the basis for a felony evading charge, or assault with a deadly weapon. Deputy Ramos stated that he would have wanted for this encounter with Mr. Young to end peacefully, with Mr. Young giving up and taken into custody. However, Deputy Ramos did not see Mr. Young give any indication that he was going to comply with law enforcement commands or surrender.

In the moments immediately after Deputy Ramos got out of his unit on the I-210 freeway,

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Deputy Ramos drew his weapon. As soon as Mr. Young got out of his car, Deputy Ramos ordered Mr. Young to show his hands. Deputy Ramos believed that Mr. Young heard him, as Mr. Young turned around after Deputy Ramos yelled. Deputy Ramos then saw that Mr. Young had a gun and was raising the gun in Deputy Ramos's direction. Deputy Ramos yelled, "He's got a gun. He's got a gun." Deputy Ramos stated that he thought that he was going to get shot by Mr. Young. Deputy Ramos explained that after the shooting that he was in shock. Deputy Ramos stated, "I still felt scared because I had just shot another human being. But that other human being could have taken my life or my partner's life."

Like Deputies Collas and Ramos, Deputy Musgrave positioned his unit to the front of Mr. Young's stopped vehicle on the I-210 freeway to block it from moving into oncoming traffic. Deputy Musgrave was also witness to the reckless driving that Mr. Young engaged in prior to that time. Deputy Musgrave stated that he intended to stop Mr. Young from continuing to evade and to detain Mr. Young.

Deputy Musgrave recognized that he had a different vantage point than Deputies Collas and Ramos did, prior to the shooting. This was by design; Deputy Musgrave wanted his patrol unit to be able to pursue Mr. Young, had Mr. Young continued to flee by car. Instead, Deputy Musgrave perceived that Mr. Young and he opened their respective doors at the same time. It initially appeared to Deputy Musgrave that Mr. Young was fleeing on foot. Then, Deputy Musgrave saw Mr. Young's firearm and stated that he tried to alert his partners. Deputy Musgrave stated that he didn't immediately fire his weapon when he saw Mr. Young's gun because Mr. Young hadn't raised or pointed it. However, Deputy Musgrave explained that it was when he saw Mr. Young turn towards deputies and raise the revolver that Deputy Musgrave feared that he or one of his partners would be shot. Deputy Musgrave stated he fired his weapon to stop the lethal threat that Mr. Young posed.

The stated accounts of Deputies Collas, Musgrave and Ramos consistently include that they each perceived Mr. Young to be raising a firearm capable of killing them in their or their partner's direction prior to the time they fired their own duty weapons. Moreover, that each of the deputies witnessed Mr. Young's prior willingness to place the deputies and the public at risk of harm throughout the duration of the vehicle pursuit, would further bolster the deputies' belief that Mr. Young intended to inflict harm or death upon Deputies Collas, Musgrave and Ramos. Based upon the foregoing, it is reasonable to conclude that Deputies Collas, Musgrave and Ramos each bore an honest and subjective belief that he was under threat of imminent deadly harm or bodily injury at the time he used lethal force.

Reasonable Belief of Imminent Need to Protect. Although Penal Code section 835a(c)(1) is the authority for an officer's use of lethal force, the analytical framework for determining what is "reasonable" is included in *Graham* and its progeny. This analysis also overlaps with the second component to a self-defense claim: a finding that each officer had an objectively reasonable belief of the need to use deadly force to protect himself from imminent threat of death or serious injury.

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As in *Graham*, we first consider the severity of the crime at issue. This incident was set in motion by the reporting party who believed a suspicious man was in front of her home. However, no crimes appear to have been committed until Mr. Young evaded Deputy Collas's attempt to conduct a traffic stop at Ashmont Street and Dos Palmas Road. Thereafter, Mr. Young continued to commit numerous traffic violations including excessive speed, driving into opposing traffic, making unsafe lane changes and failing to stop at stop signs and red lights. Mr. Young was reported to have been pursued by seven marked SBCSD patrol units with activated lights and sirens from Victorville to San Bernardino. During the pursuit, Mr. Young was addressed by loudspeaker for at least two of the intervening stops and was specifically told that the sheriff's department was present multiple times. Except for Sergeant Rodriguez, all SBCSD personnel who participated in the pursuit of Mr. Young were wearing department-issued uniforms with agency badges and insignia. Both Deputies Collas and Ramos also wore baseball caps with the word "SHERIFF" written in large yellow block letters across the front. Moreover, the calls made by Mr. Young's family allows a reasonable inference that Mr. Young told them he was being pursued by law enforcement. The calls include audio of Mr. Young's mother commanding him to pull over. All witnesses to the pursuit, including ground and air units, consistently described Mr. Young's flight from deputies to have been done in a manner that posed a risk of harm to other motorists. The submission in total supports a finding that Mr. Young drove recklessly in a specific attempt to elude pursuing peace officers. As such, Mr. Young's driving conduct can reasonably be found to have elevated to the status of felony evasion; a violation of Vehicle Code section 2800.2(b). It further appeared to pursuing deputies that Mr. Young may have been attempting to intentionally provoke a collision with other motorists during the freeway portion of the pursuit, a felony-level violation of Penal Code section 245(a)(1)—assault with a deadly weapon.

