



## PUBLIC RELEASE MEMORANDUM

**Subject:** Fatal Officer-Involved Incident

**Involved Officers:** Deputy Kevin Hogue  
San Bernardino County Sheriff's Department

Deputy Sergio Guerrero  
San Bernardino County Sheriff's Department

**Involved Subject/DOB:** Mark Dawson, Jr.  
04/09/1981

**Subject's Residence:** Rancho Cucamonga, California

**Incident Date:** August 25, 2020  
**Incident Time:** 12:07 p.m.

**Case Agent/Agency:** Gerania Navarro  
San Bernardino County Sheriff's Department

**Agency Report #:** DR# 112008979  
H# 220-085

**DA STAR #:** 2020-00-56273

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**PREAMBLE**

This was a fatal officer-involved shooting by deputies from the San Bernardino County Sheriff's Department. The shooting was investigated by the San Bernardino County Sheriff's Department. This factual summary is based on a thorough review of all the investigative reports, photographs, and audio recordings submitted by the San Bernardino County Sheriff's Department.

**FACTUAL SUMMARY**

On September 3, 2020 at approximately 11:56 a.m., Witness #1, called 911 after his son, Mark Dawson, Jr., attacked him with a kitchen knife and a meat cleaver inside their apartment. Witness #1 told the dispatch operator his injuries were to his neck and his head. Deputies Sergio Guerrero, Phillip Espinosa, and Kevin Hogue began driving to the Dawson residence located at an apartment on the 9400 block of Fairway View Place in Rancho Cucamonga.

While the deputies drove to the apartment complex, the dispatch operator remained on the phone with Witness #1, providing the deputies with additional information. The dispatcher told the deputies that she heard the son in the background saying he wanted the deputies to kill him. In addition, the dispatcher told the deputies the following: The victim advised he did not believe his son would cooperate with the deputies; the victim said that his son still had the knife in his hands; the victim and his wife were in the bedroom; his son was in the living room, pacing back and forth. Fire and paramedics were also dispatched and were asked to stage nearby until the scene was secured by the deputies

At approximately 12:03 p.m., Deputy Guerrero arrived at the apartment complex, followed shortly thereafter by Deputies Espinosa and Hogue. At approximately 12:04 p.m., Deputy Guerrero requested the dispatcher ask the victim if he and his wife could step out of the apartment to meet the deputies. After doing so, the dispatcher told the deputies the victim and his wife were not able to leave the apartment because they were afraid Dawson would stab the victim again.

Deputies Guerrero, Espinosa, and Hogue rode the elevator to the third floor, making their way to the victim's apartment. Deputy Guerrero and Deputy Hogue were armed with their handguns; Deputy Espinosa was armed with the less-lethal shotgun. Upon reaching the door to the victims' apartment, Deputy Guerrero knocked and announced, "Sheriff's Department." The deputies waited at the door but got no response. Deputy Guerrero knocked on the door a second time and again announced, "Sheriff's Department." Deputy Guerrero checked the door handle and found the door was locked. Again, there was no response from inside the apartment, so Deputy Guerrero knocked and announced, "Sheriff's Department," a third time. Still, there was no response from inside the apartment. At approximately 12:07 p.m., Deputy Hogue announced he was going to force

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entry into the apartment. Deputy Hogue kicked the door three times, eventually forcing the door open. As soon as the door opened, Deputy Hogue stepped inside, just past the threshold of the apartment. Deputy Hogue saw Dawson standing in the living room of the apartment, approximately 15 to 18 feet away. Dawson raised his right arm above his head. As Dawson did so, Deputy Hogue saw Dawson had a knife in his right hand and another knife in his left hand. Deputy Hogue pointed his handgun at Dawson and immediately ordered Dawson to "drop the knives" and "get on the ground." Deputy Hogue moved to his left away from the doorway so another deputy could enter the apartment. Deputy Guerrero stepped into the apartment, pointed his gun at Dawson and ordered Dawson to "drop the knives" and "get on the ground." Deputy Espinosa, armed with the less-lethal shotgun, was behind Deputy Guerrero. Deputy Espinosa also ordered Dawson to drop the knives.

While the deputies repeated their commands, telling Dawson to drop the knives and to get on the ground, Dawson quickly moved toward the deputies with both knives in his hands. Deputy Hogue and Deputy Guerrero each fired one round from their handguns. Dawson was struck one time in the chest and fell to the ground. The knives Dawson held, fell to the ground nearby and Deputy Hogue quickly approached Dawson, securing him in handcuffs. The deputies administered medical aid until the paramedics arrived. At approximately 12:13 p.m., Dawson was declared deceased by paramedics.

**STATEMENTS BY POLICE OFFICERS<sup>1</sup>**

On September 3, 2020, at approximately 1:43 p.m., **Deputy Kevin Hogue** was interviewed by Detective S. Abernathy and Detective R. Ripley of the San Bernardino County Sheriff's Department.

Deputy Hogue was employed by the San Bernardino County Sheriff's Department as a deputy sheriff. On August 25, 2020, Deputy Hogue was on duty, assigned to patrol out of the Rancho Cucamonga Station. Deputy Hogue drove a marked Sheriff's Department patrol vehicle and his call sign was 11 MET 3, and then 11 George 3. Deputy Hogue wore a readily identifiable Sheriff's Department approved Sheriff's SMASH (San Bernardino Movement Against Street Hoodlums) uniform which consisted of a dark green polo shirt with San Bernardino County Sheriff's Department patches on both shoulders, a gold San Bernardino County Sheriff's Department cloth badge, the Department SMASH insignia, and "K. Hogue" embroidered on the chest, the word "SHERIFF" on the back, and black cargo pants. Deputy Hogue also wore his duty belt which was equipped with the following department issued tactical gear: pepper spray, taser, Rapid Containment Baton, radio, handcuffs, a Glock 21, .45 caliber handgun, three Glock .45 caliber magazines, and a belt-recorder.

Deputy Hogue had just finished assisting two other MET deputies on another call. Deputy Hogue was asked to change his call sign from 11 MET 3 to 11 George 3, so over his

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<sup>1</sup> Herein is a summary only. All reports submitted were reviewed, but not all are referenced here.

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mobile data computer (MDC), he asked dispatch to change his call sign. Dispatch logged him off the system and he was not able to log back on. Deputy Hogue was driving his marked patrol unit when he heard a "tone out"<sup>2</sup> and dispatch announced there had been a stabbing at the apartment complex located on the 9400 block of Fairway View Place in Rancho Cucamonga. Deputy Hogue did not put himself on the call because he was not very close to that location, but he began driving that way in case he was needed. Since he was logged off of the MDC, he could not read any of the updates to the call. Deputy Hogue could only hear what dispatch was putting out over the radio. As dispatch aired updates about the call, it sounded like it was a little more serious, so Deputy Hogue picked up speed a little bit. Deputy Hogue heard Sergeant De La Torre request medical aid be dispatched and to stage nearby the scene. As Deputy Hogue was eastbound on 6<sup>th</sup> at Haven Avenue, he heard the first unit had arrived on scene. Knowing the gravity of the situation, Deputy Hogue activated his lights and sirens and drove Code 3 to the location. As he turned south on Fairway View Place, he announced over the radio that he was on scene. Deputy Hogue heard dispatch report the victims were unable to leave the apartment because they believed their son would stab them again. At that point, Deputy Hogue knew the victims could have been held hostage and the suspect could have further injured them.

Deputy Hogue pulled into the apartment complex and saw two Sheriff's units parked at the north end of the parking lot. Deputy Hogue pulled in behind the two units and saw two deputies were at the entrance door to the apartment building. Deputy Hogue hustled over to the two deputies, Deputy Espinosa and Deputy Guerrero. Deputy Hogue saw Deputy Espinosa had the less-lethal bean bag shotgun. Deputy Hogue rode up the elevator with Deputies Espinosa and Guerrero. Deputy Hogue asked the other deputies if they had their belt recorders activated. As they got to the third floor, Deputy Guerrero took out his firearm. Deputy Guerrero exited the elevator, followed by Deputy Hogue and then Deputy Espinosa. They carefully made their way to the apartment, going slowly around the corners because they did not know if the suspect had left the apartment and they did not encounter the suspect on their way. Over the radio, dispatch advised the victim had been stabbed once in the head and once in the neck and the suspect was possibly still inside the apartment. Deputy Hogue knew that both could be fatal stab wounds and that the victim needed medical attention as soon as possible. If the knife wound to the neck punctured or severed the jugular or carotid artery, then the victim needed immediate medical attention; putting pressure on the wounds could be vital to saving the victim's life because "seconds count when somebody is bleeding out." Since they did not encounter the suspect on their way to the apartment and dispatch had not advised that the suspect or the victims had left the apartment, Deputy Hogue believed there were at least three people in the apartment, one being the victim who had been stabbed, the suspect, and someone else.

