



PUBLIC RELEASE MEMORANDUM

Date: January 3, 2024

Subject: Non-Fatal Officer-Involved Incident

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

Deputy Meagan Forsberg
San Bernardino County Sheriff's Department

Deputy Michael Martinez
San Bernardino County Sheriff's Department

Involved Subject: Ari Aki Young (DOB 01/21/1998)
Victorville, CA

Incident Date: September 4, 2019

Case Agent: Sergeant Nicolas Craig
Detective Cory Drost
San Bernardino County Sheriff's Department

Agency Report #: 171907892/H#2019-083

DA STAR #: 2020-10202

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PREAMBLE

The summary of this non-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 Sergeant Nicolas Craig.¹

The submission reviewed included the following: reports of law enforcement witnesses, law enforcement dispatch audio recordings, audio recordings of law enforcement interviews, audio and video recordings of civilian witness interviews, civilian video recordings, a law enforcement prepared video, law enforcement photographs, law enforcement scientific investigation reports and medical records.

FACTUAL SUMMARY²

On September 4, 2019, at approximately 8:34 a.m., in the city of Victorville, SBCSD Deputy Meagan Forsberg fired her duty weapon at 21-year-old Ari Aki Young. Deputy Forsberg's gunfire did not strike Mr. Young. Less than 30 seconds thereafter, SBCSD Deputies Nicholas Collas and Michael Martinez also fired their duty weapons at Mr. Young. Mr. Young sustained multiple gunshot wounds as a result. At the time Mr. Young was shot, Mr. Young was armed with Deputy Forsberg's duty weapon—a loaded 9mm Luger caliber semi-automatic firearm. Mr. Young received immediate medical care and survived his injuries.

This officer-involved shooting incident was the culmination of a series of events that began at 8:25 a.m., when Mr. Young's mother ("RP") called 9-1-1 for help. RP pleaded with the dispatcher, "Oh my God, send somebody please" but did not explain *why* she needed deputies to respond before hanging up. Units were immediately dispatched to RP's residence. The dispatcher designated the "unknown disturbance" call as a "priority one" incident, which responding deputies understood was a life-threatening emergency. Deputy Martinez was the first unit assigned to respond to the scene. Deputies Collas, Forsberg, and Starsun Fincel assigned themselves as "backing" units. Each responding deputy was uniformed and operated a SBCSD-marked patrol unit. While all four units were in route to the scene, RP called 9-1-1 again and explained specifically that she wanted her son removed from her home. As was customary for "priority one" calls, the dispatcher aired RP's calls over the radio for deputies to hear.

Deputy Forsberg was the first to arrive at the scene, at approximately 8:32 a.m. Due to the urgency she heard in RP's 9-1-1 calls, Deputy Forsberg determined she could not wait for additional units to arrive before making contact with RP. As soon as Deputy Forsberg got out of

¹ This case was originally submitted for review to the San Bernardino District Attorney's Office by (then) Detective Craig. Subsequently, Detective Craig was promoted to the rank of sergeant and transferred. Upon Sergeant Craig's promotion and transfer, this case was assigned to San Bernardino County Sheriff's Department (SBCSD) Detective Cory Drost.

² Herein is a summary only. All incident-involved deputies were on-duty SBCSD employees at the time of their involvement. All investigating personnel were SBCSD employees at the time they made their investigation.

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her patrol unit, Deputy Forsberg saw RP come out of the residence with a knife in one hand and a phone in the other. Mr. Young trailed close behind RP. RP and Mr. Young met Deputy Forsberg in the residence driveway. Before Deputy Forsberg could ascertain why RP had a knife, Mr. Young immediately walked to within a foot of the deputy, tense and angry-like. Deputy Forsberg and Mr. Young faced each other. Deputy Forsberg told Mr. Young to “Relax,” “Turn around” and “Put his hands behind his back,” none of which Mr. Young did. Deputy Forsberg pulled out her handcuffs and meant to detain Mr. Young to conduct an investigation. However, Mr. Young became instantly aggressive, tensed his body and pulled away from Deputy Forsberg. Mr. Young then threatened Deputy Forsberg, “Dude. Don’t try it. I will headbutt the fuck out of you.” Deputy Forsberg responded, “You don’t want to do that. Relax. Put your hands behind your back.” Instead, Mr. Young continued to ignore commands and started to physically struggle with Deputy Forsberg. During the struggle, Deputy Forsberg was able to radio “four-fifteen” through dispatch, which Deputies Collas, Fincel and Martinez heard and immediately recognized as meaning that Deputy Forsberg was in a fight. Deputies Collas, Fincel and Martinez were still driving to the scene and immediately engaged their unit emergency lights and sirens.

Before Deputies Collas, Fincel and Martinez arrived at the scene, Deputy Forsberg struggled to gain control of Mr. Young. During that struggle, Mr. Young took hold of Deputy Forsberg’s left wrist with his right hand. Deputy Forsberg commanded Mr. Young to let go of her and to get to the ground. Mr. Young did not comply. When a leg sweep and different control holds were also unsuccessful, Deputy Forsberg pulled out her rapid containment baton (RCB), once more ordered Mr. Young to let her go and warned, “I will hit you.” In response, Mr. Young grabbed the RCB and threw it on the ground. As the struggle intensified, Deputy Forsberg heard Mr. Young say, “If we fight, I’m going to kill you.” Deputy Forsberg then grabbed Mr. Young by the hair with her right hand and attempted to pull Mr. Young to the ground. In response, Mr. Young let go of Deputy Forsberg’s left wrist, grabbed Deputy Forsberg by the hair bun on the top of her head with his left hand and began punching Deputy Forsberg in the face with his right hand.

Less than 90 seconds had passed since Deputy Forsberg first spoke to Mr. Young to the time Mr. Young began punching Deputy Forsberg in the face. Deputy Forsberg recalled letting go of Mr. Young’s hair to deflect his punches, but Mr. Young took hold of Deputy Forsberg’s left wrist, once more. Mr. Young pummeled the left side of Deputy Forsberg’s head and face with his right fist. Deputy Forsberg attempted to move away from Mr. Young, but Mr. Young maintained his hold on Deputy Forsberg’s wrist. While being thrashed, Deputy Forsberg managed to unholster her duty weapon on her right hip and warned Mr. Young, “I’m going to shoot you!” Mr. Young was undeterred. Deputy Forsberg warned Mr. Young a second time, “I’m going to shoot you,” but still did not fire her weapon.

The walloping that Deputy Forsberg endured finally caused the deputy to fall to the ground and onto her back. Mr. Young stood over Deputy Forsberg and began reaching for Deputy Forsberg’s gun. Deputy Forsberg felt that she might be losing consciousness. At that moment, Deputy Forsberg believed Mr. Young was going to kill her if she didn’t shoot him. Deputy Forsberg raised her gun to try to shoot Mr. Young’s head. Mr. Young was still reaching for the deputy’s gun, so when Deputy Forsberg finally shot at Mr. Young, she missed.

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Without pause after the first gunshot, Mr. Young used both of his hands to gain control of the gun while Deputy Forsberg still gripped the gun with her right hand. During the struggle for the gun, Mr. Young knelt down on Deputy Forsberg's right arm and Deputy Forsberg's gun discharged a second time. Immediately thereafter, Mr. Young ripped Deputy Forsberg's gun out of her hands. Deputy Forsberg rolled onto her hands and knees and looked at Mr. Young. In an instant, Mr. Young raised the gun to Deputy Forsberg's head. Deputy Forsberg pleaded, "Don't! Please," before Mr. Young pulled the gun trigger. Instead of a bang, Deputy Forsberg heard her weapon "click." A bullet did not discharge. Deputy Forsberg reflexively got up and ran away from Mr. Young. As Deputy Forsberg ran, Mr. Young pulled back the slide of the gun to reset it for firing, pointed the gun at Deputy Forsberg's back and fired it. Once more, Deputy Forsberg was not struck.

Deputy Forsberg's interaction with Mr. Young lasted approximately a minute and 33 seconds, from the time Deputy Forsberg first told Mr. Young to "Relax," to the time Mr. Young shot at Deputy Forsberg.

After Mr. Young shot at Deputy Forsberg, it appeared to the deputy that Mr. Young's attention was drawn away from her and towards the sound of the approaching patrol units. Deputies Collas, Fincel and Martinez arrived at the scene in less than ten seconds after Mr. Young shot at Deputy Forsberg. Mr. Young pulled back the slide of Deputy Forsberg's gun a second time and walked toward the approaching units with his hands up and his palms facing the units. As he did so, Mr. Young maintained hold of Deputy Forsberg's gun in his right hand. Before all the units came to a complete stop, Mr. Young fired a shot from Deputy Forsberg's gun, into the air. Mr. Young still faced the units and all three deputies inside saw Mr. Young fire into the air. Mr. Young later told detectives that he fired into the air to convey that he meant "war" with the approaching deputies.

Deputy Fincel's patrol unit was the closest to Mr. Young at the time Mr. Young fired into the air. Deputy Fincel was surprised by Mr. Young's appearance in the street in front of him because on approach, Deputy Fincel was actively looking around for Deputy Forsberg. By the time Deputy Fincel stopped his unit, Mr. Young was approximately four feet from Deputy Fincel's driver's door. Deputy Fincel recalled feeling trapped in his unit and believed that Mr. Young would shoot and kill him at that close distance.

Deputy Martinez stopped his patrol unit behind and offset to the left of Deputy Fincel's patrol unit. Mr. Young stood approximately 20 to 25 feet in front of Deputy Martinez's patrol unit. Deputy Martinez opened his unit driver's door, stepped out, drew his duty weapon and pointed it at Mr. Young while standing behind his driver's door. At about the same time as Deputy Martinez, Deputy Collas stopped his unit at a position behind both Deputies Martinez and Fincel's patrol units. Deputy Collas stepped out of his unit, began walking towards Mr. Young while simultaneously drawing his gun, and ordered Mr. Young to drop his gun. Mr. Young was approximately 52 feet in front of Deputy Collas. After seeing Mr. Young hands twitch downward towards them, both Deputies Collas and Martinez fired their duty weapons at Mr. Young, until

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Mr. Young fell to the ground. Mr. Young fell to his side and his hands were concealed. Subsequently, both Deputies Collas and Martinez radioed, “shots fired;” it was approximately 8:35 a.m.

After Mr. Young fell to the ground, Deputy Collas spotted Deputy Forsberg and ran to assess her; Deputy Collas believed that she may have been shot. At about the same time, Deputy Fincel came out of his patrol unit and he and Deputy Martinez began to give Mr. Young verbal commands. Deputy Martinez ordered Mr. Young to “Drop the gun,” and to look away from deputies. Deputy Fincel ordered Mr. Young to get onto his stomach. After Mr. Young rolled to his stomach, both Deputies Martinez and Fincel ordered Mr. Young to put his hands to the side. Mr. Young did not comply; Mr. Young concealed his hands beneath him. Then, Mr. Young began to roll on the ground. Mr. Young was also refusing to look away from Deputy Martinez, such that Deputy Martinez believed that Mr. Young was tracking his location. Deputy Martinez believed that Mr. Young was still armed and was preparing to shoot at deputies from his prone position. As such, Deputy Martinez fired his duty weapon at Mr. Young, once more. This was Deputy Martinez’s final gunshot and it was made approximately 19 seconds after the first volley of gunfire ended.

After Deputy Collas ascertained that Deputy Forsberg had *not* been shot, Deputy Collas returned to assist Deputies Martinez and Fincel. On his re-approach, Deputy Collas saw Deputy Forsberg’s gun on the ground, about 12 to 16 inches away from where Mr. Young lay, and not underneath Mr. Young as Deputy Martinez believed. Rather, Deputy Forsberg’s gun was on the ground and between Mr. Young and the front of Deputy Martinez’s patrol unit, where Deputy Martinez did not see it. After alerting Deputies Martinez and Fincel, Deputy Collas kicked Deputy Forsberg’s gun out of Mr. Young’s reach. A short time thereafter, Mr. Young was handcuffed and Deputies Collas, Fincel and Martinez administered first aid to Mr. Young until paramedics arrived at approximately 8:39 a.m.

A post-incident examination of the scene and forensic collection of evidence, together with the statement of Deputy Forsberg, revealed that Deputy Forsberg’s duty weapon was fired four times. Deputy Forsberg fired her weapon once. Deputy Forsberg’s weapon was also accidentally discharged once. Mr. Young completed firing Deputy Forsberg’s duty weapon twice, though Mr. Young attempted to fire the deputy’s weapon three times. A total of 18 shots were fired by Deputies Collas and Martinez. Deputy Collas fired his weapon seven times and Deputy Martinez fired his weapon 11 times. Each duty weapon that was fired during this incident was collected and examined by a SBCSD Scientific Investigations Division (SID) criminalist. No damage or malfunction was noted in any of the collected firearms.