Ultimately, the most serious crime at issue was committed immediately prior to the use of lethal force. Raising a loaded firearm at officers engaged in in the performance of his duties is a violation of Penal Code section 245(d)(1)—a "serious" felony, that could also be the basis of a limited class of "violent" felonies pursuant to Penal Code section 667.5(c)(8). Attempted murder is also a "violent" felony. As such, it was reasonable for the Deputies Collas, Musgrave and Ramos to believe immediately prior to using lethal force that Mr. Young had already engaged in dangerous felonious conduct that placed the deputies and the public at risk of injury and/or death. The imminent danger, however, was that Mr. Young was actively engaged in committing especially serious and/or violent felonies against Deputies Collas, Musgrave and Ramos, which was at a minimum assaulting the deputies with a firearm or at worst, attempting to kill the deputies.

Resistance is another essential consideration in a *Graham* analysis. In order to effectuate Mr. Young's arrest or detention, officers were authorized to use reasonable force. For Mr. Young's part, Mr. Young had a duty to refrain from using any force or weapon to resist arrest. As discussed above, the submission supports a conclusion that the deputies involved reasonably believed Mr. Young knew he was being pursued by law enforcement. Mr. Young, also, should have known based upon the extended and dangerous nature of his flight, that he was being

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arrested. Mr. Young's flight alone, however, was not the pinnacle of his resistance; the extreme measure of pointing a firearm at armed officers was.

At the pursuit's conclusion, Mr. Young did not immediately get out of his vehicle. Approximately eight seconds pass between the time Mr. Young's vehicle came to rest and the time he opened his driver's door. When Mr. Young opened his door, Deputies Collas, Musgrave and Ramos were already in front of him with their firearms pointed in Mr. Young's direction. Instead of surrendering at that point, Mr. Young used that time to deliberately arm himself before getting out of his car. Yet, Mr. Young was not fired upon immediately after he got out of his car. First, Deputies ordered that Mr. Young show his hands. Mr. Young then turned towards deputies while specifically choosing to *maintain hold* of his revolver. Then, in an extreme form of resistance, Mr. Young raised his loaded gun towards deputies. It was well within reason for deputies encountering such an individual to believe that Mr. Young intended to kill and/or be killed. The deputies were not obligated to retreat, nor did they forfeit the right to defend themselves from the lethal threat posed by Mr. Young. The facts and evidence support a finding that Mr. Young was actively resisting deputies at the time Deputies Collas, Musgrave and Ramos used lethal force.

Immediacy is the "most important" *Graham* factor. A qualifying imminent threat is one that would cause a reasonable person to believe that action was instantly required to avoid death or great bodily injury. As stated above, Deputies Collas, Musgrave and Ramos each perceived Mr. Young to be raising his very large revolver immediately prior to the time each deputy fired their duty weapons. That the gunfire occurred in one continuous burst, suggests that each deputy perceived the same lethal threat at approximately the same time. Pointing a gun at deputies, in no uncertain terms, communicated Mr. Young's apparent intent to immediately shoot and kill the deputies. Mr. Young had a multitude of opportunities during his extended flight to discard or disassociate himself from his firearm. Instead, Mr. Young chose to continue to possess the firearm and wield it to assault deputies. What's more, although approaching westbound motorists on the I-210 freeway had been stopped and deputies were posted between them and Mr. Young, it cannot be said that westbound motorists were beyond danger of being shot by Mr. Young. Also, eastbound traffic on the I-210 freeway was continuous. Deputies Collas, Musgrave and Ramos were afforded no other reasonable choice but to act swiftly to defend against the perceived imminent danger to themselves and others. Mr. Young's revolver contained one FCC, indicating that a bullet had been fired but there was no other indication it was fired at deputies. Mr. Young's gun also contained a bullet with a light primer strike indicating that the weapon's hammer may have been deployed but the bullet was not ejected. No gunshot residue particles were located on Mr. Young's hands. While this information will not show that Mr. Young fired his weapon at deputies at the scene, it does show that Mr. Young was able to shoot and kill anyone in front of his gun as he wielded it. Mr. Young's conduct, in total, demonstrated that Mr. Young had the present ability, opportunity and apparent intent to immediately cause death or serious bodily injury to others. As such, the necessity of the use of deadly force by Deputies Collas, Musgrave and Ramos cannot be second-guessed. Deputies Collas, Musgrave and Ramos reasonably believed that their action was instantly required to avoid death or great bodily injury.