Once they reached the victims' apartment, Deputy Guerrero knocked on the door and announced, "Sheriff's Department." They waited at the door but got no response. There

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<sup>2</sup> Critical Incident Announcement.

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was no sound coming from within the apartment, nobody was communicating, nobody was yelling or screaming. Deputy Guerrero knocked a second time and announced, "Sheriff's Department," but again there was no response from inside the apartment. After waiting approximately 20 seconds, Deputy Hogue made the decision to force entry because the victim needed medical attention. Deputy Hogue announced his intention to force entry over the radio and waited a few seconds just to make sure the sergeant copied in case there was something else the sergeant wanted them to do. With his handgun drawn, Deputy Hogue kicked the door. The first kick dented the metal outside of the door, the second kick opened the door slightly and Deputy Hogue could see the deadbolt and the bottom bolt were still engaged. Deputy Hogue kicked the door a third time with enough force that if the suspect was behind the door, the door would hit him, and this would hopefully give them a half-second to recognize what was going on. The door swung open and Deputy Hogue saw the suspect (Dawson) approximately 15 to 18 feet away at the far side of the apartment in front of the sliding glass doors.

The apartment was small, and Deputy Hogue immediately recognized they were in very close proximity to Dawson. The apartment was a little dark, but the blinds were open, allowing light into the apartment from the sliding glass doors. Deputy Hogue saw there was a wall on the left-hand side of the apartment with no doors. The kitchen was to the left of the entryway. On the right side of the apartment there was a bedroom door. The bedroom door was between where Dawson was standing and where Deputy Hogue entered the apartment. Deputy Hogue did not know where the other people were located.

As Deputy Hogue entered the threshold to the apartment, Dawson took a step forward with his left foot and turned slightly to the side, with his right arm bladed toward the deputies. Dawson raised his right arm up over his head and Deputy Hogue saw Dawson had a knife in his right hand. The knife had a blade that was approximately 8-10 inches long and appeared to be wide like a butcher's knife. The point of the blade was pointed up toward the ceiling. Dawson's left hand was down in front of his body and Deputy Hogue saw Dawson had a knife in that hand as well. The second knife was thinner, about an inch wide, but it also had a blade that was approximately 8-10 inches long. Deputy Hogue stepped into the apartment and gave Dawson commands to get on the ground. Dawson was now approximately 15 feet away. Not wanting to approach Dawson because he had two knives, Deputy Hogue stepped to his left into the kitchen so that a second deputy could enter the apartment. Deputy Hogue wanted a second deputy inside the apartment so there would be another gun down range. Deputy Guerrero entered the apartment and stood next to Deputy Hogue, approximately two to three feet to three feet away. When Deputy Hogue stepped into the kitchen, a tall countertop was directly in front of him, blocking his view of Dawson's feet. The countertop also created a blind spot in the apartment and Deputy Hogue did not know if the victims were in that blind spot on the other side of the counter.

Deputy Hogue kept his gun pointed towards Dawson and gave him another command to get on the ground. Deputy Guerrero yelled at Dawson to drop the knife. Dawson took a

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deep breath, brought his hands down to mid-torso level, with the blades of the knives facing up, and started coming toward the deputies. Deputy Hogue believed Dawson was either going to speed up and charge at the deputies or he was going to move to wherever the victims were and stab them. Dispatch had announced over the air there was a "possible suicide by cop situation." Deputy Hogue didn't want Dawson to get to the bedroom, because he was afraid that if the victims were in the bedroom, Dawson would further harm the victims, shut the door to the bedroom, and create a barricaded hostage situation. Based upon what Dawson had already done and what he was willing to do, Deputy Hogue did not want Dawson getting into the bedroom or getting to the deputies because he believed Dawson would have stabbed them. Dawson's knives were "large enough to do some serious damage."

Deputy Hogue yelled at Dawson again to get on the ground and Dawson began to move more quickly toward the deputies with both knives in his hands. Dawson got to within 8-12 feet of Deputy Hogue and Deputy Hogue fired one round from his handgun, aiming for the center of Dawson's torso because it was the largest area of his body and Dawson was moving. Deputy Hogue fired his handgun to stop the threat posed by Dawson. Immediately after he fired his handgun, Deputy Hogue heard another gunshot. Deputy Hogue believed Deputy Guerrero was the one who fired because he knew Deputy Espinosa had the less-lethal bean bag shotgun and the sound he heard was a gunshot, not a bean bag round. Everything happened very quickly. The shooting happened within two and a half to three seconds of when they forced entry.

Dawson immediately brought his hands up towards his chest like he had been hit and then fell down into the doorway of the bedroom. As soon as Dawson fell, Deputy Hogue moved to Dawson to keep him from collecting himself and grabbing the knives to stab anyone. Deputy Hogue gave Dawson commands to put his hands behind his back. Deputy Hogue holstered his gun and got on his knees over Dawson to hold him down. Dawson was face down and had his left hand tucked underneath his chest. Dawson's right hand was extended out right next to one of the knives that had been in his hand. Dawson's parents were in the bedroom, within two to three feet of Dawson's head. Dawson's father, Witness #1 was holding his right hand over his neck and his left hand over the left side of his head. Deputy Hogue saw what appeared to be blood in Witness #1's hair, near the top of his head. Witness #1 also appeared to have blood on his shirt.

Dawson did not put his hands behind his back, so Deputy Hogue reached underneath Dawson, got a hold of his left hand, and brought it behind his back. Deputy Hogue handcuffed Dawson and then put out on the radio that shots had been fired and requested medical aid. Deputy Hogue noticed he had blood on his left hand, confirming to him that Dawson had been hit. Deputy Hogue grabbed Dawson by his ankles and pulled him out of the doorway so they would have room to roll him over and give him medical aid. After moving Dawson, Deputy Hogue saw the second knife Dawson had wielded had been underneath Dawson's body near his left hand. Once Dawson was rolled onto his back, Deputy Guerrero lifted Dawson's shirt. Deputy Hogue told Deputy Espinosa to run

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downstairs and grab the trauma pack from his patrol unit. Deputy Hogue grabbed a handful of paper towels and gave them to Deputy Guerrero and told him to apply pressure to the wound. Deputy Hogue saw Deputy Guerrero wipe down the wound which was in the center of Dawson's chest and then apply pressure until medical aid arrived a few minutes later. Medical aid tended to Dawson, but within a few minutes they asked Deputy Hogue for a time of death. Deputy Hogue believed he told them it was 12:13 p.m.

On September 3, 2020, at approximately 3:04 p.m., **Deputy Sergio Guerrero** was interviewed by Detective S. Abernathy and Detective R. Ripley of the San Bernardino County Sheriff's Department.

Deputy Guerrero was employed by the San Bernardino County Sheriff's Department as a deputy sheriff. On August 25, 2020, Deputy Guerrero was on duty, assigned to patrol out of the Rancho Cucamonga Station. Deputy Guerrero drove a marked Sheriff's Department patrol vehicle and his call sign was 11 Paul 25. Deputy Guerrero wore a readily identifiable Sheriff's Department approved Class A uniform which consisted of a tan shirt with San Bernardino County Sheriff's Department patches on both shoulders, an American flag, a gold metal name plate with his name, a gold metal deputy sheriff badge on the chest, and green uniform pants. Deputy Guerrero also wore his duty belt equipped with the following department issued tactical gear: Taser, rapid containment baton, radio, handcuff pouch, tourniquet, Glock 17, 9 mm handgun, three magazines, pepper spray, and a belt recorder.

Deputy Guerrero had just initiated a traffic stop and had obtained the driver's license and registration when he heard a tone-out regarding a critical incident. Dispatch announced a stabbing had just occurred at the 9400 block of Fairway View Place in Rancho Cucamonga. Deputy Guerrero was within five to ten miles of the location. Deputy Guerrero returned the license and registration to the driver and reentered his patrol unit to look at the notes regarding the call on his mobile data computer (MDC). From the notes on the MDC and what dispatch was airing over the radio, Deputy Guerrero learned that the reporting party's son had stabbed him in the head and neck. Upon learning this, Deputy Guerrero's stress level began to rise. Deputy Guerrero began driving to the location given in the call. Deputy Guerrero did not immediately begin rolling code three<sup>3</sup> because he was listening to see if other units were closer to take the emergency response. As he continued driving, Deputy Guerrero did not hear any other units responding to the scene.