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STATEMENTS BY LAW ENFORCEMENT OFFICERS³

Deputy Meagan Forsberg gave a voluntary interview to SBCSD Detectives Craig and Jerry Moreno on September 12, 2019, eight days after the shooting incident and in the presence of Deputy Forsberg's attorney. Prior to recounting her involvement in the incident, Deputy Forsberg reviewed her belt recorder audio recording and a civilian (Instagram) video recording of the incident. (*See Submitted Media, infra.*)

The following is a summary of relevant information disclosed by Deputy Forsberg:

Deputy Forsberg's career as a peace officer began in January 2017, when she was hired as a SBCSD deputy. She had no other law enforcement experience and was 26 years old at the time of the incident.

On September 4, 2019, prior to arriving at the scene, Deputy Forsberg heard RP's 9-1-1 calls broadcasted by SBCSD dispatch as a "Priority 1" event, meaning that deputies were needed right away for a situation involving a "threat to life." Deputy Forsberg was also informed prior to her arrival at the scene that deputies were called twice to the same location the day before. Deputy Forsberg's pre-arrival assessment was that RP was dealing with a "son out of control."

Deputy Forsberg arrived at the scene in a marked SBCSD patrol unit and wore a department-issued uniform. At the time, Deputy Forsberg stood five feet and eight inches tall and weighed 135 pounds. Deputy Forsberg recognized that she was the first to arrive at the scene but knew Deputies Collas and Martinez were also responding. Deputy Forsberg stated that based on the distress she heard in RP's voice during the broadcasted calls that she believed she could not wait for other units to arrive before approaching the residence.

Immediately after Deputy Forsberg stepped out of her vehicle, Deputy Forsberg saw RP come out of the residence with a knife in one hand and a cell phone in the other. Deputy Forsberg heard RP say, "they're here, they're here" and Deputy Forsberg assumed that RP was still on the line with the dispatch operator. Deputy Forsberg saw Mr. Young trail behind RP. Mr. Young walked right up to Deputy Forsberg. Mr. Young got to approximately a foot to a foot and a half away from Deputy Forsberg. Even on that initial contact, Deputy Forsberg perceived Mr. Young to be angry and wanting to fight. Mr. Young had his jaw clenched, his body was rigid, he was puffing his chest out, and he had a balled right fist. Deputy Forsberg also considered the possibility that RP and Mr. Young may try to "tag-team" against Deputy Forsberg.

³All investigative 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 Ari Aki Young by name are made here for ease of reference.

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Deputy Forsberg immediately tried to detain Mr. Young. Since Deputy Forsberg could not see Mr. Young's left hand as Mr. Young initially approached, Deputy Forsberg walked around Mr. Young and grabbed Mr. Young's left arm to bring it behind him (and to make sure there was nothing in that hand). Mr. Young began to pull away and resist, instantly. Deputy Forsberg recalled told Mr. Young to "relax." Next, as the deputy was pulling out her handcuffs, Mr. Young told Deputy Forsberg, "I'm going to head-butt the fuck out of you." Within 15 to 20 seconds of making first contact with Mr. Young, Deputy Forsberg recalled putting over the radio that she was "four-fifteen," which meant that she was fighting with Mr. Young. Then, Mr. Young took hold of Deputy Forsberg's left wrist. Deputy Forsberg repeatedly told Mr. Young to let her go of her as the deputy continued to try to physically gain control of Mr. Young.

When Deputy Forsberg's verbal commands and physical defense tactics to get Mr. Young under control failed, Deputy Forsberg deployed her RCB. Deputy Forsberg warned Mr. Young that she would hit him with her RCB. Deputy Forsberg recalled telling Mr. Young to, "Get on the fucking ground." Deputy Forsberg explained that she used the profanity to sound "meaner" and in the hope that it would cause Mr. Young to comply. However, Deputy Forsberg found that Mr. Young was unfazed by her commands. Additionally, Mr. Young grabbed the RCB out of Deputy Forsberg's hand, threw the RCB to the ground, and told Deputy Forsberg, "If we fight, I'm going to kill you." Deputy Forsberg explained that she wasn't able to reach for her taser or her pepper spray because those tools were on the left side of her belt and Mr. Young would not let go of her left wrist.

Deputy Forsberg tried to punch Mr. Young a few times to get Mr. Young to let go of her and also grabbed the hair above Mr. Young's forehead to try to pull Mr. Young to the ground. In response, Mr. Young released Deputy Forsberg's left wrist, grabbed the deputy's hair bun and began punching the deputy in the face. When Deputy Forsberg attempted to deflect Mr. Young's strikes, Mr. Young took hold of the deputy's left wrist once more and continued punching Deputy Forsberg in the face.

Deputy Forsberg recalled that she was still standing when she drew her duty weapon but had already sustained six to eight punches to the head. Deputy Forsberg felt that she was losing this fight. Deputy Forsberg took several steps away to try to escape Mr. Young's grip. With her gun in-hand, Deputy Forsberg warned Mr. Young that she was going to shoot him. Deputy Forsberg admitted that she hesitated in shooting Mr. Young because she didn't want to be judged or criticized for shooting someone for hitting her in the face. Despite the warning, Mr. Young persisted in punching Deputy Forsberg in the face and knocked the deputy to the ground. Deputy Forsberg stated that she was also starting to lose consciousness while on the ground. Mr. Young stood over Deputy Forsberg as she lay on her back. Mr. Young struck Deputy Forsberg with a closed fist at least one more time to the cheek/mouth as she lay on the ground. Deputy Forsberg believed that Mr. Young was going to kill her. Deputy Forsberg then raised her gun in her right hand, pointed it at Mr. Young's head and fired it. Deputy Forsberg specified that she believed

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that she had no choice but to fire her gun at Mr. Young in order to stop Mr. Young from killing her. Deputy Forsberg believed that she ultimately fired her gun behind Mr. Young's head because Mr. Young hit Deputy Forsberg's right hand or arm as the deputy fired it.

After Deputy Forsberg fired her gun, Mr. Young let go of the deputy's left wrist, stopped punching her, and reached for Deputy Forsberg's gun, instead. Deputy Forsberg then tried to use her just-freed left hand to keep Mr. Young from taking her duty weapon and the two struggled to control the weapon. During the struggle, Deputy Forsberg's gun discharged once more. Deputy Forsberg believed that Mr. Young caused the gun to fire during that struggle, but she could not say whose finger was on the trigger at the time. Subsequently, Mr. Young took the gun out of Deputy Forsberg's hands. Deputy Forsberg immediately rolled from her back onto her hands and knees, to push herself up. When she looked at Mr. Young, he was holding her gun out and pointing it at her head. Deputy Forsberg recalled seeing Mr. Young pull the trigger, seeing her gun recoil, and hearing the "click" sound of a dry-fired weapon. Deputy Forsberg then got up and ran away from Mr. Young. As she ran, Deputy Forsberg heard her gun fire.

Deputy Forsberg recalled seeing that backing units were arriving as she ran away from Mr. Young. Deputy Forsberg tried to alert her partners as they approached that Mr. Young had her gun, via radio. Deputy Forsberg later learned that her radio had become disconnected and her warning never aired. While Mr. Young's attention was drawn to the approaching deputies, Deputy Forsberg attempted to hide. Deputy Forsberg was in so much pain to the left side of her head that she believed she had been shot. As such, Deputy Forsberg did not see either Deputy Martinez or Deputy Collas shoot at Mr. Young.

Based upon Deputy Forsberg's interview, the examination of Deputy Forsberg's duty weapon and the collection of evidence at the scene, it appears that Deputy Forsberg's weapon was successfully fired four times: once by Deputy Forsberg, once during the struggle for the gun by either Deputy Forsberg or Mr. Young, and twice by Mr. Young. Two live and loose cartridges from Deputy Forsberg's weapon were also recovered from the scene.

On the day of the incident, Deputy Forsberg was treated for a left wrist sprain and a concussion involving a loss of consciousness. Radiology examinations of Deputy Forsberg's neck, face, head and left wrist were negative. Photographs taken of Deputy Forsberg's face in the few days following the incident showed pronounced bruising to the area around the left side of her face, including the left eye, cheek, and nostril. During her interview, Deputy Forsberg disclosed that as a result of this incident, she sustained *potential* fractures to her left orbital (eye socket) bone structure and left wrist, as well as contusions to her head, neck, shoulder, elbow, and knee.

Deputy Starsun Fincel gave a voluntary interview to SBCSD Detectives Eric Ogaz and Arturo Alvarado on September 4, 2019, roughly 10 hours after the shooting incident. Prior to giving his interview, Deputy Fincel reviewed a civilian (Instagram) video recording of the incident. (*See*

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Submitted Media, *infra*.)

The following is a summary of relevant information disclosed by Deputy Fincel:

At the time of the incident, Deputy Fincel had been a SBCSD deputy for approximately three and a half years and had no other law enforcement experience. Deputy Fincel did not fire his duty weapon during the shooting incident.

When Deputy Fincel heard RP's call broadcasted on September 4th, he took the lead position towards the location because he was familiar with it. RP called the police for assistance with Mr. Young on the day prior (September 3rd). Deputy Fincel responded to RP's residence twice on that prior call and spoke to both RP and Mr. Young. Deputy Fincel determined that Mr. Young was cooperative, non-violent and had an ability to follow directions on that day.

While approaching the scene on September 4th, Deputy Fincel heard Deputy Forsberg broadcast "15," which he understood as meaning his partner was in a fight and that he needed to get to her in a hurry. Deputy Fincel stated that he drove at a high rate of speed toward the scene with his emergency lights and siren activated. Deputy Fincel recalled that Deputies Collas and Martinez also activated their lights and sirens on their respective units.

Deputy Fincel recalled turning (south) onto the cul-de-sac of RP's residence at a distance of approximately 200 yards, when he saw Deputy Forsberg with a look of terror at her face and pointing at Mr. Young. Deputy Forsberg appeared to be saying something but Deputy Fincel could not hear it. Deputy Fincel continued forward then spotted Mr. Young walking toward the patrol units with his hands up. At the time, Deputy Fincel was approximately 50 feet away from Mr. Young and did not see that Mr. Young was holding a gun. Once Deputy Fincel saw the gun moments later, Deputy Fincel slammed down on his brakes. As Deputy Fincel was coming to a complete stop, Deputy Fincel saw Mr. Young fire his gun into the air. When Deputy Fincel's unit came to rest, Mr. Young stood four feet east of Deputy Fincel's driver's door. At that moment, Deputy Fincel believed that Mr. Young was going to shoot and kill him. Deputy Fincel stated, "I thought I was dead. I thought I was gonna get shot." Deputy Fincel explained, "You don't have to be a good shot to hit somebody from there."

As he sat in his patrol unit, Deputy Fincel attempted to draw his weapon. However, Deputy Fincel wore his duty weapon on his left side and Deputy Fincel's left elbow hit his driver's door when he initially reached for his gun, causing the weapon to fall back into its retention holster. Deputy Fincel was not immediately able to dislodge the weapon from his seated position. Deputy Fincel recalled twice ordering, "Drop the gun" as the deputy sat in his unit. Deputy Fincel couldn't recall whether his unit door was open at the time he gave those orders to Mr. Young. While Deputy Fincel continued to struggle to unholster his weapon, Deputy Fincel recalled hearing gunfire. During the gunfire, Deputy

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Fincel saw Mr. Young get struck by gunfire at least three times, go down to one knee and throw his gun down.

By the time Deputy Fincel opened his driver's door and was able to draw his gun, gunfire had stopped, and Mr. Young was on the ground. Deputy Fincel also saw that Mr. Young's gun was approximately 24 inches away from where Mr. Young lay on his left side. Deputy Fincel stated that he immediately started giving Mr. Young commands to roll onto his stomach and put his hands out to the side. Deputy Fincel recalled that Mr. Young rolled onto his stomach, but that Mr. Young kept one of his hands concealed under him. Deputy Fincel stated he was concerned that Mr. Young had another weapon in the concealed hand.

Before Deputies Fincel and Martinez approached Mr. Young on the ground, Deputy Fincel saw Deputy Collas kick the gun away from Mr. Young. Deputy Fincel then assisted Deputy Martinez in getting Mr. Young cuffed. Next, Deputy Fincel holstered his weapon and began assessing Mr. Young's gunshot wounds. Deputy Fincel stated that paramedics arrived at the scene within approximately three minutes of the shooting.

Deputy Michael Martinez gave a voluntary interview to SBCSD Detectives Craig and Moreno on September 12, 2019, eight days after the shooting incident and in the presence of Deputy Martinez's attorney. Prior to recounting his involvement in the incident, Deputy Martinez reviewed a civilian (Instagram) video recording of the incident. (*See Submitted Media, infra.*)

The following is a summary of relevant information disclosed by Deputy Martinez:

Deputy Martinez's career as a peace officer began in July 2014, when he was hired as a SBCSD deputy. He had no other law enforcement experience.

On September 4, 2019, Deputy Martinez was operating a marked SBCSD patrol unit and wore a department-issued uniform. At the time, Deputy Martinez was 30 years old.