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Based on the foregoing, each of the primary *Graham* factors as applied, support a finding that the uses of lethal force by Deputies Collas, Musgrave and Ramos were reasonable. Deputies Collas, Musgrave and Ramos had to act instantly to confront the danger posed by Mr. Young, which by all indication to the deputies was an immediate threat to kill them. As such, the use of lethal force by Deputies Collas, Musgrave and Ramos is also justifiable under Penal Code §197.

Pre-Shooting De-escalation. Section 835a(a) does advise that lethal force be used only “when necessary to defend human life” and that safe and feasible de-escalation should be employed. Here, Deputies Collas and Ramos both identified backing away from Mr. Young during the freeway pursuit as a de-escalation method. However, both deputies recognized that doing so did not dissuade Mr. Young from continuing to drive recklessly or fleeing. Deputies Collas and Ramos both attempted to give Mr. Young verbal commands once Mr. Young stepped out of his vehicle on the I-210 freeway. Normally, the mere presence of armed and uniformed law enforcement and the issuance of verbal commands can serve as a de-escalation technique. One who would lead deputies on a reckless traffic pursuit who’s vehicle is disabled and now faced with such a response might reasonably find there is no likely escape and choose to surrender. Mr. Young, however, did not. While it appears that Mr. Young yielded three times prior to the pursuit’s conclusion, Mr. Young’s behavior subsequent to each of those stops negates any reasonable conclusion that Mr. Young intended either to comply or surrender. The same can be said for Mr. Young’s conduct after he got out of his car—Mr. Young gave deputies no explicit or implicit indication that he sought to peaceably comply or surrender. Rather, within five seconds of commands being issued to Mr. Young to show his hands, Mr. Young instead turned around and raised his revolver towards deputies. The subjective and objective factors discussed above point to the same conclusion that the shooting deputies in this case each perceived an imminent lethal threat to themselves and others at the time they fired their weapons. Deputies Collas, Musgrave and Ramos all stated that they did not consider using less-lethal munitions because there was no time to use less-lethal munitions. Had they taken the time to transition to less-lethal munitions, they would have done so at their own peril as it would have left them defenseless against the lethal threat Mr. Young imposed. Sergeant Rodriguez explained that he would not have asked his deputies to use less-lethal force to counter a lethal threat. When Sergeant Rodriguez arrived at the scene of the lethal-force encounter, he too saw Mr. Young raise his arm like he was getting ready to fire it at deputies. Simply put, Mr. Young’s actions dictated a circumstance where there was no further feasible, safe or reasonable opportunity for Deputies Collas, Musgrave and Ramos to de-escalate.

Other Statutory Considerations. The additional considerations mentioned in §835a(a) further support a conclusion that the uses of deadly force by Deputies Collas, Musgrave and Ramos were lawful.¹¹ First, there is no indication that Deputies Collas, Musgrave and Ramos acted excessively. Deputies Collas, Musgrave and Ramos’s conduct discussed herein appears to have been judiciously exercised. Deadly force was not employed as a knee-jerk reaction to this

¹¹ This review is based on a totality of the circumstances from the perspective of a reasonable officer in the same situation. (Penal C. §§835a(a)(3)-(4).) However, this review does not undertake additional examination of whether agency use of force policies were violated because (1) no law requires it, and (2) the submitted materials do not indicate or otherwise suggest that any use of force policy was violated.