Deputy Guerrero felt the need to get to the scene as soon as possible, so he announced over the radio he would be rolling code three from Millikan and Arrow. As he drove southbound towards the incident location, more updates came out stating the suspect was still armed inside the apartment. Dispatch also advised there was an extensive history of calls to that residence, including a recent 5150 call. At this point, the extent of the victim's injuries was unknown, and this caused Deputy Guerrero's stress level to

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<sup>3</sup> Emergency lights and sirens activated.



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increase. Over the radio, Deputy Guerrero heard Sergeant De La Torre request medical aid respond to the location and to stage nearby. Deputy Guerrero did not hear that any other deputies had arrived on scene. Deputy Guerrero arrived on scene and as he was entering the apartment complex, dispatch advised the son was stating he wants to either be injured or shot by a deputy and was claiming he wanted "suicide by cop."

Deputy Guerrero drove to the gate of the apartment complex and began looking for numbers to find the apartment. As he entered the apartment complex, Deputy Guerrero announced over the radio that the location was going to be on the right-hand side towards the far end of the complex so that any other responding deputies would know where to go. Deputy Guerrero stopped his vehicle, got out, and put on gloves in preparation for rendering aid to the victim of the stabbing. Deputy Guerrero asked the dispatcher if she was still on the phone with the victim and she answered in the affirmative. Deputy Guerrero asked the dispatcher to ask the victims to step out of the apartment in order to prevent any altercation inside the residence. Shortly thereafter, the dispatcher advised the victim and his wife were not able to exit because the son stated that if they tried to leave, he would kill them. At this point, Deputy Guerrero knew this was a possible hostage situation with at least one of the hostages injured.

Deputy Guerrero approached Building 4 which was located toward the north side of the property. Deputy Guerrero saw the building was locked and that he would need a building key card to enter. Just south of the location, at Building 3, a resident came outside and asked Deputy Guerrero to move his patrol unit. Deputy Guerrero said, "Hey as soon as we're able to, I promise we'll move the car, but can you help me get inside?" The resident agreed and let Deputy Guerrero inside the apartment building. Once inside, Deputy Guerrero began looking for the stairs so he could get to the third floor, where he believed the victims' apartment was located. Deputy Guerrero was unable to find the stairs and was growing more concerned because he was not sure of the status of the stabbing victim. Dispatch confirmed the suspect was still inside the apartment and was armed with two knives.

Deputy Guerrero found the elevator and pressed the elevator call button when he saw Deputy Espinosa had arrived and was armed with the less-lethal shotgun. Right after seeing Deputy Espinosa, Deputy Guerrero heard Deputy Hogue over the air saying he was on scene. Deputy Guerrero and Deputy Espinosa held the door open for Deputy Hogue. Together, the three deputies got into the elevator and rode up to the third floor. While in the elevator, they each ensured their belt-recorders were activated. Deputy Espinosa had the less-lethal shotgun so he would provide less-lethal coverage and Deputy Guerrero and Deputy Hogue would provide lethal coverage with their handguns. Once at the victims' apartment, Deputy Guerrero knocked on the door, shook the door handle, and announced, "Sheriff's Department." Upon getting no response from inside the apartment, Deputy Guerrero knocked on the door, shook the door handle a second time, and announced, "Sheriff's Department." Again, there was no response from inside the apartment. At this point, Deputy Guerrero was in fear because he didn't know what

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was going on inside the apartment and he didn't know where the suspect was. Deputy Guerrero's biggest concern was the fact that they did not know the extent of the victim's injuries, did not know if he was "bleeding out," and did not know if the suspect's mother had also been injured. The victim's injuries were to his neck and his head and Deputy Guerrero knew both of these injuries were serious and could lead to death pretty quickly due to the fact that major arteries are located in the region. Because of this, the decision was made to force entry into the apartment.

Deputy Hogue announced he was going to force entry. Deputy Hogue kicked the door two or three times and the door opened. Deputy Hogue entered the apartment and Deputy Guerrero entered behind him with his gun drawn. The deputies faced north as they entered the apartment. Deputy Guerrero was nervous, but he knew they needed to get inside to render aid to the victim. Deputy Guerrero knew there had been an assault with a deadly weapon and since there was no response from the victim, he was concerned the victim had been killed or was close to death inside the apartment. Deputy Guerrero took about two to three steps inside and was approximately two to three feet away and to the left of Deputy Hogue. There was a couch and a sliding glass door on the north end of the apartment near the rear of the living room. No lights were on inside the apartment, but the sunlight shone through the open blinds to the sliding glass doors in the living room. Closer to the entry way, there was a kitchen and a kitchen island. The kitchen island and counter were in front of Deputy Hogue.

When Deputy Guerrero was approximately two feet north of the entrance, he saw the suspect (Dawson) in the living room approximately 12-13 feet away. Dawson was holding two knives, one in each hand. Dawson held what appeared to be a steak knife with an approximate seven to eight-inch blade in his left hand at waist level and what appeared to be a butcher type knife in his right hand. There was nothing between Dawson and Deputy Guerrero, so Deputy Guerrero had no cover or concealment. Deputy Guerrero pointed his gun at Dawson and both he and Deputy Hogue began giving Dawson commands to, "Get on the ground! Drop the knives! Get on the ground." While the deputies were giving commands to drop the knives and to get on the ground, Dawson began raising his hands up to his shoulders. The blades of the knives were pointed upward. Dawson then lowered the knives toward the center of his body and began advancing toward the deputies, taking several steps. In fear for his life and for the life of his partners, Deputy Guerrero fired one round from his handgun, aiming for Dawson's chest. Deputy Guerrero fired at Dawson to stop the threat. Deputy Hogue also fired one round from his handgun. Had they not stopped Dawson, Deputy Guerrero believed Dawson would have killed him or one of his partners with the knives. The events unfolded very quickly: from the time they entered the apartment until the shooting, only three to four seconds had elapsed.

Dawson fell face down to the ground in the doorway to the bedroom. Deputy Guerrero saw one knife had fallen and was on the floor near the top of Dawson's head in the bedroom. Deputy Guerrero did not know where the second knife was. Deputy Hogue and

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Deputy Guerrero approached Dawson with their guns still drawn. Dawson was not responding to further commands, so Deputy Hogue holstered his gun, got to his knees, and grabbed Dawson's hands to place him into handcuffs. Deputy Guerrero asked Deputy Espinosa to check the apartment to make sure no one else was inside. Deputy Hogue then pulled Dawson out into the living room to get more space so they could render aid to Dawson and get Dawson further away from the victim. When Deputy Hogue moved Dawson into the living room, Deputy Guerrero saw the second knife on the ground where Dawson had fallen. Deputy Guerrero saw the victim and his wife inside the bedroom. The victim was holding his head up and was applying pressure to the left side of his head with a towel. The deputies told the victims, Dawson's mother and father, to stay where they were and tried to comfort them by telling them medical aid was coming.

Deputy Hogue announced over the radio that shots had been fired and asked that medical aid be expedited to the scene. Deputy Guerrero checked Dawson's back for any exit wounds and did not see any. Deputy Guerrero rolled Dawson onto his back, lifted his shirt, and saw a bullet hole in the center of his chest. Deputy Guerrero relayed this to Deputy Hogue. Deputy Hogue grabbed some white hand towels and gave them to Deputy Guerrero. Deputy Guerrero attempted to plug the hole and applied pressure to the wound until medical personnel arrived and relieved him. Medical personnel arrived within approximately two minutes. Once medical aid was there, Deputy Guerrero stood up and began trying to comfort the mother and father. They were able to get the father out of the apartment to be tended to by medical personnel. Deputy Guerrero then had the mother step out of the apartment. Dawson was declared deceased and the deputies were asked to step out of the apartment and then escorted away from the crime scene and to the police station.

On August 25, 2020, at approximately 3:15 p.m., **Deputy Phillip Espinosa** was interviewed by Detective S. Abernathy and Detective B. Southworth of the San Bernardino County Sheriff's Department.