Prior to arriving at the scene, Deputy Martinez heard RP's 9-1-1 calls broadcasted by SBCSD dispatch. Deputy Martinez stated that the calling party wanted her son out of her home. The dispatch operator classified the call as an "unknown problem," with a "priority one" designation, which Deputy Martinez understood to mean someone's life was in danger. Deputy Martinez was approximately two to three miles away from the scene and began driving to RP's location. Soon thereafter, Deputy Martinez heard Deputy Forsberg broadcast "four-fifteen." Deputy Martinez understood Deputy Forsberg's broadcast to mean that someone was fighting with her and she needed backup right away. Deputy Martinez believed that the way Deputy Forsberg sounded when she broadcasted "four-fifteen," meant that she was in danger.

Deputy Martinez continued to make his way towards with scene with his unit emergency lights and siren activated. Deputy Martinez recalled that there was no additional radio

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traffic as he drove to the scene, and that such radio silence was “not a good thing”—it meant his partner was still fighting or that something was not right. Deputy Martinez stated that he followed Deputy Fincel’s unit to the scene and as they got close, Deputy Martinez saw five to ten civilians were on the street. The civilians were hailing units towards the scene. This caused Deputy Martinez to fear that something “really bad” had happened to Deputy Forsberg.

When Deputy Martinez approached the scene, he saw Deputy Forsberg running away from approaching units. Deputy Forsberg appeared scared. Then, from approximately 100 feet away, he saw Mr. Young in the middle of the street and walking *towards* Deputy Martinez’s unit with his hands up in the air. As Deputy Martinez got closer, he saw that Mr. Young had a gun in his hand. Deputy Martinez saw that Mr. Young wrapped his hand around the grip of the gun and had a finger near the gun trigger. Just as Deputy Martinez shifted his unit into “park,” Deputy Martinez saw Mr. Young fire the gun. At the time, Deputy Martinez estimated that Mr. Young was approximately 10 to 15 feet in front of Deputy Martinez’s patrol unit. Deputy Martinez also noted that Deputy Fincel stopped his unit five to six feet from Mr. Young. Next, Deputy Martinez got out of his unit, stood up behind his driver’s door and drew his handgun. Deputy Martinez heard someone say, “Drop the gun,” and saw that Mr. Young’s wrists were moving down towards Deputy Martinez. Deputy Martinez believed that Mr. Young was lowering the gun to shoot at Deputy Martinez. Deputy Martinez started shooting at Mr. Young. Deputy Martinez continued to fire his weapon until Mr. Young fell down. Deputy Martinez believed that if he didn’t fire his weapon at that time, Mr. Young was going to shoot and kill either Deputy Fincel or Deputy Martinez.

After Mr. Young fell to the ground, Deputy Martinez believed that Mr. Young still had the gun. At that time, Deputy Martinez could no longer see the gun. Deputy Martinez saw Mr. Young go to the ground with the gun but did not see Mr. Young throw or drop the gun. Deputy Martinez believed that Mr. Young had the gun underneath his chest. Deputy Martinez recalled that both of Mr. Young’s hands were concealed beneath him. Despite deputies giving Mr. Young orders to show his hands and to look away, Mr. Young continued to look at Deputy Martinez and to roll his body. Mr. Young’s movement caused Deputy Martinez to believe that Mr. Young was tracking Deputy Martinez’s location and would try to shoot at Deputy Martinez. Deputy Martinez had previously received training on how quickly an armed suspect can roll from a prone position and shoot. Deputy Martinez stated, “I was pretty much like afraid that [Mr. Young] was gonna shoot me.” Deputy Martinez fired one more time at Mr. Young, after which Mr. Young became compliant—Mr. Young turned his gaze away from deputies and presented his hands.

Next, Deputy Martinez approached Mr. Young to handcuff him. It was at this time that Deputy Martinez finally saw the gun Mr. Young had (Deputy Forsberg’s gun); the gun lay towards the front of Deputy Martinez’s patrol unit but still within Mr. Young’s reach. Deputy Martinez also heard Deputy Collas say he was going to kick Deputy Forsberg’s

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gun and saw Deputy Collas do so. Deputy Martinez could not recall if Deputy Collas kicked Deputy Forsberg's gun away before or after he handcuffed Mr. Young. Once Mr. Young was handcuffed, Deputy Martinez assisted with triaging Mr. Young's injuries. While doing so, Deputy Martinez recalled seeing RP approach with a knife and scissors in her hands. Deputy Martinez drew his weapon and pointed it at RP and told RP to back away. RP complied with Deputy Martinez's commands. In retrospect, Deputy Martinez stated that he did not think RP was a threat when RP approached.

Deputy Martinez was asked whether he considered using any other tool during his confrontation of Mr. Young, other than his handgun. Deputy Martinez explained that using a taser or less-lethal shotgun would not have made any sense at the time because of the deputies' proximity to Mr. Young, and because Mr. Young was already firing Deputy Forsberg's gun.

Deputy Martinez's interview, the examination of Deputy Martinez's duty weapon and the collection of evidence at the scene, together show that Deputy Martinez shot at Mr. Young 11 times.

Deputy Nicholas Collas gave a voluntary interview to SBCSD Detectives Craig and Moreno on September 12, 2019, eight days after the shooting incident and in the presence of Deputy Collas's attorney. Prior to recounting his involvement in the incident, Deputy Collas reviewed a civilian (Instagram) video recording of the incident, as well as his own belt recorder audio footage. (*See Submitted Media, infra.*)

The following is a summary of relevant information disclosed by Deputy Collas:

Deputy Collas was hired as a SBCSD deputy in 2017. Prior to that, he served in the National Guard for seven years, during which he achieved the rank of Sergeant.

On September 4, 2019, Deputy Collas drove a marked SBCSD patrol unit and wore a department-issued uniform. At the time, Deputy Collas was 30 years old. Prior to arriving at the scene, Deputy Collas heard RP's broadcasted calls. Deputy Collas knew that dispatch only broadcasted "priority" calls when someone could be in imminent danger of bodily harm. Deputy Collas recalled hearing that RP needed help and wanted her son out of her house. Deputy Collas heard that Deputy Forsberg was the first to arrive at the scene. Within seconds of Deputy Forsberg's arrival, Deputy Collas heard Deputy Forsberg radio, "four-fifteen"—which Deputy Collas understood to mean that Deputy Forsberg was in a fight. Deputy Collas stated that he and Deputies Martinez and Fincel each activated their patrol unit emergency lights and sirens thereafter. As deputies drew closer to the scene, Deputy Collas noticed 15 people were standing outside and waiving the deputies towards the scene. Deputy Collas explained that he had never seen civilians in the City of Victorville do such a thing and took their behavior to mean "something was really wrong."

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As the deputies started down the cul-de-sac of RP's residence, Deputy Collas saw Mr. Young in the middle of the street. Deputy Collas then noticed Mr. Young held a gun up in the air and fired it. Deputy Collas didn't hear the gun fire but saw Mr. Young's gun recoil and eject a cartridge casing. From about 20 yards back, Deputy Collas noticed that the gun Mr. Young was holding was outfitted with a SBCSD-issued tactical light. Deputy Collas immediately deduced that Mr. Young had Deputy Forsberg's gun. Deputy Collas stated that he believed "the only way [Mr. Young] could have had [Deputy Forsberg's] gun is if he had killed her." Deputy Collas stopped his patrol unit, got out, and ordered Mr. Young to drop the gun in one fluid motion and all before Deputy Collas was able to draw his own weapon. Deputy Collas also saw that Deputy Fincel still sat in his unit, very close to Mr. Young and without cover. It appeared to Deputy Collas that Mr. Young intended to fire Deputy Forsberg's gun again because of the way Mr. Young held the gun. Deputy Collas stated Mr. Young was facing deputies and estimated Mr. Young to be holding up Deputy Forsberg's gun at a 70-degree angle. Also, Deputy Collas saw Mr. Young's hand made "a slight movement kind of downward, like a twitch in his hand." Deputy Collas believed that if he did not shoot at Mr. Young, that Mr. Young would kill one or all of the responding deputies. Deputy Collas drew his gun and fired at Mr. Young from an open position between Deputies Martinez and Fincel's units. Deputy Collas stopped shooting when he saw Mr. Young fall to the ground.

After gunfire ceased, Deputy Collas radioed "shots fired" and requested medical aid. Then, to Deputy Collas' surprise, he spotted Deputy Forsberg running to his left. Deputy Collas diverted his attention away from Mr. Young and ran towards Deputy Forsberg. Deputy Collas believed that Deputy Forsberg had been shot because of the way she was holding her stomach. After contacting and quickly looking over Deputy Forsberg, Deputy Collas determined that Deputy Forsberg had *not* been shot. Deputy Collas then returned his focus to Mr. Young and moved back towards Deputies Martinez and Fincel's location. As he did so, Deputy Collas noticed that Deputy Forsberg's gun was on the ground and within Mr. Young's reach, approximately 12 to 16 inches away. After telling Deputies Martinez and Fincel that he would be kicking the gun, Deputy Collas kicked Deputy Forsberg's gun to the left and outside of Mr. Young's reach, approximately six to eight feet away from Mr. Young. Deputy Collas then rejoined Deputy Forsberg to escort her to his patrol unit. By the time Deputy Collas returned to where Mr. Young lay, Deputies Martinez and Fincel had already handcuffed Mr. Young. Deputy Collas then assisted in administering medical aid to Mr. Young.

Deputy Collas was asked whether he considered using any other force options during this incident, other than his firearm. Deputy Collas stated that he did not. Deputy Collas explained that he was too far back to effectively use a taser and that there was no time to deploy a less-lethal shotgun. Deputy Collas recognized that Mr. Young was already in a position to fire at deputies before the responding deputies even had a chance to draw any weapon.

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Deputy Collas's interview, the examination of Deputy Collas's duty weapon and the collection of evidence at the scene, together show that Deputy Collas shot at Mr. Young seven times.

Additional Law Enforcement Personnel were interviewed and/or prepared reports regarding their involvement in the investigation of this shooting incident. The first sergeant to arrive at the scene was Sergeant Joshua Conley. Sergeant Conley arrived as Deputies Collas, Fincel and Martinez were administering first aid to Mr. Young. Sergeant Conley stated that he reviewed the civilian video of the shooting and noted the direction that Mr. Young fired at Deputy Forsberg. (See Submitted Media summary, *infra.*) Sergeant Conley later identified a bullet strike in the garage door to a home on the cul-de-sac that Sergeant Conley believed corresponded with Mr. Young's attempt to shoot Deputy Forsberg.

Detectives Phillips and Ogaz took inventory of what clothing the shooting deputies wore at the time of the incident. Deputies Collas, Forsberg and Martinez each wore department-issued button-down shirts with SBCSD insignia patches on both outer shoulders, as well as a SBCSD metal badge and personal name plate on the left chest. All three deputies also wore green trouser pants and black boots. In addition, Deputy Martinez wore a black baseball cap with "Sheriff" written in gold block letters across the front panel.

Detective Ogaz collected and inventoried the firearms of Deputies Collas and Martinez. Detective Collas's duty weapon was described as a Heckler & Koch, model VP-9, 9mm Luger caliber pistol containing nine rounds. Every round contained in Deputy Collas's weapon was stamped "WIN 9mm LUGER+P." Deputy Martinez's duty weapon was described as a Glock 21, .45 caliber pistol containing 2 rounds. Each round contained in Deputy Martinez's weapon was stamped "WINCHESTER 45 AUTO." Deputy Forsberg's weapon was collected from the scene and submitted to a SID criminalist for examination. The criminalist described Deputy Forsberg's weapon as a Glock, model 17Gen4, 9mm luger caliber semi-automatic pistol. Deputy Forsberg's weapon contained a total of 12 rounds, each identically stamped with "WIN 9mm Luger+P." The same SID criminalist test-fired each shooting deputy's firearm and found that all three pistols test-fired without modification or defect.

Detective Craig determined based upon the total investigation that Deputy Martinez fired at Mr. Young from an approximate distance of 25 feet and six inches, while standing behind his patrol unit door. Detective Craig also determined that Deputy Collas was in an open position and fired at Mr. Young from approximately 52 feet and five inches. Detective Craig opined that based upon *Force Science* principles, Mr. Young could have fired at Deputies Collas and Martinez in a shorter time period than Deputies Collas and Martinez could have drawn and fired at Mr. Young.

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STATEMENTS BY CIVILIAN WITNESSES⁴

Reporting Party (RP) was interviewed six hours after the shooting incident at the SBCSD Victorville Station by Detectives Ogaz and Alvarado. RP told the detectives that she called 9-1-1 twice on the day *prior* because RP was afraid Mr. Young would try to hurt her with household scissors that he took from her. RP described Mr. Young's conduct on the day prior as being aggressive, engaging in "crazy talk," and jumping on furniture. RP was concerned Mr. Young would scare the neighbors because Mr. Young was also outside and cursing to himself. After deputies responded to RP's location on the day prior, a responding deputy told RP that Mr. Young couldn't be arrested for being mentally ill. RP proceeded to lock Mr. Young outside that evening (the night before the shooting incident).

The next morning (September 4th), RP let Mr. Young into her home *after* her boyfriend went to work. Mr. Young had been living at RP's residence in the last two months, but more recently she only allowed Mr. Young to sleep outside due to Mr. Young's increased aggressiveness and perceived worsening mental condition.