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multiple start and stop, extended vehicle pursuit. After Mr. Young got out of his car, Deputies Collas, Musgrave and Ramos each believed momentarily that Mr. Young was opting to flee on foot. This stated belief is evidenced by H80's video footage of the officer-involved shooting that showed each deputy momentarily move outside of cover of their respective unit doors. Deputy Collas can even be seen moving towards Mr. Young and almost holstering his firearm while doing so. Suddenly, Deputy Musgrave resumed cover behind his unit door. The audio recordings suggest that Deputy Musgrave saw Mr. Young's gun first and attempted to alert Deputies Collas and Ramos. Deputy Musgrave stated that he delayed in shooting at Mr. Young, because Mr. Young had not yet raised his weapon towards deputies. The aerial footage showed Deputy Musgrave moved back behind his unit door, Deputy Ramos took cover behind the front of Mr. Young's vehicle and Deputy Collas abruptly stopped his forward momentum next to Deputy Ramos's patrol unit. This transition occurred in a matter of seconds. The deputies' use of deadly force came immediately after the deputies were presented with a lethal threat—Mr. Young pointing his revolver at them. By the accounts of the involved and witness deputies, no deputy continued to fire after Mr. Young fell to the ground. Indeed, the inventory of Deputies Collas, Musgrave and Ramos's weapons indicate that they each could have fired many more rounds at Mr. Young, but did not. The autopsy of Mr. Young revealed that Mr. Young suffered at least two gunshot wounds with a back-to-front trajectory. However, those gunshot wounds were to the right side of Mr. Young's body and a back-to-front trajectory of those wounds would be consistent with the fact that Mr. Young turned away from gunfire in a counterclockwise direction. As such, Deputies Collas, Musgrave and Ramos can be found to have well-appreciated the gravity and consequence of their use of lethal force evidenced by the judicious manner in which they employed lethal force.

Dispatch audio recordings submitted included information suggesting that Mr. Young may have suffered a psychiatric condition for which he had missed medication. Yet, nothing in the case agent's submission supports a finding that Mr. Young's mental condition prevented him from understanding that he was being pursued by law enforcement or the commands he was given. Rather, the communication relayed to deputies via dispatch indicates that Mr. Young specifically intended to engage law enforcement in an extended vehicle pursuit. Mr. Young's criminal record would also support an inference that he has had multiple contacts with law enforcement such that he might readily identify when he was being so contacted and how he might be expected to respond to the presence of law enforcement. Yet, Mr. Young intentionally armed himself prior to stepping out of his vehicle after the pursuit ended. Momentarily, deputies maintained cover and took a defensive posture due to the uncertainty of what Mr. Young would do next. Unbeknownst to the deputies at the time and likely because they had been previously advised that Mr. Young was *unarmed*, they each broke cover in anticipation of pursuing Mr. Young on foot. In doing so, Deputies Collas, Musgrave and Ramos momentarily exposed themselves to an armed subject. Mr. Young responded to the deputies' commands to show his hands, with a show of instant violence ready to be inflicted upon them. It would be unreasonable to expect that deputies take the time to issue additional warnings to Mr. Young at that point, instead of confronting the threat

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before them.¹² As such, Mr. Young dictated the use of force that occurred immediately thereafter. Any reasonable opportunity to show deference to Mr. Young due to his reported mental condition was supplanted by Mr. Young raising his loaded weapon towards Deputies Collas, Musgrave and Ramos.

It bears mention that Mr. Young had a measurable amount of ethyl alcohol in his urine, blood and vitreous fluid. This is consistent with the discovery of liquor bottles in Mr. Young's vehicle. Even if it might be inferred that Mr. Young's decision-making was impacted by his recent alcohol use, Mr. Young's physical conduct towards officers was all that could be instantly appreciated by the officers under the circumstances. Ultimately, Mr. Young's choice to point a loaded firearm at deputies was a perilous one and proved that Mr. Young was a danger to more than himself. Specifically, Mr. Young presented himself as a lethal threat to Deputies Collas, Musgrave and Ramos, who reasonably believed Mr. Young intended to kill them.

CONCLUSION

Under the facts, circumstances and applicable law in this matter, the use of deadly force by Deputies Collas, Musgrave and Ramos was exercised in self-defense and in a reasonable manner. Accordingly, no criminal liability based on each deputy's conduct attaches in this incident.

Submitted By:
San Bernardino County District Attorney's Office
303 West Third Street
San Bernardino, CA 92415
Dated: August 24, 2021



¹²Even if Mr. Young had not raised his weapon towards deputies, Deputies Collas, Musgrave and Ramos had reasonable grounds to believe that Mr. Young was already aware that he faced peace officers who were poised to use deadly force—the felony traffic stop on the I-210 freeway was the third such stop Mr. Young faced that day.