Deputy Espinosa was employed by the San Bernardino County Sheriff's Department as a deputy sheriff. On August 25, 2020, Deputy Espinosa was on duty, assigned to patrol out of the Rancho Cucamonga Station. Deputy Espinosa drove a marked Sheriff's Department patrol vehicle and his call sign was 11R21. Deputy Espinosa wore a readily identifiable Sheriff's Department approved Class A uniform which consisted of a tan shirt with San Bernardino County Sheriff's Department patches on both shoulders, an American flag, a gold metal name plate with his name, a gold metal deputy sheriff badge on the chest, and green uniform pants. Deputy Espinosa also wore his duty belt equipped with the following department issued tactical gear: Taser, rapid containment baton, radio, handcuff pouch, tourniquet, Glock handgun, three magazines, pepper spray, and a belt recorder.

At approximately 11:59 a.m., a stabbing call at an apartment located on the 9400 block of Fairway View Place was broadcasted over the radio. A 40-year old man, later identified

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as Mark Dawson, Jr., had reportedly stabbed his father in the head and neck. The father, Witness #1, was on the phone with Sheriff's Dispatch and reported he and his wife were in the bedroom and their son was pacing back and forth in the living room. Deputy Espinosa began driving to the location of the stabbing. While he drove to the call, Deputy Espinosa planned to resolve any problems with Dawson by using de-escalation tactics and less-lethal options if given the opportunity.

Deputy Espinosa arrived at the apartment complex at approximately 12:03 p.m. Deputy Guerrero was already there. Deputy Espinosa grabbed the less-lethal shotgun from his patrol unit and loaded four less-lethal munitions into the shotgun's magazine tube. Deputy Espinosa grabbed the less-lethal shotgun because Deputy Guerrero had lethal coverage, should it be needed. The apartment complex was set up like a hotel with an exterior door entry and then elevators that lead to the various apartments. Deputy Espinosa and Deputy Guerrero had to search for Building 4 so they could find the victims' apartment. Deputy Hogue arrived at the apartment complex at about 12:04. Deputies Hogue, Guerrero, and Espinosa entered Building 4 and deduced that the victims' apartment was on the third floor. The deputies made sure their belt recorders were activated and then took the elevator to the third floor. They did not verbally formulate a plan, but Deputy Espinosa believed they all shared the common goal of contacting Dawson to detain him so that he didn't hurt or kill his parents. Deputy Guerrero talked to Sheriff's dispatch and asked them to try to get the victims to step out of the apartment. Dispatch did so and told the deputies the reporting party (Witness #1) said it was not safe for them to try to leave because he was afraid Dawson would stab him again if they tried to leave.

Deputies Hogue, Guerrero, and Espinosa got to the front door of the victims' apartment, Deputy Guerrero knocked on the door and announced, "Sheriff's Department!" There was no answer at the door, and nothing could be heard from inside the apartment. Deputy Guerrero checked the door handle and the door was locked. Deputy Guerrero knocked on the door a second time and again announced, "Sheriff's Department!" Again, there was no response. Deputy Espinosa recognized the exigent circumstances in that they now had a potential hostage situation, a barricaded subject, or even worse, a murder about to happen. Deputy Hogue said he was going to force entry and Deputy Guerrero moved away from the door. Deputy Hogue front-kicked the door several times and it eventually opened. Deputy Hogue and Deputy Guerrero stepped into the apartment, a few feet past the threshold. Deputy Hogue was to the left of Deputy Guerrero and Deputy Espinosa was behind Deputy Guerrero. The first thing Deputy Espinosa saw was Dawson pacing back and forth near a sliding glass door on the north side of the apartment, approximately 15 to 20 feet away from the front door. Dawson had a kitchen knife in his hand. The knife was approximately 11 inches long. Dawson appeared to be angry and aggressive; he had an angry expression with his eyes squinted and his teeth showing.

All three deputies yelled at Dawson to drop the knife. Almost immediately, Dawson ran toward the deputies as he held the knife to his side, leveled between his chest and his waist. Deputy Espinosa could not recall with which hand Dawson held the knife. Dawson

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got to within 8 feet of the deputies when Deputy Hogue and Deputy Guerrero fired their guns at him. Deputy Espinosa was unable to fire the less-lethal shotgun because Deputy Hogue and Deputy Guerrero were obstructing his shooting angle. Dawson fell to the ground face down in the doorway between the living room and the bedroom. Deputy Espinosa radioed, "Shots fired." Dawson's knife had fallen onto the floor approximately a foot away from Dawson's right side. Deputy Espinosa saw a meat cleaver on the ground in the bedroom, approximately two feet away from Dawson's head. Witness #1 and Witness #2 were sitting on the floor in the bedroom, several feet away from Dawson's head. Either Deputy Hogue or Deputy Guerrero handcuffed Dawson while Deputy Espinosa checked the rest of the small apartment to ensure no one else was there. Deputy Hogue told Deputy Espinosa to retrieve the trauma kit from his patrol unit so they could treat Dawson's injuries. When Deputy Espinosa got to the parking lot, he saw the ambulance and fire department had arrived. Deputy Espinosa let the medical personnel into Building 4, and then he remained in the parking lot.

**STATEMENTS BY CIVILIAN WITNESSES<sup>4</sup>**

On August 25, 2020, at approximately 4:57 p.m., **Witness #1** was interviewed by Detective S. Abernathy and Detective B. Southworth of the San Bernardino County Sheriff's Department.

Witness #1 lived in an apartment at the 9400 block of Fairway View Place in Rancho Cucamonga, with his wife, Witness #2, and his son, Dawson.

Prior to living with his parents, Dawson lived in a half-way house with a girlfriend (unknown name) in an apartment in Highland. Approximately three to four months prior to August 25, 2020, Witness #1 noticed changes in Dawson's behavior, leading him to believe Dawson was using methamphetamine again. Dawson thought unknown people were out to get him and that these people had tampered with his vehicle, a white GMC Yukon. Witness #1 had gone to Dawson's apartment multiple times to help him with vehicle repairs. Witness #1 noticed automotive hoses had been tampered with in the engine compartment and Witness #1 believed Dawson was responsible for the tampering because the vehicle hood would have needed to have been opened to access the hoses.

Witness #1 believed the San Bernardino Police Department had responded to Dawson's apartment multiple times for these issues. On one occasion, Witness #1 took Dawson to the San Bernardino Police Department station to file a report about unknown subjects who were out to get Dawson. The San Bernardino Police Department took a vandalism report for the damage to Dawson's vehicle.

Witness #1 said that Dawson had abused narcotics since the age of 15. Approximately two years ago, Witness #1 was released from prison and Witness #1 started noticing a

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<sup>4</sup> All reports of civilian statements made were reviewed, though not all are summarized here.

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change in Dawson's mental health. Dawson had tried to kill Witness #1 approximately two years prior and while defending himself, Witness #1 had cut Dawson's hand.

Approximately two months ago, Dawson moved into Witness #1 and Witness #2's apartment. Dawson slept in the master bedroom with his mother, Witness #2. Witness #1 slept on the couch in the living room. Dawson kept most of his belongings in his Yukon, which was parked outside the apartment complex. For the past couple of weeks, Dawson thought Witness #1's computer and telephones were hacked. Dawson also believed people were watching them from the trees outside of the apartment.<sup>5</sup> Dawson would get up at all hours of the night to check the doors and windows in the apartment and on the Yukon.

A few days prior to August 25, 2020, Witness #1, tried to get Dawson into a mental health program. Dawson became very impatient and grew angry with his parents. Dawson told Witness #2 he needed help and to call 911. Dawson heard voices and saw things. Witness #1 called 911 and requested a deputy respond to his apartment. Deputies arrived and took Dawson voluntarily to the Merrill Center in Fontana. Witness #1 did not know what occurred at the center, but the following day, an unknown friend picked Dawson up from the Merrill Center and brought him back to Witness #1 and Witness #2's apartment. Dawson was prescribed an unknown medication but refused to pick it up. Dawson never took prescription medications for his mental health.

While living at his parents' apartment, Dawson tried to get on unemployment. On Tuesday, August 25, 2020, at approximately 10:30 a.m., Witness #1 went into the master bedroom to tell Dawson he was going to receive money from the Employment Development Department (EDD). Dawson did not believe Witness #1 and said the EDD was hacked. Dawson and Witness #1 started to argue over the EDD payment. Dawson moved from underneath the blankets and jumped over Witness #2, who was lying in bed, and onto the floor.<sup>6</sup> Dawson stood near the south side of the bed and placed Witness #1 into a choke hold, with one arm around Witness #1's neck and the other arm braced behind Witness #1's head. Dawson choked Witness #1 for approximately 30 seconds. Witness #1 was afraid Dawson was going to kill him. Witness #1 fell onto his back on the floor. Witness #1's feet faced west toward the bedroom door. Dawson stood over Witness #1 and yelled at him, telling him he was a bad father. Witness #1 used his legs and grabbed a walker to try to shield himself. Dawson grabbed the walker and threw it against the wall, breaking one of the walker's legs. Dawson then left the bedroom and said, "I'm going to kill you." Dawson walked into the kitchen. Witness #1 stood up from the floor.