After being let inside, Mr. Young went to sleep in his room and woke up a few hours later. RP had been smoking marijuana that morning. RP recalled that Mr. Young asked RP for some marijuana; RP told Mr. Young, "No." Thereafter, RP noticed that Mr. Young was talking to himself and said, "I think we should *merc* her." RP believed that this meant, "I think we should kill her." Mr. Young also started to shake his head, curse, and pound on the kitchen island with his fists. RP became frightened and called 9-1-1. RP believed that Mr. Young was telling his imaginary friend that they should kill RP because RP was talking to the cops or trying to bring the cops in. RP armed herself with a silver steak knife and a scissor blade because she was afraid of what Mr. Young might do to her. RP accidentally hung up on 9-1-1 while also calling her mother. As such, RP had to call 9-1-1 a second time. During that time, Mr. Young had been following RP around the kitchen island. As soon as RP was able to escape to the outside, RP saw that a uniformed female deputy had arrived and was in the driveway. RP stated that she was "relieved" to see the deputy. RP tried to get behind the deputy. RP stated that she was still holding the steak knife and scissors when she came outside, though she didn't realize it at the time.

Next, RP watched the female deputy tell Mr. Young to get down to the ground. RP believed that the deputy was trying to calm the situation. RP stated that the deputy was very calm in her attempt to get Mr. Young to the ground, yet Mr. Young attacked the deputy. RP described Mr. Young as "resisting" and "overpowering" the deputy. RP heard Mr. Young tell the deputy that he was trying to leave. However, RP stated that Mr. Young was *not* trying to leave. Then, RP described that Mr. Young began hitting the deputy. RP stated, "[Mr. Young] kept attacking [Deputy Forsberg]. He kept punching her in her face, oh my God." RP believed that Mr. Young

⁴ 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.

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punched the deputy with a closed fist at least three times. At some point, RP stated that the deputy got her baton out, but that Mr. Young knocked the baton out of the deputy's hands. Then, RP saw that Mr. Young had the deputy's gun and pointed it at the deputy. RP ran and hid when the gunfire started. RP knew the deputy needed help but was also afraid that Mr. Young would try to shoot her (RP) because of the way Mr. Young was behaving before RP was able to get out of the house. RP did not actually see Mr. Young shoot at Deputy Forsberg. RP assumed Mr. Young shot at Deputy Forsberg because RP saw a hole in the neighbor's house. RP later saw additional deputies arrive, who shot at Mr. Young, and then provided Mr. Young with first aid.

Neighbors in the vicinity of the scene who were home at the time of the incident were interviewed by investigating detectives. Several neighbors heard gunfire but did not see any of the precipitating events. Neighbor #1 was returning home at about 8:30 a.m., when she saw Deputy Forsberg driving behind her. When Neighbor #1 pulled into her driveway, Deputy Forsberg continued past Neighbor #1. Neighbor #1 got out of her car and went to the street corner to see where Deputy Forsberg was going. Neighbor #1 saw Deputy Forsberg park her police unit and saw RP come out of a house followed by a 16 or 17-year-old "kid." Neighbor #1 was familiar with Mr. Young and believed Mr. Young was "normally good," but didn't want Mr. Young coming around Neighbor #1's house. Based on what Neighbor #1 could see and hear, Neighbor #1 believed Deputy Forsberg was trying to arrest Mr. Young. Neighbor #1 stated that Mr. Young was not listening to Deputy Forsberg, who was telling Mr. Young to get to the ground. Neighbor #1 saw Deputy Forsberg kick Mr. Young to make Mr. Young fall. Neighbor #1 stated that Deputy Forsberg pulled Mr. Young's hair and caused Mr. Young to get mad. Neighbor #1 then saw Mr. Young begin to punch Deputy Forsberg in the face. Neighbor #1 recalled beginning to cry because she thought Mr. Young was going to kill Deputy Forsberg. Neighbor #1 stated that Deputy Forsberg tried to cover her face and fell. Then, Neighbor #1 saw Mr. Young point a gun at Deputy Forsberg's head. Neighbor #1 believed she saw Mr. Young shoot at Deputy Forsberg three times. Deputy Forsberg then ran away. Neighbor #1 said that she tried to wave the approaching police cars down so that they could help Deputy Forsberg.

Neighbor #2 heard some initial gunfire, then looked outside and heard someone say "Stop" or "Drop the gun" as Mr. Young walked towards arriving deputies. Neighbor #2 then saw deputies shoot Mr. Young.

Neighbor #3 was familiar with RP, who lived next door to him. Neighbor #3 heard a commotion outside and watched for about five seconds before he began recording the incident via Instagram. Before starting to record, Neighbor #3 heard Deputy Forsberg say "get on the ground" multiple times. The deputy appeared to Neighbor #3 to be struggling or wrestling with Mr. Young. Neighbor #3 described Mr. Young to be about a foot away from Deputy Forsberg and Mr. Young appeared to be trying to take the deputy down or was fighting back. Neighbor #3 recalled that Deputy Forsberg used her right hand to hold Mr. Young by his hair and punched Mr. Young with her left hand.

Neighbor #3 relayed that he recently broke his eyeglasses and used Instagram to record the incident because Instagram's zoom feature helped him to see what was happening. Thus, while

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recording, Neighbor#3 saw that Mr. Young punched Deputy Forsberg in the face. Neighbor#3 also heard Deputy Forsberg say, “Stop or I’m going to shoot you.” Afterwards, Deputy Forsberg fell down onto her back. Next, Neighbor #3 said Mr. Young got on top of Deputy Forsberg and punched her again. Neighbor #3 believed that the deputy tried to shoot Mr. Young and that the deputy’s gun fired twice. Then, Neighbor #3 said Mr. Young had the gun, “cocked it” and shot at Deputy Forsberg. Neighbor #3 stated that 11 or 12 “cop cars” came racing down the street within six seconds thereafter. Mr. Young appeared to Neighbor #3 to have his hands up when the additional units arrived, but that Mr. Young had the gun in his right hand. Neighbor #3 saw responding deputies shoot at Mr. Young until Mr. Young fell to the ground. Neighbor #3 stopped recording when the deputies began to fire because Neighbor #3’s dad told him to take cover and Neighbor#3 realized that he might be in danger.

SUBMITTED MEDIA⁵

Dispatch Recordings. The case agent’s submission included audio files containing dispatch radio broadcasts and three 9-1-1 calls. The submitted dispatch recordings were not audibly timestamped. However, the incident dispatch log prepared by SBCSD did include timestamps for corresponding events and information. The following is a summary of dispatch activity presumably heard by the involved deputies beginning with RP’s broadcasted calls:

RP placed her first call to 9-1-1 at approximately 8:25 a.m. RP pleaded with the dispatch operator during that call, “Oh my God, send somebody please.” After RP relayed her location to the dispatcher, RP’s call ended. The dispatcher then broadcasted a “pending priority one, unknown problem” occurring at RP’s location, and advised “female just keeps saying oh my god over and over again, send the police, gave address and disconnected.” Deputies Martinez and Collas immediately broadcasted in response that they would respond. At 8:27 a.m., within one to two seconds of Deputies Martinez and Collas’s assignment to the call, the dispatch log noted that Deputy Forsberg was also assigned to respond to RP’s call.

At approximately 8:29 a.m., RP connected with 9-1-1 a second time and stated, “I want my son removed. I want my son removed from my home.” While RP attempted to speak with the dispatcher, Mr. Young was audibly screaming in the background. RP again disconnected her call. The dispatcher then advised responding units that RP “wants her son removed from the home, won’t answer call intake questions, keeps telling call intake to hold on.” Subsequently, Deputy Fincel broadcasted that he had responded to RP’s location twice the day before for Mr. Young and that Mr. Young was “code-4 both times.”⁶

⁵ All submitted photographs and audio and video recordings were reviewed and considered in the context of the entire submission. Only selected portions of selected items are mentioned here. The submitted video footage was reviewed at slowed speeds.

⁶ During his interview, Deputy Fincel explained that Mr. Young was both cooperative and non-violent on September 3rd.

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At 8:32 a.m., Deputy Forsberg broadcasted that she had arrived at RP's location. By the time Deputy Forsberg arrived at the scene, RP's mother reached another 9-1-1 operator, who was able to get RP back on the phone with emergency services now for the third time that morning. This was a three-way phone call that included RP at the scene, dispatch, and RP's mother. The third call to 9-1-1 began with the sound of a door slamming followed by RP saying "Nobody wants to put up with that type of temper." In response, Mr. Young can be heard saying, "I don't have a fucking temper." Shortly thereafter and faintly in the background, Deputy Forsberg can be heard talking to Mr. Young. As the 9-1-1 operator attempted to get the address of RP's location, RP said, "They're here, they're here, they're here." Deputy Forsberg could then be heard repeatedly ordering Mr. Young to get to the ground. RP told the dispatch operator that "The cops are here" and that the Mr. Young "Won't go to the ground."

In less than a minute and a half from the time that Deputy Forsberg arrived at the scene, dispatch recorded "unreadable traffic" and "possibly four-fifteen" from Deputy Forsberg. The dispatch operator then attempted to confirm whether Deputy Forsberg needed assistance. When no instant confirmation came, Deputy Martinez radioed for and was provided Deputy Forsberg's location.

Meanwhile, approximately one minute and 16 seconds into the third 9-1-1 call, Deputy Forsberg could be heard screaming, "Let go of me!" RP then began screaming, "Oh my God! Oh my God!" At the one minute and 25 second mark, a single gunshot was audible. Two seconds later, another gunshot rang out. Then, RP was heard saying, "Oh my God, Aki, no!" followed by additional indistinct screaming. A third gunshot was audible four seconds after the last and RP repeated once more, "Oh my God, Aki, no!" Immediately thereafter, approaching sirens were audible.

At the one minute and 44 second mark of the third 9-1-1 call, a (fourth) gunshot was heard. Then, RP said again, "Oh my God, Aki. No," after which the sound of sirens abruptly ceased. Two seconds after the siren wails stopped, the sound of continuous gunfire erupted for approximately seven seconds. Next, multiple voices were discernable from the continuing 9-1-1 call, as well as at the scene, including deputies who were screaming, "Get on your stomach, now," and "Let me see your hands. Hands. Let me see your hands." Approximately 19 seconds after the first volley of gunfire ended, one last gunshot rang out. The final gunshot occurred at two minutes and 13 seconds after the third 9-1-1 call began. Afterwards, deputies could still be heard ordering Mr. Young to put his hands out to the side.

It was approximately 8:35 a.m. when both Deputies Collas and Martinez broadcasted, "Shots fired." At 8:36 a.m., Deputy Fincel broadcasted over the radio, "We need meds immediately, we have suspect shot, one deputy hit." About 21 seconds later, Deputy Collas corrected over the radio that Deputy Forsberg had not been hit.

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Subsequent radio traffic involved the coordination of a medical response to the scene. Meanwhile, RP was still on the line with 9-1-1. At the three minute and nine second mark of that call, deputies were audibly ordering RP to "Put the knife down," multiple times. At approximately three minutes and 51 minutes into the call, RP relayed, "Aki been shot. They have him cuffed. He's bleeding. He's saying he's sorry. He's saying he's sorry." Later, at the six minute and 39 second mark, RP was heard saying "Aki just wants me to record. Aki just wants me to record." Less than 30 seconds thereafter, RP was heard saying, "They took my phone, Mom" and the call ended.

Deputy Belt Recorder (BR) Audio Recordings. The case agent's submission included BR recordings collected by Deputies Collas, Fincel and Forsberg. The resulting audio footage was subject to the limitations of the BR mechanism as well as the environment that existed in close proximity to the device at the time of the recorded events. The submitted BR recordings appeared to have been collected on September 4, 2019 and appeared to include real-time footage. The identity of the deputy that made each submitted BR audio recording was determined by its content and assumed based upon the digital title of the submitted recordings.

Deputy Forsberg's BR audio recording was three minutes and 37 seconds long and captured her entire contact with Mr. Young, including all gunfire and the events occurring immediately thereafter. Deputy Collas's BR audio recording was almost 12 minutes long. Deputy Collas's BR device was activated while Deputy Collas was driving to the scene. Deputy Collas's BR audio recording included the shooting of Mr. Young, as well as events occurring immediately thereafter. Deputy Fincel submitted five BR recordings totaling in excess of four and a half hours in length. None of Deputy Fincel's recordings captured the events immediately before or after the shooting incident, however. Deputy Fincel recorded his accompaniment of Mr. Young during Mr. Young's medical transport to and at the hospital.

The following is a summary of notable events audible in Deputy Forsberg's BR recording:

Deputy Forsberg was already outside of her patrol unit when the recording began. A door can be heard slamming, just as Deputy Forsberg said in a calm and even tone at the one second mark (:01), "Hey relax, relax" and Mr. Young said, "I don't have a fucking temper." Deputy Forsberg asked Mr. Young, "What's going on?" To which Mr. Young retorted, at (:05) "What you got to do here?" Deputy Forsberg then told Mr. Young, "Come here. Turn around." Mr. Young questioned Deputy Forsberg again at (:07), "What are you about to do, yo?" Deputy Forsberg repeated herself, "Turn around. Turn around." Then, Mr. Young quipped, "You said relax. I opened the fucken door." Some scuffling can be heard as Deputy Forsberg uttered at (:11), "Don't. Don't." Mr. Young told Deputy Forsberg, "Don't. Don't even try it." Deputy Forsberg, still in a calm and even tone, then said at (:14), "Stop it. Put your hands behind your back. Don't resist." Mr. Young's response was, "Dude. Don't try it. I will head butt the fuck out of you right now." Without audible shock, Deputy Forsberg flatly stated, "Yeah, you don't wanna do that." When Mr. Young questioned her, "Why not?" Deputy Forsberg calmly repeated at (:21), "You don't want to do that. Relax. Put your hands behind your back."

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Four seconds later, Mr. Young stated, "Let me here, let me get you." Immediately thereafter, at **(:25)** Deputy Forsberg radioed her first call for assistance with, "I'm four-fifteen." Rustling noises were audible as Deputy Forsberg, with a sense of urgency in her voice, ordered Mr. Young repeatedly to get on the ground. Mr. Young, meanwhile, questioned, "I just left" repeatedly and asked Deputy Forsberg, "Can you explain this to me please?" At **(:37)**, Deputy Forsberg attempted to radio once more, "I'm four-fifteen."

All while the sound of struggle continued and for approximately 20 seconds, Mr. Young continued to question Deputy Forsberg and Deputy Forsberg continued to order Mr. Young to the ground. Then, at **(:58)** Deputy Forsberg sternly said, "Let go." At **(1:02)** a pinging sound indicated that Deputy Forsberg deployed her RCB and she also screamed, "Let go of my hand, I will. I will hit you. Get on the ground. Get on the fucking ground." Exasperated, Mr. Young then responded, "Okay, let me do it then." Deputy Forsberg immediately replied, "Get on the ground." Then suddenly, at **(1:15)** Deputy Forsberg's voice hastened into a high-pitched scream, "Let go of me. Let go." At **(1:20)** Deputy Forsberg stated, "I'm gonna shoot you" as RP could be heard screaming in the distance, "Oh my God, no." Deputy Forsberg repeated at **(1:22)**, "I'm gonna shoot you." About three seconds later, at **(1:25)**, a single gunshot could be heard. Along with the sound of shuffling of gravel, Deputy Forsberg muffled, "Get off" before another gunshot rang out.

For the next five seconds, Deputy Forsberg pleaded, "No. Please. Please. Please." The sound of Deputy Forsberg running can be heard, then at **(1:33)**, a third gunshot was audible. Approaching sirens was audible immediately after the third gunshot. Deputy Forsberg breathlessly yelled, "He has my gun, he has my gun, he has my gun." At **(1:43)**, a fourth gunshot was heard. Two seconds later, the siren wails stopped, and Deputy Forsberg yelled, "He has my gun." Another deputy can be heard indistinctly yelling something in the background at the same time Deputy Forsberg yelled again, "He has my gun." Then, the sound of multiple gunshots was heard for the next six seconds **(1:47 to 1:53)**.

After the initial volley of gunfire ended, the following commands were heard: "Drop it, drop the gun" ; "Get on your stomach, get on your stomach" ; "Put your hands out to the side." Deputy Forsberg can then be heard running again, when at **(2:05)** she began talking to Deputy Collas, who asked her if she had been "hit." Deputy Forsberg repeated, "I don't know," in a breathless and panicked voice. More indistinct yelling was simultaneously heard in the distance when at **(2:12)** another gunshot rang out. Additional commands of, "Put your hands out to the side," followed. Mr. Young was also heard saying "It wasn't my fault. It wasn't my fault. I promise." At **(2:26)** Deputy Forsberg attempted to radio for medical help. Meanwhile, a male deputy was still repeatedly ordering Mr. Young to put his hands out to his side.

During the remainder of this belt recording an emotional Deputy Forsberg told Deputy Collas that Mr. Young hit her and had her at gunpoint. At **(3:06)** a male can be heard

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saying “Drop the knife.” At **(3:27)**, Deputy Martinez asked Deputy Forsberg if she was shot, to which Deputy Forsberg said, “I don’t know.”

The following is a summary of notable audible events included in Deputy Collas’ BR recording:

Deputy Collas appeared to be driving his patrol unit at the beginning of his audio recording; the sound of a siren could be heard. The siren stopped at **(:15)** and Deputy Collas yelled, “Drop the gun” before the sound of gunfire erupted. Gunfire began at **(:17)** and continued until **(:23)**. At **(:25)**, Deputy Collas radioed, “Shots fired, shots fired.” Another deputy yelled, “Drop the gun” as Deputy Collas also screamed, “Get back ma’am, get back, ma’am” and “Get on your stomach.” At **(:34)** Deputy Collas radioed, “Shots fired, stage meds.” The sound of shuffling followed; Deputy Collas was likely running.

At **(:36)** Deputy Collas was heard asking Deputy Forsberg, “Are you hit?” A frazzled Deputy Forsberg responded repeatedly, “I don’t know.” At **(:43)** a single gunshot rang out and multiple deputies, including Deputy Collas yelled, “Put your hands up!” Mr. Young can also be heard saying, “I’m shot, man!” Deputy Fincel can then be heard saying, “Put your hands out to the side, now!” Mr. Young responded by saying, “I left the house, wasn’t my fault.” Meanwhile, shuffling was again audible. Then at **(:52)** Deputy Collas said, “I’m gonna kick the gun? Hey, I’m kicking the gun? I’m kicking the gun?” At **(:56)** Deputy Martinez says, “Yes!” Then, the sound of metal skipping on asphalt can be heard. Immediately thereafter at **(:57)**, Deputy Collas says, “I’m gonna check on Forsberg.” Deputy Collas re-contacted Deputy Forsberg at **(1:05)**. After checking with Deputy Forsberg, Deputy Collas radioed at **(2:03)** that Deputy Forsberg was not shot. Deputy Collas then yelled out to his partners for medical supplies to assist Mr. Young at **(2:06)**.

At **(2:37)** Deputy Collas can be heard telling RP, “Stand up ma’am, I’m going to put you in handcuffs until we know what’s going on.” In response, RP said, “Ok” and “They’re putting me in handcuffs mom.” Thereafter, Deputy Collas appeared to go to Mr. Young’s side to assist Deputies Martinez and Fincel in rendering first aid and assessing Mr. Young’s injuries. While Deputy Collas did so, RP was heard saying, “I was just trying to leave the house, man.” At **(3:06)** Mr. Young was heard saying, “I left the house and I slammed the door, and I get shot? What is this place on?” In response, Deputy Fincel said, “You had a gun in your hand and you fired it.” Mr. Young replied, “She attacked me man, come on.”

At **(8:28)** Deputy Collas commented that the paramedics had arrived at the scene.

Civilian Video Recordings. Two civilian external home surveillance videos were submitted. Neither were date or timestamped. One of those civilian surveillance videos appeared to be shot facing Cabazon Street in the foreground, with a south-facing view down Cabazon Court in the background. This surveillance video captured Deputy Forsberg’s patrol unit turning onto

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Cabazon Court at the outset, followed by the faint sounds of the subject incident. This surveillance video supports a finding that Deputy Forsberg turned onto Cabazon Court, parked her unit, and began speaking to Mr. Young within approximately 26 seconds. The remainder of this surveillance video captured the sounds of the lethal force encounter, which appeared to be consistent with all other submitted media.

A 33 second video captured by Neighbor #3 was also submitted for review; this was the Instagram video. (*See* Statements by Civilian Witnesses, *supra*.) This video did not include the date or time recorded, however it appears to have been recorded in real time and is consistent with all other submitted media that captured the subject incident. The case agent determined that this video was recorded from a second story window, approximately 40 feet away from the recorded events that occurred on the cul-de-sac below. The following is a summary of observations⁷ about Neighbor #3's video:

In the opening frames of Neighbor #3's video, Mr. Young and Deputy Forsberg were standing in the cul-de-sac. Mr. Young appeared to hold Deputy Forsberg by the top of the deputy's head. Deputy Forsberg was bent forward in front of Mr. Young. Deputy Forsberg's extended RCB laid in the landscaping gravel in front of RP's residence, southeast of where the deputy and Mr. Young were standing.

At (:01) Mr. Young took hold of Deputy Forsberg's left wrist with his left hand and struck the left side of Deputy Forsberg's face with a closed right fist. Deputy Forsberg attempted to pull away from Mr. Young by pulling to her right (east/southeast) towards the landscaping gravel and her RCB. Mr. Young punched Deputy Forsberg's face a second time as Deputy Forsberg moved her right hand to her right hip and exclaimed, "I'm going to shoot you." Mr. Young maintained hold of Deputy Forsberg's left wrist and moved with Deputy Forsberg, all while striking the left side of Deputy Forsberg's head and face a third and fourth time. By (:02), Deputy Forsberg appeared to have unholstered her side-arm and gripped the gun in her right hand. At (:03) Deputy Forsberg exclaimed again, "I'm going to shoot you."

After the fourth punch, Deputy Forsberg slid down to a sitting position. Mr. Young appeared to be reaching for Deputy Forsberg's gun. Deputy Forsberg leaned back and raised her weapon over her head, appearing to try to keep the gun out of Mr. Young's reach. In addition, while Mr. Young and Deputy Forsberg wrestled on the ground, RP appeared to approach Mr. Young and Deputy Forsberg from the area of RP's driveway (west/southwest). At (:06) Deputy Forsberg fired her gun while still laid on her back. The gunfire caused RP to run away (north/northeast) from where Mr. Young and Deputy Forsberg were wrestling. Almost simultaneous with the initial gunfire, Mr. Young's left hand enveloped Deputy Forsberg's right hand (and necessarily the gun it gripped). Mr. Young held down Deputy Forsberg's right hand away from her body and to the ground

⁷ Much of what is described during this video was obscured by a large tree that was between Neighbor #3 and the events being recorded. However, this summary was prepared in the context of the entire submission.

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by kneeling his left leg onto Deputy Forsberg's forearm. Deputy Forsberg rolled to her left side, but Deputy Forsberg's left arm appeared pinned under her right arm. At (:07) Deputy Forsberg screamed, "Get off," as a second round was fired from Deputy Forsberg's gun. At the time the second shot was fired, Deputy Forsberg had peeled her torso up from the ground. However, Mr. Young still knelt down on top of both of Deputy Forsberg's arms from a leveraged position and Mr. Young used both of his hands to pull at Deputy Forsberg's gun. By (:09), Mr. Young was able to rip Deputy Forsberg's gun out of the deputy's right hand. After doing so, Mr. Young reflexively turned to his left approximately 180 degrees to face Deputy Forsberg, took three steps backwards (west) and pointed the gun at Deputy Forsberg. While Mr. Young stepped back from Deputy Forsberg, the deputy had rolled to her right from her left side, onto her hands and knees, put up her right open palm towards Mr. Young, started to rise and at (:10) said, "Don't, please." Mr. Young had the deputy's gun gripped in his right hand, pointed at Deputy Forsberg, with his right arm fully extended away from his body. RP screamed, "Aki, no" in the background. By (:11), Deputy Forsberg had risen to her feet and began to turn and run away (east) from Mr. Young. At (:12), Mr. Young appeared to have attempted to fire Deputy Forsberg's gun at Deputy Forsberg, but no gunfire was audible; only a sudden forward and upward jerk movement of the gun was observed.

At (:13), while still gripping Deputy Forsberg's gun with his right hand, Mr. Young pulled back the slide of Deputy Forsberg's gun with his left hand, re-extended his right arm, and pointed the gun in the direction that Deputy Forsberg ran (east). At (:14), while stepping forward (east), Mr. Young fired Deputy Forsberg's gun. At (:15), immediately after firing the gun, Mr. Young pulled back the slide of Deputy Forsberg's gun again and continued to walk east in the cul-de-sac. RP screamed again, "Aki, no!"

At (:18), Deputy Fincel's unit can be seen turning south onto Cabazon Court from Cabazon Street. Mr. Young appeared to pivot (north) and walk towards approaching patrol vehicles at (:19). As Mr. Young walked toward the approaching units, Mr. Young raised his hands; both elbows were bent close to his body and he held his hands at shoulder-level. Mr. Young gripped Deputy Forsberg's gun in his right hand with the barrel pointed to the sky. By (:22), Deputies Fincel, Martinez and Collas had each turned south onto Cabazon Court with emergency lights flashing and sirens blaring.

At (:24), Mr. Young fired a single gunshot into the air. At the time the shot was fired, Deputy Fincel's unit was immediately to Mr. Young's left (west), Deputy Martinez's unit was in front and to the right (northeast) of Mr. Young, and Deputy Collas's unit was straight ahead (north). All patrol unit sirens silenced by (:25), when both Deputies Collas and Martinez's driver doors opened simultaneously. At (:26) Deputy Martinez stood outside his unit and behind his unit driver door, while pointing his firearm (south) at Mr. Young. Meanwhile, Deputy Collas stepped out of his unit, screamed "Drop the gun," and walked around his open driver door before taking a shooting stance to the east of his driver's door, while also pointing his gun (south) at Mr. Young. At (:27), Deputy Martinez began to fire at Mr. Young, followed by Deputy Collas. At (:30) Mr. Young can

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be seen falling to the ground before Neighbor #3 shifted the camera frame away from the cul-de-sac. The sound of gunfire continued through the end of the Neighbor #3's video at (:33).