Dawson then reentered the bedroom with a knife and a meat cleaver in his hands. Witness #1 did not recall which knife was in each hand. Dawson turned Witness #1 away from him and slashed the knife across the back of Witness #1's neck, near his hairline.

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<sup>5</sup> Their apartment was on the third floor.

<sup>6</sup> According to Witness #2, Dawson slept on the north side of the bed, closest to the window and she slept on the south side of the bed, near the bedroom door.

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Dawson then hit Witness #1 on the left side of his head with the cleaver. Dawson started to yell at his parents, told them he loved them, and then left the bedroom. Dawson then came back into the bedroom with the knife pointed outward. Witness #1 thought Dawson was coming back to stab him. Witness #1 pushed Dawson into the wall, near the nightstand on the south side of the bed. Witness #1 wanted to pin Dawson and the knives against the wall. Witness #1 sustained a laceration to his left palm, near the pinky and ring finger. Witness #1 was afraid he was going to be killed by Dawson. Dawson calmed down and Witness #1 released him from the wall.

Witness #1 told Witness #2 to grab a towel so he could stop the bleeding and to call 911 for an ambulance. Witness #2 had trouble accessing the keypad on the cellular phone and handed it to Witness #1. Witness #2 and Witness #1 sat on the ground, with their backs to the bed. Witness #1 called 911 and asked for an ambulance. Dawson heard Witness #1 when he called 911 and said, "I'm going to take one of them with me." Witness #1 started to provide details of the assault to dispatch. Dawson overheard Witness #1 telling dispatch he had been hit by his son who was armed with a knife. Dawson paced back and forth in the living room with both knives in his hands. Dawson said, "Today's the day I'm dying! I'm not going back to prison!"

The 911 operator asked Witness #1 if they were able to go outside. Witness #1 asked Dawson if they could go outside and Dawson said, "No! I love you pops. I love you mom." Dawson continued to pace in the living room. Dawson was angry. Witness #1 described Dawson as a "bull looking for a target." Witness #1 believed Dawson was getting ready for the deputies to arrive. Witness #1 heard multiple knocks at the front door and heard the deputies say, "Let us in, Mark. Take it easy man, we just need to talk." Witness #1 heard the door get kicked in and saw Dawson move quickly to toward the front door, with both knives in his hands. One knife was pointed upward in front of his body. Witness #1 heard two gunshots and saw Dawson fall backward toward the couch in the living room. Dawson fell face down into the threshold of the bedroom. Both knives fell out of Dawson's hands. The knife landed closer to Dawson's body and the cleaver landed a couple of feet away. Witness #1 said it was less than 10 seconds from the time the deputies forced entry, to the sound of gunshots.

Deputies entered the apartment and started giving medical aid. Witness #1 heard the deputies request medical aid. Medical personnel responded and later pronounced Dawson deceased. Witness #1 told the deputies, "He put you in as much danger as me because he wanted to charge you guys." Witness #1 believed Dawson would have killed him if the deputies had not arrived. Witness #1 did not believe Dawson would have killed his mother, Witness #2.

Witness #1 sustained the following injuries: An approximate 20-mm laceration to the back/right side of his neck, near the hairline; approximate 50-mm laceration to the left side of his head, which required eight staples; and approximate 10-mm lacerations to his palm, near his pinky and index finger.

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**Witness #1** also provided a statement to Detective C. Wallace of the San Bernardino County Sheriff's Department, shortly after the officer-involved shooting.

Witness #1 was in the ambulance awaiting transport to the hospital. When Detective Wallace approached the ambulance, Witness #1 spontaneously told the detective that his son wanted to die from "suicide-by-cop." Witness #1 said when Dawson was attacking him, Dawson made statements saying that today was the day he was going to get killed and that he was "going to die today." Dawson said, "If they come, that's it." Immediately before the deputies forced entry, Dawson told Witness #1 and Witness #2 that he loved them and then Dawson "went out there and started toward the police officers." Witness #1 explained that Dawson had told him and Witness #2 that he "wanted to be killed by police. He wanted suicide-by-cop." Witness #1 said that Dawson had been saying this for years. Witness #1 told Detective Wallace, "Half of me is relieved because I knew this was going to happen; if not here, somewhere else."

Witness #1 told Detective Wallace that when he called 911, Dawson started yelling, "I'm gonna die today. Today is the day I'm going to die. They're not gonna take me, I'm gonna take one of them with me." Witness #1 started giving Detective Wallace Dawson's history, telling him that Dawson had gone to prison for six years at the age of 18 for armed robbery. Witness #1 was then transported to the hospital in the ambulance and Detective Wallace's conversation with him ended.

On August 25, 2020, at approximately 6:41 p.m., **Witness #2** was interviewed by Detective S. Abernathy and Detective B. Southworth of the San Bernardino County Sheriff's Department.

Witness #2 and her husband, Witness #1, had been married for 43 years. They had four children; Dawson was their youngest. Dawson was a prior methamphetamine addict and had a drug problem since he was 13 years old. Dawson had been living in San Bernardino until recently. About three weeks earlier, Dawson called Witness #2 and told her he was in the hospital. Witness #2 asked him if he had relapsed and been using methamphetamine again. Dawson told her he had. She asked him if he had overdosed and Dawson told her he thought he had. Dawson asked her if they could come get him and said he was afraid to go back to his apartment. Dawson told her someone had vandalized his van and was stalking him. Witness #2 felt badly for Dawson and allowed him to move in with her and Witness #1 at their apartment. Since Dawson moved into the apartment, he had been acting out of character. Dawson left the apartment frequently at night, telling Witness #2 he was going outside to smoke cigarettes. Dawson told Witness #2 he heard voices that told him to kill Witness #1, Witness #2, and himself.

On Monday, August 24, 2020, at approximately 7:00 p.m., Dawson had planned on going on a date with an unidentified female. Dawson left the apartment but then returned at approximately 9:00 p.m. Dawson told Witness #2 his date failed to show. Dawson cried



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all night and finally fell asleep at approximately 4:00 a.m. in Witness #2's bed. Dawson usually slept on the north side of Witness #2's bed. Witness #2 believed Dawson was "coming down" from the drugs because he ate a lot of food that night. In the past, Dawson told her that when he's coming down from the drugs, he eats a lot.

Sometime in the morning, on Tuesday, August 25, 2020, Witness #2 heard Witness #1 speaking with Dawson. Dawson was lying on the north side of Witness #2's bed and Witness #2 was sitting on the south side of the bed. Witness #1 stood on the north side of the bed. Witness #1 tried to explain some issues with Dawson's unemployment. Dawson "snapped" and argued with Witness #1 for getting involved in his business. Dawson stood up on the bed and lunged at Witness #1. Dawson grabbed Witness #1 by the neck and Witness #1 fell to the floor. Witness #1 and Dawson struggled with each other for about five minutes. Witness #2 saw that Dawson had the upper hand during the entire struggle. Dawson continuously "beat" Witness #1. Witness #1 laid underneath Witness #2's walker in an effort to keep Dawson from choking him. Witness #2 begged Dawson to stop hurting Witness #1 and to run away before the police arrived. Dawson told her, "We're gonna die today, momma." Dawson said he would rather die than return to jail.

Dawson then left the bedroom and returned with two knives from the kitchen. One of the knives was a short meat cleaver and the other had an approximate 10-inch blade. Dawson said, "I'm gonna hurt you today, Pops. I'm gonna kill you today." Dawson pushed Witness #1 up against the bedroom's eastern wall and stabbed Witness #1 in the neck. Witness #1 and Dawson struggled with each other on the floor a second time. Witness #1 yelled at Witness #2 to call 911 because he was stabbed. Witness #2 placed her body on top of Witness #1's body so Dawson would stop hurting him. Witness #2 told Dawson, "Please don't do this. You're going to kill him." Dawson replied, "Well, we're gonna die today, mama."

Witness #2 told Dawson, "Just go run. I'm gonna call 911 for your dad." Dawson said, "No. I'd rather die than go back to jail." Witness #2 could not get the phone to work because she was so "frazzled," so she gave the phone to Witness #1 and he called 911. Eventually, Dawson used towels and alcohol to treat Witness #1's injuries. Witness #2 and Witness #1 could not leave the residence because they thought Dawson was going to kill them. Witness #2 is disabled and uses a walker and Witness #1 was injured on the floor. Witness #2 and Witness #1 pleaded with Dawson to put the knives down, but he didn't listen to them, saying he wanted to die.