Law Enforcement Prepared Recording. In the course of his investigation, the case agent submitted Deputy Forsberg's BR recording and Neighbor #3's Instagram video to a SBCSD High Tech Crimes detective, who created a synced version of both recordings. When played, the prepared synced version provided a context for the video portion. The prepared synced recording was consistent with the submitted media as separately detailed above. In addition, the synced recording revealed that Mr. Young first punched Deputy Forsberg in the face within approximately 30 seconds of the beginning of their interaction. Mr. Young attempted to disarm Deputy Forsberg of her gun approximately one minute and 24 seconds into their interaction. At the minute and 30 second-mark, Mr. Young attempted to shoot Deputy Forsberg. Approximately one minute and 46 seconds after the encounter began, Deputies Martinez and Collas began firing at Mr. Young.

INCIDENT SCENE INVESTIGATION

The incident scene investigation was managed by the case agent with the assistance of a SBCSD crime scene specialist and SID criminalist. The shooting incident occurred on the 1300-block of Cabazon Court in the City of Victorville—a two-way road allowing north and south travel, bounded to the south by a cul-de-sac. Cabazon Court is lined with single-family homes on both sides and around the cul-de-sac. Cabazon *Street* is the sole outlet of Cabazon Court. Cabazon Street is a two-way residential road that lays perpendicular to the north end of Cabazon Court and has an east/west traffic pattern.

RP's residence was at the south end of Cabazon Street. The front door to RP's two-story residence faced north onto the cul-de-sac of Cabazon Court and was offset to the east of RP's residence driveway. The case agent noted nine bullet strikes to the front of RP's residence, primarily to the north-facing façade. Six fired bullet fragments were also recovered in the area immediately in front of RP's home.

The home immediately to the east of RP's residence was a two-story residence with a large second-story window. The case agent determined that Neighbor #3 recorded the video of the incident from that window, which was roughly 40 feet from where Mr. Young and Deputy Forsberg wrestled on the ground prior to the shooting incident—an area covered by landscaping gravel. Deputy Forsberg's fully-expanded RCB, RP's silver steak knife, and RP's scissor blade were recovered from the cul-de-sac, in front (north) of the driveway to this home.

The case agent also determined that the third home to the northeast of RP's residence, which sits on the east side of the cul-de-sac with a west-facing façade, bore a bullet strike on the top of the garage door. The case agent found the location of the bullet strike to be consistent with the shot Mr. Young fired at Deputy Forsberg as she ran away from him.

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Deputy Forsberg's unit was parked on the cul-de-sac, facing south/southwest and in front of the home immediately to the west of RP's residence. Deputy Forsberg's unit was positioned the furthest south on the cul-de-sac, of all involved deputy patrol units. Deputies Fincel, Martinez and Collas's patrol units were each south-facing on the cul-de-sac. Deputy Fincel's unit was parked northeast of Deputy Forsberg's unit, almost in the center of the cul-de-sac, pointed at the driveway of RP's residence, and approximately 35 feet north of the cul-de-sac's south curb. The front end of Deputy Martinez's patrol unit was off-set to the east and rear of Deputy Fincel's unit by a car-width and approximately 38 feet west of the east curb. Deputy Collas's patrol unit was parked at the top of the cul-de-sac, north of Deputy Martinez's unit, almost in-line behind Deputy Fincel's patrol unit and approximately 86 feet north of the cul-de-sac's south curb.

Three fired cartridge casings (FCC's) were recovered in the landscaping gravel in front of RP's front door. A single FCC was recovered in the cul-de-sac, approximately 29 feet and 5 inches north of the south curb. Considering the case agent's submission as a whole, it appears that all four of these FCC's were expelled from Deputy Forsberg's gun during the subject conflict. In addition, two live bullets head-stamped, "WIN 9mm LUGER+P" were recovered from the asphalt area of cul-de-sac. It also appears that these two live and loose bullets were ejected from Deputy Forsberg's gun. Deputy Forsberg's gun was recovered in the area east of where Mr. Young fell. Mr. Young fell in the cul-de-sac, approximately 28 feet south of the front of Deputy Martinez's patrol unit.

Eleven FCC's marked "WINCHESTER 45 AUTO" were recovered from the area of Deputy Martinez's patrol unit. Seven FCC's marked "WIN 9mm LUGER+P" were recovered from the immediate area east of Deputy Collas's patrol unit.

INJURED PARTY

Mr. Young was 21 years old at the time of the shooting incident. Immediately after the shooting incident, Mr. Young received first aid at the scene. Soon thereafter, Mr. Young was treated by paramedics and transported by ground and air medical transport for hospital treatment. Mr. Young received medical care, including surgery, for a total of six gunshot wounds to the right shoulder, hip and buttock. Mr. Young sustained fractures to his right ilium (hip) and right humerus (arm) secondary to the gunshot wounds.

Mr. Young gave two voluntary interviews to Detectives Alvarado and Ogaz from his hospital bed. The first interview took place approximately nine hours after the shooting incident. The second interview took place the next day—September 5, 2019, approximately 33 hours after the shooting incident and four hours after sustaining an operation for his injuries.

First Interview. Mr. Young told the detectives that he asked RP to call his grandmother to pick him up that morning. Mr. Young stated that RP was "high" and was acting like Mr. Young was going to hurt RP. Mr. Young expanded that RP called the police and Mr. Young's grandmother

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because RP didn't feel safe around Mr. Young. Mr. Young said that he followed RP outside. Mr. Young stated, "The moment I storm out the door, there's already a police officer in the driveway heading toward the house."

Mr. Young recalled hearing the deputy tell him to calm down and to put his hands behind his back. Mr. Young believed that he was the subject of an outstanding warrant for trespassing and that he was not supposed to be at his RP's property, at all. Mr. Young said that the deputy tried to arrest him for trespassing. Yet, Mr. Young stated he wanted to fight the deputy because the deputy pulled Mr. Young's hair when he was trying to calmly explain why he was there. Mr. Young told the detectives, "Don't pull my hair ever in your fucking life. Tell your deputy that or we're going to fight again." Mr. Young stated that the deputy pulled his hair for 10 to 15 seconds because he wasn't letting the deputy take him to the ground. When Mr. Young saw the deputy take her baton out, Mr. Young thought, "Fight's on," and that Mr. Young was trying to knock the deputy down the moment that the deputy did so. Mr. Young stated, "I didn't want to get a bruised face by some stupid racist bitch cop."

Mr. Young stated that after the second time he punched the deputy, the deputy fell down, pulled out her gun and said, "I'm gonna shoot." Mr. Young stated that he understood that the deputy's gun was real, but expanded, "I don't give a fuck, don't pull my fucking hair. Anyways, I took the gun from her and shot at her, because I don't know what the fuck I was supposed to do in that situation...you know I'm just going to shoot at this idiot." Mr. Young also stated his belief that the deputy fired in RP's direction. After disarming the deputy, Mr. Young recalled firing two or three times at the deputy. Mr. Young stated that he aimed at the deputy's leg and back when he did so. Mr. Young did recall that during his first attempt to shoot the deputy that he pulled the gun trigger all the way down but that it did not fire. Mr. Young then described clearing the jammed round by pulling back on the gun slide and pulling the trigger again.

After shooting at the deputy, Mr. Young recalled that three additional cop cars showed up seconds later. Mr. Young stated that before the additional cop cars stopped, Mr. Young fired a shot into the air. When asked why he shot into the air, Mr. Young explained, "I meant like war between us. We weren't cool anymore." Mr. Young stated that there were six deputies there, but that one of them did not get out of his car. After firing into the air, Mr. Young heard someone say, "Drop the gun." Initially, Mr. Young said that he dropped the gun before the responding deputies started shooting at him. Later during the interview, Mr. Young stated instead that he *did not* drop the gun immediately because he knew if he did so that it would fire. Mr. Young recalled that after deputies began shooting, he knelt down to his knees and placed the gun on the ground.

Mr. Young stated that after he was shot, the shooting deputies provided him with immediate first aid and agreed that the deputies acted in a professional manner in doing so. Mr. Young denied having any mental issues or deficiencies and proclaimed that he was able to communicate at a high level. Mr. Young denied taking any "drugs" or drinking any alcohol that day.

Second Interview. Mr. Young told detectives that the deputy he fought with was blonde, tall and in uniform. Mr. Young knew that the deputy was trying to take him into custody, but Mr.

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Young was fed up and felt that he didn't need to listen to the deputy. Mr. Young said that he would rather be shot than to comply. Mr. Young specified, "If I would have just listened [to the deputy], that would of like left the worst image of me, ever." Mr. Young insisted that allowing the deputy to arrest him, "would have been the most bitch move [Mr. Young] ever made," suggesting that doing so would show weakness.

Mr. Young recalled that during his contact with the deputy, the deputy put her arm around his neck and tried to "sweep" his leg to get him to the ground. The deputy also deployed her baton and said, "I'm gonna beat you." Mr. Young stated that he hit the deputy first to keep the deputy from hitting him. After Mr. Young hit the deputy's left cheek, Mr. Young stated that the deputy dropped the baton and fell down. Mr. Young stated, "I swung so hard it looked like she got dazed." Mr. Young described the strike as "the perfect swing." He expanded, "It wasn't meant to hurt, it was meant to knock her out," and that not only did he thrust forward for the punch, he swung so hard that it caused him to stumble. Mr. Young believed he may have been stronger than the deputy. Reiterating sentiments from the day prior, Mr. Young stated "I don't want some white girl pulling my hair when I'm doing everything right. That's what did it. You guys can shoot me in my fucking head."

When the deputy drew her gun, Mr. Young saw it was black but thought it might have been the deputy's taser. Mr. Young denied trying to grab the deputy's gun before the deputy fired twice at him. Mr. Young only decided to take the gun from the deputy after it appeared to him that the deputy had no reason to fire at him. Mr. Young re-affirmed that after he took the deputy's gun, that he did point the gun and shoot at the deputy. Mr. Young stated that this was the first time he had fired a real gun.

After the additional units arrived, Mr. Young recalled hearing "Drop the gun" three times. Mr. Young stated that he was already dropping the gun as the additional deputies were getting out of their cars.

APPLICABLE LEGAL PRINCIPLES⁸

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 harm. (*People v. Ray* (1999) 21 Cal.4th 464, 471-472.)

Independent of the above-stated public expectation, a peace officer who responds to an emergency call and is faced with threat of harm while fulfilling her duties, need not retreat and

⁸ All references to code sections here pertain to the California Penal Code, as they existed at the time of the incident. Significant modifications were made to sections 196 and 835a pursuant to Assembly Bill 392. (Assem. Bill No. 392 (2018-2019 Reg. Sess.) as Chaptered on August 19, 2019.) However, those modifications became effective on January 1, 2020 and do not apply retroactively.

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maintains his or her right to self-defense. (Calif. Pen. Code §§197, 835a) A peace officer may use objectively reasonable force to effect an arrest, to prevent escape or to overcome resistance. (Pen. Code §835a). 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. (Pen. Code §834a) A subject who draws or exhibits a firearm with the intent to resist or prevent arrest or detention of himself by a peace officer commits a serious felony. (Pen. Code §§417.8, 1192.7(c)) The force used by the officer to effectuate the arrest or detention can be justified if the Constitutional test in *Graham v. Connor* [(1989) 490 U.S. 386, 395] is satisfied. (*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. At the time of this incident, Penal Code §196 stated that homicide by a public officer was justifiable when “necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty.”

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:

- (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.)

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.

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(*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.) There is no requirement that a person (including a police officer) retreat even if safety could have been achieved by retreating. (*Id.*, see also CALCRIM 505.)

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:

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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, 441-442.) An officer may reasonably use deadly force when he confronts an armed suspect in close proximity whose actions indicate an *intent* to attack. (*Id.*) 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.) If a subject draws or exhibits a firearm to resist or prevent arrest or detention by an officer, it is not required that the subject point the firearm at the officer, or even draw the weapon in a rude, angry or threatening manner for the subject’s conduct to qualify as a serious felony being committed against that officer. (Pen. Code §§245(d), 417.8; *People v. Raviart* (2001) 93 Cal.App.4th 258, 266, *People v. Pruett* (1997) 57 Cal.App.4th 77, 88.) 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.)

Another key guiding principal when undertaking this analysis is that 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 memorandum examines the use of deadly force by Deputies Nicholas Collas, Meagan Forsberg and Michael Martinez on September 4, 2019. As indicated above, there are legal bases that must be met before the right to self-defense ripens and a use of lethal force is justified. 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.

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A use of force must be “reasonable” in order to be deemed lawful. When considered in the context of self-defense, whether the shooting deputies were justified in using lethal force involves a two-part analysis: (1) did the deputy subjectively and honestly believe she or he needed to protect herself or 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 herself or himself from an apparent, imminent threat of death or great bodily injury objectively reasonable.