About 10 minutes after Witness #1's 911 call, deputies arrived at the residence. Witness #2 was on the south side of her bed, facing west toward the living room. Witness #2 was unable to see the front door from her vantage point. Witness #2 knew the deputies were at the door because she heard them knock on the door and say they were the police department. Witness #2 told Dawson to put the knives down and to answer the door. Dawson refused and told her he'd rather "they shoot me." Approximately a minute later,

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Witness #2 heard the deputies force open the door. Dawson stood in the living room, facing the front door, and held both knives in his hands. Witness #2 could not recall if the deputies gave Dawson any commands. Dawson suddenly ran in Witness #2's direction. Witness #2 heard one gunshot, then she heard Dawson yell, and then he tried to come to her. Dawson collapsed to the ground. Dawson's head landed on Witness #2's foot. Dawson fell with his upper body in the bedroom and his lower body in the living room. The deputies entered the bedroom and asked Witness #2 and Witness #1 if they were okay. An unknown deputy appeared to give CPR to Dawson. Witness #2 was escorted out of the residence by another deputy and Witness #1 was transported to the hospital.

On August 25, 2020, at approximately 2:43 p.m., **Witness #3** was interviewed by Deputy E. Hernandez of the San Bernardino County Sheriff's Department.

Witness #3 lived in the apartment next door to the victims at the 9400 block of Fairway View Place in Rancho Cucamonga. On Tuesday, August 25, 2020, between 11:30 a.m. and 12:00 noon, Witness #3 was inside her apartment when she heard loud noises and screaming coming from the hallway. Witness #3 walked to her front door and listened. Witness #3 heard talking, but it stopped. Witness #3 walked back to her computer and began typing. Witness #3 then heard two gunshots, so she walked back to her front door to listen. Witness #3 heard more talking and a woman screaming in the hallway. While at her front door, Witness #3 heard vehicles outside travelling at high rates of speed. Witness #3 looked out her window and saw police cars turning into her apartment complex. Witness #3 heard someone say the word, "blood," so she opened her front door. A female deputy asked Witness #3 to remain in her apartment. Witness #3 saw yellow crime scene tape being put up and she remembered that a few days earlier, on Sunday, August 23, 2020, she had seen a strange man standing in front of the victims' apartment.

On August 25, 2020, at approximately 3:30 p.m., **Witness #4** was interviewed by Deputy S. Lenihan of the San Bernardino County Sheriff's Department.

On August 25, 2020, Witness #4 was employed as fire engineer-paramedic for the Rancho Cucamonga Fire Department. On this date, Witness #4 was assigned to RCFD Engine 174. Shortly after 12:00 p.m., Engine 174 responded to a stabbing call in Rancho Cucamonga. The stabbing was reported to have been to the head and the neck of the victim. Witness #4 and Fire Captain Leal responded to the call. Due to the circumstances, they staged nearby at Fairway View Place and Fifth Street at approximately 12:05 p.m. While they waited for clearance to come into the scene, they switched to the Sheriff's Department radio channel to listen for updates. While listening, Witness #4 heard a deputy broadcast, "shots fired," and request medical aid into the scene. Once they were cleared to come into the scene, it took them approximately two to three minutes to get inside the apartment complex because they had to wait for the gate to be opened.

Escorted by deputies, Witness #4 entered the victims' apartment and observed a male subject (Dawson) lying on his back on the floor inside the apartment. Witness #4 saw an

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unknown deputy sheriff doing chest compressions and trying to control bleeding by applying pressure to the gunshot wound on Dawson's chest. The gunshot wound was located approximately two centimeters above the xyphoid process in the center of the sternum. Witness #4 took over chest compressions while one of his partners grabbed the pads for heart monitor to check Dawson's heart rhythm. Dawson appeared to be grayish or ashen in color. Witness #4 applied the pads for the heart monitor and found Dawson's heart was asystole. Witness #4 described asystole as indicating Dawson had no pulse. Due to the fact that Dawson was asystole and because of the location of the gunshot, Witness #4 determined it was appropriate to pronounce him deceased. Witness #4 pronounced Dawson deceased at approximately 12:13 p.m.

Witness #4 saw one shell casing on the floor just inside the doorway to the right. Witness #4 also saw an approximate 18-inch knife in the bedroom adjacent to where Dawson was lying. Witness #4 saw a roll of paper towels inside the apartment and bloody paper towels which he believed the deputies used to apply pressure in an attempt to stop Dawson's bleeding.

On August 25, 2020, at approximately 3:30 p.m., **Witness #5** was interviewed by Deputy S. Lenihan of the San Bernardino County Sheriff's Department.

Witness #5 was employed as an Emergency Medical Technician with American Medical Response (AMR) and was working on August 25, 2020.

At approximately 12:00 p.m., he and his partner were working for AMR in Fontana when they were dispatched to a stabbing call in Rancho Cucamonga. They drove to the location and staged nearby until they were cleared to come into the scene. Once inside the apartment, Witness #5 saw a male subject (Dawson) lying on his back on the floor in the living room. Witness #5 saw a bullet casing near the front door of the apartment. Witness #5 believed Dawson was deceased based his observation of a gunshot wound to Dawson's chest and the lack of breathing or movement from Dawson. Rancho Cucamonga Fire Department personnel applied the heart monitor pads to Dawson, confirmed he did not have a pulse, and declared him deceased.

Witness #5 saw what appeared to be a drag Witness #1 of blood from just inside the bedroom into the living room. Witness #5 saw an approximate five to six-inch long bloody kitchen knife about two to three inches from Dawson's fingertips and a meat cleaver in the bedroom. The meat cleaver did not appear to have blood on it. An elderly couple were sitting down next to a bed in the bedroom. The male had an approximately ½" laceration to the back of his neck and a 1 to 1 ½" laceration to the top of his head.

Witness #5 and his partner transported the male on a gurney to the ambulance. Once in the ambulance, Witness #5 wrapped the elderly male's injuries with gauze and controlled the bleeding. While in the ambulance, a detective spoke to the elderly male. Witness #5

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heard the elderly male tell the detective that his son told him he wanted to die today and that essentially, his son got what he wanted.

**INCIDENT AUDIO AND VIDEO**

**911 CALL**

Witness #1 called 911 on August 25, 2020 at 11:56 a.m. When the dispatcher answered, yelling was heard in the background. The dispatcher had to repeat herself and then said, "Hello?" Witness #1 answered the dispatcher by saying he needed an ambulance. He provided his address and apartment number. Witness #1 was out of breath as he spoke. Crying was heard in the background. While the dispatch operator patched in the fire department/paramedic, Witness #1 was heard telling someone in the background, "Get me some towels. I'm going to stop the bleeding."

The fire department dispatch operator asked for the address of the location and Witness #1 provided it. Witness #1 continued to breathe hard and crying was heard in the background. Witness #1 specified he was in Building 4, gave his apartment number, and provided his phone number when asked. The fire department dispatch operator asked Witness #1 to tell him what happened, and Witness #1 said, "My son attacked me, and I've got lacerations in the neck and in the head." The fire department dispatcher then asked, "Sheriff's on the line?" The original 911 operator answered, "Yes, we'll be sending someone out." The fire department dispatcher replied, "We're gonna hold it."

The Sheriff's Department dispatcher asked Witness #1, "Sir, what did your son do to hurt you with." Witness #1 replied, "A knife, and a, and a..." The dispatcher asked how old his son was and Witness #1 said he was, "40 something." When asked where his son was now, Witness #1 said, "He's in the house." The dispatcher asked Witness #1 if his son had stabbed him with the knife. Witness #1 replied, "He cut me with them, yes." The fire department dispatcher then advised, "Sheriff, we're gonna stage," and the Sheriff's dispatcher thanked him.

Over the course of the 911 call, Witness #1 answered the Sheriff's dispatcher's series of questions, providing the following information: His name was Witness #1, his son's name was Witness #1 Dawson, his son was half white and half Filipino, his son was wearing a white t-shirt and gray shorts, his son had no mental health diagnoses, but that he had been using methamphetamine. His son had stabbed him with a butcher's knife and a hatchet. Witness #1 later clarified that it was not a hatchet but was a meat cleaver.

When the dispatcher asked Witness #1 where his son "was now," Witness #1 replied, "He's here in the house waiting because he says he's gonna kill somebody." Witness #1 told the dispatcher his son was violent. The dispatcher asked where exactly in the house was his son located and Witness #1 told her he was in the living room "pacing back and forth." The dispatcher asked if anyone else was injured and Witness #1 said he was the

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only one who was injured. Witness #1 told the dispatcher she was asking too many questions and he was bleeding profusely and asked her to please hurry. The dispatcher told Witness #1 deputies were on their way and she was obtaining the information so she could update the deputies while they drove to his home.

In the background, a male was heard yelling something unintelligible, followed by, "And they fucked up my fucking name! And it's gonna be proven after I'm dead!" Witness #1 told the dispatcher, "He says he wants to have the cops kill him." The dispatcher acknowledged this and asked, "Do you think he'll cooperate?" Witness #1 replied, "I don't think so." The dispatcher asked if Dawson still had the knife in his hands. Witness #1 was heard saying, "Take it honey. I can't do it anymore." Crying was heard as Witness #2 got on the phone. The dispatcher said, "Hello ma'am, I have deputies en route, okay." Witness #2 replied, "Okay, hurry up, please," and continued to cry. The dispatcher asked if anyone else was in the home and Witness #2 told her that it was just the three of them. In the background, Witness #1 was heard saying, "Tell her we're in the bedroom, he's in the living room." Witness #2 did so. The dispatcher asked if the door was closed and locked and Witness #2 told her it was not. Witness #2 continued to cry, and Witness #1 got back on the phone. He told the dispatcher his wife was disabled, that she couldn't move around much, and that Dawson had broken her walker. In the background, Witness #2 was heard saying something unintelligible and a male voice was heard yelling "I said to stop with (unintelligible)." Witness #1 then said, "Don't talk to him, honey."

Witness #1 then said, "He broke my wife's walker so she can't go anywhere." More unintelligible yelling was heard in the background, followed by Witness #1 saying, "Yeah, he's not gonna be too cooperative, I don't think." The dispatcher asked Witness #1 what his son was saying, and Witness #1 replied, "Oh, he's saying he's gonna die. He wants to die." The dispatcher told Witness #1 the deputies were looking for the apartment numbers. Breathing hard, Witness #1 replied, "Yeah." The dispatcher asked Witness #1 if he and his wife were able to step outside. Witness #1 replied, "No, we can't go anywhere. We're sitting in the bedroom on the floor by the bed." Witness #1 then said, "Close the door, hun," and then told the dispatcher his wife just closed the door and his son was in the living room.

The dispatcher asked, "There's no way you can step outside for the deputy?" Witness #1 replied, "I can't. He cut me in the head and the neck with a knife and a hatchet." The dispatcher asked, "So you're locked in the bedroom?" Witness #1 replied, "A little bit. He can get in here. He sliced my head and he sliced my neck." The dispatcher asked, "You think if you try to step out, he'll stab you again?" Witness #1 replied, "What? Yeah. He had me in a chokehold first." Witness #1 explained that he had a bad neck with several fused vertebrae and that he couldn't move. Witness #1 said his son "started on" him with the knife and he was trying to defend himself. The dispatcher asked if they had a backdoor and Witness #1 told her they did not. When asked where he had been cut, Witness #1 said he was cut in the back of the neck with a butcher knife and the top of the head with a meat cleaver. Again, the dispatcher asked if there was no way they could step out and

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Witness #1 replied, "There's no way. He won't let us out." Witness #1 was breathing heavily. Witness #1 then said, "Open the door. Open the door." In the background Witness #2 was heard asking a question, but her words were unintelligible. Witness #1 answered, "No."

The dispatcher advised, "I have deputies on scene," and explained she was just trying to see if they could step out of the apartment for the deputies. Witness #1 then said, "Okay, just make sure they be careful because he's absolutely unpredictable." A male voice was heard yelling something unintelligible in the background. Witness #1 said, "Open the door for them," and the male voice was heard saying, "I'm not," followed by unintelligible words. Witness #1 then said, "Will you let me and mom go out?" The male voice yelled, "I'm gonna get killed." Witness #1 asked again, "Will you let me and mom go out?" The male voice yelled, "I wanna get killed" Witness #1 asked the same question a third time and the male voice yelled something unintelligible. Witness #1 then said, "Okay, don't move. They're probably gonna tear through." Witness #1 then told the dispatcher, "They're kicking real hard. He's just got knives." The dispatcher asked, "How many knives does he have?" Witness #1 replied, "He's got two, the knife and the cleaver." Loud banging was heard in the background followed by yelling, "Drop the knife!" Witness #2 was heard screaming and the dispatcher said, "I'm gonna disconnect, okay?" The recording then ended.

**DISPATCH RECORDING<sup>7</sup>**

The dispatch recording begins with multiple tones followed the dispatcher advising available deputies of a stabbing reported at the 9400 block of Fairway View Place and giving deputies the victim's apartment unit number. The dispatcher advised the caller reported he was stabbed by his 40-year old son. Deputies and a sergeant announced over the radio that they were en route to the location. The dispatcher provided updates as follows:

There had been a prior call to the location for a "verbal on 8-20 and at that time the son had been hearing voices." In the previous call, the son was Mark Dawson. "Intake just confirmed it will be a Mark Dawson. Asian male, white shirt."

Deputy Sergio Guerrero advised, "Paul 25, I'll be code<sup>8</sup> from Milliken and Arrow." Dispatch then advised: "Officer safety, looks like our subject, "Mark," is making statements, suicide by cop. However, our caller does believe he will cooperate.<sup>9</sup> He does still have the knife." Dispatch then reported the "subject has a record for Health and

<sup>7</sup> The dispatch recording was reviewed in its entirety. The summary will cover the events from the beginning of the recording through the point immediately after the incident under review.

<sup>8</sup> Emergency response with lights and siren.

<sup>9</sup> While it was initially reported to deputies that Witness #1 believed Dawson would cooperate, Witness #1 later reported he did not believe Dawson would cooperate. Per the detailed call history, the deputies were advised of this change at 12:01 p.m. via their mobile data computers. Deputy Guerrero arrived on scene at 12:03 p.m., followed seconds later by Deputy Espinosa. Deputy Hogue arrived on scene at 12:04 p.m.

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Safety Code 11378, Penal Code 243 (e)(a), a 3455 and a 21310,<sup>10</sup> with the last date of arrest in July of this year." Dispatch reported the subject was listed as "an 'other' male, 6'1", 190, multi-colored hair, brown eyes." Deputy Guerrero advised that he copied.

A sergeant asked the dispatcher to "see if there's anyone else inside the house besides the suspect and the RP." Deputy Guerrero reported he was on scene looking for the apartment numbers. Dispatch asked that the radio be cleared for emergency traffic. Deputy Guerrero reported, "It's gonna be to the right-hand side, far north."

Dispatch reported, "Per the caller, there are three subjects inside the house. A total of three. Our suspect, our caller, and another family member." Deputy Guerrero asked the dispatcher if she could have the subjects step out of the apartment. Deputy Hogue announced he had arrived on scene and asked the dispatcher to show him there. Several seconds passed with no transmissions. Dispatch then reported, "Paul 25, they're advising they're unable to step out. Apparently, our caller is afraid if he steps out, the son will stab him again." Several additional seconds passed with no radio traffic. Dispatch then reported, "And per our caller, he's advising his son stabbed him on his neck and the top of his head."

Deputy Hogue advised they're not getting an answer at the door and they were going to force entry. The dispatcher advised that she copied and asked the sergeant if he copied Hogue's transmission. The sergeant then advised he had. Approximately 14 seconds later, an unidentified deputy announced, "Shots fired." Dispatch copied and repeated, "Shots fired." Deputy Hogue announced, "George 3, we've got shots fired. Roll meds upstairs." Dispatch copied. An unidentified deputy said, "Responding units, we need a trauma kit." The remainder of the dispatch recording consisted of radio traffic regarding other deputies arriving on scene, the fire department and AMR paramedics arriving on scene, and other related events.

**BELT RECORDINGS<sup>11</sup>**

Deputy Hogue

A male voice said the number to the victims' apartment. A short beep followed by another short beep was heard. Male voices were heard, but due to background noise, it was unclear what was said. Several seconds later, seven loud knocks, followed by a loud announcement, "Sheriff's Department," were heard. Additional knocking was heard, followed by the sound of a shotgun being racked. Silence was heard for 13 seconds,

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<sup>10</sup> Health and Safety Code section 11379, Possession of a Methamphetamine for Sale; Penal code section 243 (e)(1), Domestic Battery; Penal Code 3455, Post Community Release Revocation; and Penal Code 21310, Possession of a Concealed Dirk or Dagger.