Subjective Belief of Imminent Need to Protect. The subjective belief of each shooting deputy is stated here based upon the deputy’s statement. Before arriving at the scene, Deputies Collas, Forsberg and Martinez each recognized that RP’s call for help was a “priority one” call involving an imminent threat of harm. Deputy Forsberg’s pre-arrival assessment was that RP was dealing with an out-of-control son (Mr. Young). After arriving at the scene, the distress that Deputy Forsberg recalled hearing in RP’s voice compelled Deputy Forsberg to approach the residence as soon as possible and not wait for additional units. When Deputy Forsberg stepped out of her patrol unit, she saw RP come out of the house with a knife in one hand and a cell phone in the other. Deputy Forsberg quickly concluded after hearing RP repeatedly say, “they’re here,” that RP was still on the line with the dispatcher. What was more concerning to Deputy Forsberg was the aggressive way that Mr. Young trailed RP.

Mr. Young approached Deputy Forsberg to within a foot, with a clenched jaw, rigid body, puffed chest, and balled right fist. These physical attributes suggested to the deputy that Mr. Young was angry and wanted to fight. Deputy Forsberg’s verbal exchange with Mr. Young quickly confirmed the deputy’s assessment. Within 15 seconds of first telling Mr. Young to “relax,” Mr. Young threatened to “head butt” the deputy as she began to pull out her hand cuffs. When Mr. Young refused verbal commands and grabbed onto Deputy Forsberg’s left wrist, Deputy Forsberg deployed her RCB and ordered Mr. Young to “let go,” and “get on the fucking ground.” Deputy Forsberg explained that using profanity would make her sound “meaner” and she did so in the hope that Mr. Young would relent. Instead, Mr. Young’s response was to disarm the deputy of her RCB and to threaten to kill her. When Mr. Young still would not let go of Deputy Forsberg’s wrist, the deputy and Mr. Young engaged in mutual hair-pulling. Mr. Young escalated the fight by bombarding Deputy Forsberg with a series of head strikes with a closed fist. Deputy Forsberg felt that she was not only losing the fight with Mr. Young, but also losing consciousness in the process. Deputy Forsberg drew her gun and threatened to shoot Mr. Young. Deputy Forsberg stated she hesitated to shoot Mr. Young because she did not want to be judged or criticized for shooting someone for hitting her in the face. Ultimately, Deputy Forsberg felt that Mr. Young was going to kill her and she had no choice but to fire her gun at Mr. Young in order to stop him from killing her.

Deputies Collas and Martinez also ultimately believed that Mr. Young might kill them. After Deputies Collas and Martinez’s assignment to RP’s call and prior to arriving at the scene, Deputies Collas and Martinez both believed that Deputy Forsberg was in a fight. They both activated their emergency lights and sirens as soon as they heard Deputy Forsberg’s distress call to get to the scene as soon as possible. Deputy Martinez was acutely aware of the radio silence that occurred after Deputy Forsberg’s distress call; the silence meant that his partner was still

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fighting. As Deputies Collas and Martinez drew close to the scene, the appearance of civilians flagging them down was also mutual cause for concern. Deputies Collas and Martinez recognized that this type of civilian engagement was an unusual occurrence and that they both interpreted it to mean that they were responding to an exceptionally bad situation. As Deputy Martinez turned onto the cul-de-sac, he spotted a scared and fleeing Deputy Forsberg before he saw Mr. Young in the middle of the street. Deputy Martinez did not notice the gun Mr. Young held up in his right hand until Deputy Martinez was already 10 to 15 feet in front of Mr. Young and Mr. Young fired his gun. Deputy Martinez saw Deputy Fincel stopped even closer to Mr. Young—approximately five to six feet. Deputy Martinez got out of his patrol unit, took cover behind his unit driver's door, and drew his weapon. Though Deputy Martinez did hear someone say, "Drop the gun," Deputy Martinez believed that Mr. Young's wrists were moving down towards Deputy Martinez and that Mr. Young was going to point and shoot at Deputy Martinez. Deputy Martinez believed that if he did not fire his weapon at that moment, Mr. Young was going to kill him or Deputy Fincel. Deputy Martinez stated that he continued to fire at Mr. Young until Mr. Young fell to the ground.

Even after Mr. Young fell to the ground, however, Deputy Martinez believed Mr. Young still had his gun under his chest. After the initial volley of gunfire ceased, Deputy Martinez saw that Mr. Young would not show his hands nor look away from the deputies as Mr. Young was being ordered to. Deputy Martinez could not see Mr. Young's gun, nor did he see Mr. Young drop or otherwise throw the gun away. Mr. Young also began to roll his body in a way that caused Deputy Martinez to believe that Mr. Young was tracking Deputy Martinez's location to shoot at Deputy Martinez. As such, Deputy Martinez shot at Mr. Young once more.

Contrasting Deputy Martinez, Deputy Collas did not see Deputy Forsberg until *after* he shot at Mr. Young. On his initial approach to the scene, Deputy Collas's attention was immediately drawn to Mr. Young because Deputy Collas saw Mr. Young shoot a round into the air. Once Deputy Collas recognized that the gun in Mr. Young's hand had a SBCSD tactical light affixed to it, Deputy Collas assumed that Mr. Young killed Deputy Forsberg and took Deputy Forsberg's gun. It appeared to Deputy Collas that Mr. Young gripped Deputy Forsberg's gun in a way suggesting that Mr. Young intended to fire the gun again. Deputy Collas stopped his unit, got out, and ordered Mr. Young to drop the gun. Then, Deputy Collas saw Mr. Young's gun-hand "twitch" in a slight downward movement. Deputy Collas believed that if he did not shoot at Mr. Young, Mr. Young would shoot and kill Deputy Collas, or Deputies Martinez and Fincel, who were in even closer proximity to Mr. Young.

The stated account of Deputies Collas, Forsberg and Martinez of the circumstances at play *prior* to and culminating with each deputy's use of lethal force is consistent with the submission as a whole. Furthermore, the submission supports each deputy's conclusion that Mr. Young was armed with a gun and intended to shoot and kill each shooting deputy. Based upon the foregoing, it is reasonable to conclude that Deputies Collas, Forsberg and Martinez each bore an honest and subjective belief that he or she, or another, was under threat of imminent deadly harm or bodily injury at the time each used lethal force.

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Reasonable Belief of Imminent Need to Protect. At the time of the incident, the analytical framework for determining what was “reasonable” was solely included in *Graham* and its progeny. This analysis also overlaps with the second component to a self-defense claim: a finding that each deputy had an objectively reasonable belief of the need to use deadly force to protect himself from imminent threat of death or serious injury.

As in *Graham*, we first consider the severity of the crime at issue. Mr. Young physically and verbally communicated his intent to resist being taken into custody within 15 seconds of Deputy Forsberg making contact with him. After some initial tensing and pulling away, and as Deputy Forsberg attempted to take out her handcuffs, Mr. Young told Deputy Forsberg, “Don’t try it. I will headbutt the fuck out of you.” At a minimum, this initial conduct was a violation of Penal Code section 148 [obstructing or delaying a peace officer in the course of her duties], a misdemeanor. In addition, however, Deputy Forsberg recalled Mr. Young threatened to kill the deputy if they fought, which under these circumstances could be the basis for a felony violation of Penal Code section 422 [terroristic threats].

After threatening Deputy Forsberg’s life, Mr. Young took clear steps towards executing his threat. Mr. Young’s physical resistance of Deputy Forsberg was at the outset a violation of Penal Code section 69 [resistance by force or violence], a felony. Mr. Young’s conduct quickly intensified into the pummeling of Deputy Forsberg, which could be a violation of Penal Code section 245(c) [assault of a peace officer in the course of her duties]—a “serious” strike felony pursuant to Penal Code section 1192.7(c) that carries a mandatory prison sentence. Mr. Young told detectives that he would have rather been shot than comply with Deputy Forsberg’s orders. Mr. Young’s conduct demonstrated this resolve. Mr. Young first sought to beat Deputy Forsberg into unconsciousness and when that didn’t work, he attempted to shoot her. It could also be concluded that Mr. Young drew or exhibited a firearm (albeit Deputy Forsberg’s firearm) with the intent to prevent detention by a peace officer; this was a violation of Penal Code section 417.8, another “serious” strike felony.⁹ The assault upon Deputy Forsberg with a firearm would at a minimum be a violation of Penal Code section 245(d)(1), a “violent” felony strike pursuant to Penal Code section 667.5(c)(8). In the end, however, Mr. Young pointed a loaded weapon at Deputy Forsberg’s head at close range and fired it. When no bullet ejected, Mr. Young cleared the weapon and fired at Deputy Forsberg’s back while she fled. These were violations of Penal Code section 664(e) [attempted murder of an officer in the course of her duties], which carries a mandatory life sentence.

Prior to their engagement of Mr. Young, both Deputies Martinez and Collas had reason to believe that Deputy Forsberg was in a fight with Mr. Young. Deputies Martinez and Collas heard Deputy Forsberg’s distress call, were concerned about the radio silence that followed, and were both struck by the sight of civilians waving them towards Deputy Forsberg’s location. At the time Deputies Martinez and Collas initially approached, they might have reasonably believed that Mr. Young had assaulted Deputy Forsberg, which would potentially include felony

⁹ Mr. Young’s conduct here moved well beyond the type of conduct proscribed by Penal Code, section 148(d) [intentionally taking or attempting to take a firearm from a peace officer], a misdemeanor, which includes the simple unholstering or touching of the officer’s gun and/or gun safety.

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violations of Penal Code sections 69 and 245(c), as noted above. In addition, Deputy Collas feared that Mr. Young had killed Deputy Forsberg in order to gain control of Deputy Forsberg's gun. Separate and apart from what the approaching deputies might have reasonably believed Mr. Young had done to Deputy Forsberg, Mr. Young could also be deemed to have assaulted Deputies Collas, Fincel and Martinez with a firearm, pursuant to Penal Code sections 245(d)(1) and/or exhibiting a firearm with intent to prevent detention, per Penal Code section 417.8. Neither section 245(d)(1), nor 417.8 required that Mr. Young fire the gun at any deputy, or even point the gun directly at the involved deputies. It was enough that Mr. Young armed himself with an operable and loaded firearm and wielded it such that Mr. Young *could have* immediately used it against Deputies Fincel, Martinez and Collas. The moment that Deputies Fincel, Martinez and Collas saw Mr. Young fire Deputy Forsberg's gun, they knew the gun was real and capable of being immediately fired at them. After Mr. Young fired the single shot into the air, both Deputies Martinez and Collas believed that Mr. Young's gun hand was poised to turn on them and/or Deputy Fincel. Based on the foregoing, it was reasonable for each of the shooting deputies to believe immediately prior to using lethal force that Mr. Young was actively engaged in committing especially serious and/or violent felonies against them.

Resistance is another essential consideration in a *Graham* analysis. In order to effectuate Mr. Young's arrest or detention, deputies were authorized to use reasonable force. Under the circumstances and by his own admission, Mr. Young was aware that he was being contacted by law enforcement. Deputies Collas, Fincel, Forsberg and Martinez were each wearing department-issued uniforms and operating SBCSD-marked patrol units. Well before deputies arrived at the scene, RP believed that Mr. Young was upset that RP was talking to the cops or trying to call the cops to her residence. Every involved person at the scene, including Mr. Young, recognized the responding deputies as law enforcement officers. Mr. Young disclosed to detectives that even before contacting Deputy Forsberg, that he believed he was not supposed to be at RP's property, at all. Additionally, Mr. Young believed that Deputy Forsberg was arresting him on a trespassing warrant. Despite his mistaken beliefs, Mr. Young *still* approached Deputy Forsberg with hostility and went to extreme lengths to thwart his detention.

The submission showed that Mr. Young's machismo was a primary impetus in Mr. Young's resistance. Mr. Young told detectives, "I don't want some white girl pulling my hair," and that he would have rather been shot than to comply with Deputy Forsberg's commands. Mr. Young told detectives that complying with Deputy Forsberg's commands would have been "the most bitch move" he ever made, and that when Deputy Forsberg pulled out her RCB, Mr. Young became determined to fight the deputy rather than "get a bruised face by some stupid racist bitch cop." Indeed, prior to throwing his first punch at Deputy Forsberg, Mr. Young had an opportunity to size-up Deputy Forsberg. In the course of resisting Deputy Forsberg's attempts to gain physical control of him, Mr. Young was able to get a sense of the deputy's relative strength. Mr. Young assessed himself to be stronger than Deputy Forsberg. In addition, Mr. Young was both taller and heavier than Deputy Forsberg. Mr. Young may have been emboldened by his physical advantage over Deputy Forsberg to resist in the first place. Clearly, Mr. Young was not intimidated by her. Despite the deputy's warning that she would shoot him, Mr. Young still attempted to "knock out" Deputy Forsberg by hammering the deputy in the head with his fist. It can be reasonably

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inferred that one who continues to use force in the face of lethal force, also intends to inflict lethal force.

If Mr. Young's intent to kill Deputy Forsberg was not already obvious prior to the time that Deputy Forsberg used lethal force to save herself, it certainly was when Mr. Young twice fired on a beaten and unarmed Deputy Forsberg. The first time Mr. Young fired on Deputy Forsberg, the deputy was on her knees and pleading for her life. The second time Mr. Young fired on Deputy Forsberg, she was running away. Indeed, Mr. Young not only intended to resist Deputy Forsberg's authority, he intended to kill her for attempting to wield that authority. As such, it can be plainly concluded that Mr. Young was actively resisting with lethal force at the time Deputy Forsberg used lethal force.

Although Mr. Young did not fight with nor verbally threaten Deputies Collas and Martinez as he did Deputy Forsberg, Mr. Young *still* intentionally engaged the later-arriving deputies with active resistance. Mr. Young projected his intent to resist the later-arriving deputies even before Deputies Collas and Martinez were out of their patrol cars. First, Mr. Young could have chosen *not* to approach the deputies at all; no one was ordering Mr. Young to come forward at the time he did so. Secondly, Mr. Young had the option to set down Deputy Forsberg's gun at any time, up to and including the time during which he faced Deputies Fincel, Martinez and Collas. In the moments after Deputy Forsberg ran away from Mr. Young, there were no deputies immediately around Mr. Young. Mr. Young, instead, decided to maintain possession of Deputy Forsberg's gun, with his hand wrapped around the grip and a finger poised to pull the trigger. In addition, it was noted that Mr. Young pulled back the slide on Deputy Forsberg's gun, twice. The first time Mr. Young pulled back on the slide of Deputy Forsberg's gun, he was able to clear a gun-jam and subsequently fire the gun at Deputy Forsberg. When the sound of approaching patrol units could be heard, Mr. Young pulled back on the slide of Deputy Forsberg's gun a second time. In Mr. Young's brief experience with Deputy Forsberg's gun, he may have believed that pulling the slide back was necessary in order to continue firing. It can be inferred therefore that Mr. Young intended to continue to fire Deputy Forsberg's weapon upon the later-approaching deputies.

It is uncontroverted that Mr. Young walked toward the later-approaching deputies with his hands up. Normally, approaching with your hands up would signal surrender. However, in this case, Mr. Young fired a round into the air while doing so. Any confusion regarding the conflicting messages can be resolved against the assumption that Mr. Young intended to surrender, as Mr. Young told detectives that firing into the air was meant to convey "war," to the approaching deputies. One may reasonably conclude, therefore, that by putting his hands up, Mr. Young was seeking *the desired effect* usually elicited in doing so, that is to signal the deputies *not* to fire upon him. All three approaching deputies—Deputies Fincel, Martinez, and Collas, did not see Mr. Young was holding a gun until immediately before Mr. Young fired it. It was also plausible that Mr. Young's feigned surrender may have distracted the approaching deputies from noticing the firearm he held or may have drawn the approaching deputies closer so as to make the deputies easier targets.

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Had Mr. Young fired Deputy Forsberg's gun directly at Deputies Fincel, Martinez, and Collas, as the deputies approached in their patrol units, none of the approaching deputies would have been able to immediately return fire. On approach, each deputy had their gun holstered. That Mr. Young fired *into the air* is of no moment, either. It is reasonable to conclude that firing a gun into the air can also have lethal consequences, especially in the residential area that this incident occurred. For the purpose of this analysis, however, it is important to recognize that Mr. Young chose to fire Deputy Forsberg's gun anywhere, at all, while contact with armed law enforcement was imminent. In doing so, Mr. Young demonstrated an intent to arm himself with a lethal weapon and communicated his ability to use lethal force against the approaching deputies by firing that weapon. Self-armament with a semi-automatic firearm in the face of detainment by uniformed and armed peace officers is an extreme level of resistance. As such, the submission in total supports a finding that Mr. Young was engaged in active and extreme resistance at the time Deputies Collas, Forsberg and Martinez 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. At the outset, Deputy Forsberg stepped into a highly volatile environment. For two days straight, RP had called the police for help with her son, whom she believed was trying to hurt her. Her fear was so palpable on the second day that RP armed herself with a knife and a scissor blade. On the day of the shooting incident, Mr. Young said that he knew RP was afraid of being hurt by him and described himself as "storming" out of the house after RP at the same time Deputy Forsberg was in the driveway. Mr. Young's rage shifted focus to Deputy Forsberg, who immediately appreciated that Mr. Young wanted to fight. Mr. Young was younger, stronger and intent on proving that he would not be controlled by a deputy, and much less, a female deputy. RP described Mr. Young as both resisting and overpowering Deputy Forsberg.

Deputy Forsberg incrementally increased the level of force she used against Mr. Young to test the length to which Mr. Young would go to avoid detention. Deputy Forsberg used verbal orders delivered with a calm tone that even RP recognized in her scared state. When that didn't work, Deputy Forsberg used verbal orders delivered with profanity. When that didn't work, Deputy Forsberg attempted control holds and leg sweeps. When Mr. Young would not comply with orders and overcame all of Deputy Forsberg's attempts to physically control him, Deputy Forsberg drew her RCB and warned Mr. Young that she would hit him. By that time, Mr. Young already made a verbal threat to kill Deputy Forsberg. Mr. Young easily disarmed the deputy and then began his campaign to punch Deputy Forsberg into unconsciousness. Even when Deputy Forsberg drew her gun, the deputy admittedly delayed firing it. Instead, Deputy Forsberg tried again to warn Mr. Young that he would be shot. As before, the verbal warning only seemed to signal Mr. Young to disarm the deputy. Neighbor #1, who was watching the incident unfold from a distance, cried as she watched because she believed Mr. Young was going to kill Deputy Forsberg. Mr. Young said he would kill Deputy Forsberg and immediately thereafter physically assaulted Deputy Forsberg with all his might. As such, Deputy Forsberg reasonably concluded that Mr. Young meant to immediately kill her and would kill her, if Deputy Forsberg did not immediately fire at Mr. Young. Ultimately, the submission showed that Deputy Forsberg was

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correct in her pre-shooting assessment of Mr. Young's murderous intent. Within seconds of disarming Deputy Forsberg, Mr. Young attempted to shoot Deputy Forsberg in the head and in the back. Even RP fled once Mr. Young armed himself, believing that Mr. Young would shoot at her, also.

As discussed above, the immediate threat to Deputies Fincel, Martinez and Collas was foisted upon them by Mr. Young, as soon as these deputies turned onto the cul-de-sac and drove toward Mr. Young. By the time that Deputy Fincel recognized that Mr. Young was armed and firing Deputy Forsberg's gun, Mr. Young was a mere four to six feet away from Deputy Fincel. Deputy Fincel recognized that Mr. Young did not need to be a good shot to be able to shoot kill Deputy Fincel at that close distance. At the time Deputies Martinez and Collas were outside of their patrol units, they were approximately 25 and 52 feet away from Mr. Young, respectively. Deputies Martinez and Collas were further away from Mr. Young than Deputy Fincel, but Deputies Martinez and Collas were still well within range of being shot by Mr. Young. Further, as the case agent pointed out, Mr. Young could have fired at Deputies Martinez and Collas quicker than Deputies Martinez and Collas could have drawn and fired at Mr. Young. As such, it is reasonable to conclude that there was an immediate lethal threat to Deputies Fincel, Martinez and Collas at the time that Deputies Martinez and Collas fired their duty weapons at Mr. Young.

Hindsight. In the evaluation of the question of necessity at the time shots were fired, it must be noted that the courts have employed a standard that is highly deferential and viewed from the vantage point of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. This standard allows for the fact that split-second judgments are being made under tense, uncertain and rapidly evolving circumstances. For example, the fact that Mr. Young was no longer armed at the time that Deputy Martinez fired his last shot at Mr. Young is precisely the kind of hindsight that cannot negate the reasonableness of Deputy Martinez's use of lethal force.

Deputy Martinez's exposure to this tense, uncertain and rapidly evolving circumstance began with his assignment to RP's "priority one" call, involving a potential threat to human life. While Deputy Martinez was driving to RP's location, he heard that Deputy Forsberg was in a fight and that effectively doubled the involved potential threat to human life. Deputy Forsberg's radio silence and the appearance of civilians flagging down units near to the scene only intensified Deputy Martinez's suspicion that he was about to encounter a very bad situation. Four seconds after Deputy Martinez turned south onto the cul-de-sac toward Mr. Young, Mr. Young fired into the air. At the time Mr. Young fired into the air, Deputy Fincel's unit was already stopped four to six feet west of Mr. Young. Deputy Fincel was a sitting duck inside. At least nine seconds passed from the time Deputy Fincel first turned onto the cul-de-sac, followed by Deputies Martinez and Collas, respectively, before Deputy Martinez was able to draw his own weapon. Whether they knew it or not, Deputies Fincel, Martinez and Collas were exposed to an active shooter during those nine seconds.

After the initial volley of gunfire by Deputies Martinez and Collas, Mr. Young fell to the ground immediately south of Deputy Martinez's patrol unit. Deputy Martinez told detectives that he did not see Mr. Young drop or throw Deputy Forsberg's gun. Deputy Martinez stood behind his

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patrol unit driver's door after the first volley ended and from his position, he did not see that Deputy Forsberg's gun was on the ground in between the front of his unit and Mr. Young. Deputy Collas's BR audio footage is consistent with Deputy Martinez's statements that he did not already see Deputy Forsberg's gun on the ground, as Deputy Martinez can be heard ordering "Drop it" and "Drop the gun" immediately after the first volley of gunfire ceased. In contrast, Deputy Fincel stated that he *did see* Mr. Young drop Deputy Forsberg's gun during gunfire. At the time, Deputy Fincel was sitting in his unit, looking east at Mr. Young through his driver's door window. To compare, Deputy Martinez was standing 25 feet back, looking over his driver's door, past his gun sights (as he fired his weapon) and over his patrol unit hood towards Mr. Young.

It appears that 19 seconds passed between the end of the first volley of gunfire and Deputy Martinez's final shot. During that time, a cacophony of yelling ensued. Deputies Collas, Fincel and Martinez screamed orders. First, Deputy Collas ordered RP to get back. Deputy Collas then left Deputies Martinez and Fincel's position to connect with Deputy Forsberg. Next, Deputy Fincel came out of his unit, drew his duty weapon, and gave Mr. Young commands to roll onto his stomach and to put his hands out to the side. Deputy Martinez gave orders to Mr. Young to show his hands and to look away. The submitted media showed that intermittently between the multiple deputies shouting orders, Mr. Young also screamed (though indistinctly). Deputy Fincel did not announce or otherwise make Deputy Martinez aware that Deputy Forsberg's gun was on the ground. Deputies Martinez and Fincel focused on the fact that Mr. Young had at least one hand under him. Deputy Martinez believed Mr. Young had Deputy Forsberg's gun under his chest and was refusing to look away from Deputy Martinez in order to track Deputy Martinez's location. The way Mr. Young postured himself and concealed his hand under him even made Deputy Fincel believe that Mr. Young had *another* weapon under his body. Indeed, Mr. Young's insistent non-compliance despite being injured and held at gunpoint only worked to further the deputies' suspicions that Mr. Young was still armed. Additionally, Deputy Martinez's past training informed the deputy's belief that Mr. Young was imminently preparing to shoot at Deputy Martinez from the prone position and that Mr. Young could do so very quickly.

Deputy Martinez was pressed to make a split-second judgment under mounting stress and the reasonable belief that Mr. Young had no intention of surrendering to deputies, was armed and immediately capable of continuing to fire at deputies. The safety of the deputies at the scene depended upon Deputy Martinez's assumption that the danger he perceived was exactly what he believed it was. What was "reasonable" to an officer in Deputy Martinez's situation, in the moment that Mr. Young refused to turn his gaze away from the deputies and rolled his body may be different than what one analyzing the question at leisure may find. Deputy Forsberg's gun may not have actually been under Mr. Young at the time, but Deputy Forsberg's gun was still well within reach of Mr. Young, where he lay. Deputy Forsberg's gun was a mere one to two feet away and in a position that Deputy Martinez could not see. As such, Deputy Martinez was mistaken about the location of the gun but was *still* in actual danger of Mr. Young regaining control of Deputy Forsberg's gun. At the time, Deputy Forsberg's semi-automatic gun was loaded with 12 additional rounds (including one in the chamber) and required only a trigger pull to be immediately fired. As such, based upon the totality of the circumstances, the necessity of

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the use of deadly force by Deputy Martinez cannot be successfully second-guessed. Deputy Martinez reasonably believed that his final shot at Mr. Young was instantly required to avoid an imminent threat of death or great bodily injury at a minimum to himself, but also to Deputy Fincel.

Based on the foregoing, each of the primary *Graham* factors as applied support a finding that the use of lethal force by Deputies Collas, Forsberg and Martinez was reasonable. As such, the use of lethal force by Deputies Collas, Forsberg and Martinez is also justifiable under Penal Code section 197.

CONCLUSION

Under the facts, circumstances and applicable law in this matter, the use of deadly force by Deputies Nicholas Collas, Meagan Forsberg and Michael Martinez 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
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Dated: January 3, 2024