<sup>11</sup> The belt recordings were reviewed in their entirety. The summary will cover the events from the beginning of the recording through the point immediately after the incident under review. All belt recordings were reviewed, though not all are summarized here."

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followed by several additional loud knocks. Deputy Hogue said, "11 George 3, we're not getting an answer at the door. I'm gonna force entry." The loud knocking continued, followed by another loud announcement, "Sheriff's Department." After four seconds of silence, Deputy Hogue said, "Ready?" Male voices were heard, but it is unclear what was said. Deputy Hogue then said, "Hold on. Yep." Background sounds similar to knocking sounds were heard, immediately followed by multiple male voices yelling, "Get on the ground" and "drop the knives!" The commands were repeated and then two gunshots in quick succession were heard.<sup>12</sup> Immediately after the gunshots, a male voice said, "Shots fired. Stay down!" A male voice repeated, "Shots fired, shots fired," and then said, "Put your hands behind your back, hands behind your back, hands behind your back!" A female voice cried out repeatedly, "Oh my god!" Deputy Hogue then said, "11 George 3, shots fired. Roll meds upstairs. Go downstairs and get a trauma kit." Moaning was heard. A male voice asked, "Is there anybody else here?" A female voice continued crying out, "Oh my god!" A male voice responded, "No, we're all alone."

Deputy Guerrero

Sirens and the sound of an engine revving were heard. The dispatcher was heard reporting information related to the call.<sup>13</sup> A sergeant was heard asking the dispatcher to find out how many people were inside the home; the dispatcher was heard replying that there was a total of three. The sirens stopped. Deputy Guerrero was heard asking the dispatcher to have the victims step out of the house. A male voice was heard saying something unintelligible. Deputy Guerrero said, "What's up." The male voice then said, "I'm parked right here." Deputy Guerrero said, "Okay, give me a second, sir." Deputy Guerrero then asked, "Do you know where (victim's apartment number) would be?" The male voice said, "Uh, (victims' apartment number), it's building four." Deputy Guerrero asked the male if he had access to the building and if he could let him inside. Deputy Guerrero told the male he would move the car as soon as he could.

After several seconds, a male voice said, "I think it's in here, (victims' apartment number)? I don't know if you want to keep that popped open." Several seconds passed and another male voice was heard saying, "Copy." Deputy Guerrero was heard saying the victims' apartment number. Male voices were heard in the background, but the words were unintelligible. Several seconds later, seven loud knocks, followed by a loud announcement, "Sheriff's Department," were heard. Additional knocking was heard, followed by the sound of a shotgun being racked. Silence was heard for 13 seconds. Additional loud knocking was heard, Deputy Hogue was heard saying something in the background, and another male voice loudly announced, "Sheriff's Department." Deputy Hogue asked, "Ready?" A male voice said, "Go." Deputy Hogue said, "Hold on." Three loud bangs were heard, immediately followed by multiple male voices yelling repeatedly, "Get on the ground" and "Drop the knives!" Two gunshots, in quick succession were heard. A male voice said, "Shots fired." Another male voice said, "Stay down!" A male

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<sup>12</sup> Four seconds elapsed from the first command, "Get on the ground," until the gunshots were heard.

<sup>13</sup> See Dispatch Recording Summary for details.



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voice said, "Call it, call it call it." A male voice said, "Shots fired, shots fired." A male voice said, "Get the knife!" A male voice said, "Hands behind your back" three times. Deputy Guerrero said, "Hands behind your back." A female voice was heard crying out, "Oh my god!" repeatedly. A male voice repeated, "Hands behind your back" two more times. Deputy Hogue said, "George 3, shots fired, roll meds upstairs. Go downstairs, get a trauma kit." Deputy Guerrero was heard saying, "We need a trauma kit." Deputy Guerrero asked, "Is there anybody else here?" A male voice said, "No, we're alone." Deputy Guerrero asked, "Where's he hit." Deputy Hogue said, "In the body." Deputy Guerrero asked, "Do you want to get him out?" Deputy Hogue said, "Yeah." Deputy Guerrero said, "We're gonna help you." Deputy Hogue said, "Come on man, get his shirt and start—" Moaning was heard in the background. Deputy Hogue said, "Here, do you have a shirt, or anything to plug it?" Deputy Guerrero replied, "No." The female voice continued crying out loudly. The deputies discussed there was one hit, one gunshot to the chest. Deputy Hogue asked where they were, and Deputy Guerrero said, "Third floor." Deputy Guerrero asked if he should start CPR, noting the gunshot was "right to his chest." Deputy Guerrero said, "Ma'am don't, don't touch anything please. Just stay where you are, please." A male voice said, "I want to get her out of here." Deputy Guerrero said, "Okay, medics are on their way. We need to secure all the knives first. Please don't touch it."

### **INCIDENT SCENE INVESTIGATION**

San Bernardino County Sheriff's Detective M. Kunzman conducted the scene investigation on August 25, 2020 at approximately 2:30 p.m. Detective Kunzman surveyed the crime scene with a F.A.R.O. Focus 3DX laser mapping system. Evidence was Witness #1ed with placards and measurements were obtained.

The scene was located at an apartment complex on the 9400 block of Fairway Place in Rancho Cucamonga. The apartment complex consisted of multiple multi-level apartment buildings. The victims' apartment, was located on the third floor of the northern-most apartment building, Building #4. The victims' apartment was the furthest east apartment on the north side of the hallway. An apartment placard with numbers was affixed to the wall, west of the south facing entry door. The wooden entry door to the apartment was held open with a large decorative vase. The door frame was damaged near the lock jamb; however, the door casing did not completely break. The door sustained damage near the lockset, but like the casing, only partially fractured and did not completely break. The deadbolt was stuck open and could not be forced closed.

A fired cartridge case (FCC) with headstamp "WIN 9MM LUGER + P," was on the hallway floor, south of the entry door.

All other items of evidentiary value were found within the apartment. The items were Witness #1ed, and measurements were obtained from the residence's north interior wall (Reference Point 1) and the residence's west interior wall (Reference Point 2). All measurements were approximate and are listed as follows:

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A fired cartridge case (FCC) with headstamp, "WINCESTER 45 AUTO," was on the interior vinyl entryway floor 21'3" south of Reference Point 1 and 13'10" east of Reference Point 2.

East of the entryway was the kitchen. The kitchen had counters on the north and south side of the walkway. A kitchen knife block rested on the south countertop. The knife block had only one kitchen knife stored inside a slot; the remaining slots were empty. North of the kitchen was a living and dining room.

The decedent, Witness #1 Dawson, rested supine on the living room carpet. Dawson's body was several inches south of the living room couch positioned against the east living room wall and west of the master bedroom doorway. Dawson's head was to the east and his feet were to the west. Dawson's body was 11' south of Reference Point 1 and 10'11" east of Reference Point 2.

A wooden coffee table was positioned in the middle of the living room, between the entertainment center and a couch positioned along the east wall. On the north side of the couch was a foldable television tray.

A fired bullet was on the carpet at the base of a television tray and was 2'11" south of Reference Point 1 and 8'4" east of Reference Point 2.

A sliding glass door, which led to an exterior covered patio, was on the north side of the living room. (Located on the north wall, Reference Point 1.) The vertical blinds for the sliding glass door were drawn about half-way.

A circular bullet hole to the fifth vertical blind from the east was approximately 5'5" above the floor. The fixed portion of the glass door was shattered.

A hole in the glass sliding door, which opened from right to left, was approximately 3'5" from the floor. The glass fractured in all directions. Suspected blood and biological matter stained the second glass pane, which was not shattered or fractured.

East of the dining room and living room was the master bedroom. Blood stained the carpet from Dawson's left shoulder to the master bedroom.

A fixed six-inch serrated blade kitchen knife with a black handle rested on the carpet east of the master bedroom door casing. The knife was at the southwest edge of a dried pool of blood and was 11'8" south of Reference Point 1 and 14'6" east of Reference Point 2.

A meat cleaver with a black handle, rested on the master bedroom carpet. Placard 6 had an approximate 5 1/2" blade. The meat cleaver was approximately 12'3" south of Reference Point 1 and 17'3" east of Reference Point 2.

### DECEDENT

Mark Dawson, Jr. was pronounced deceased by Fire Engineer-Paramedic Witness #4 at approximately 12:13 p.m.

### AUTOPSY

Witness #7, Chief Forensic Pathologist, Riverside County Sheriff's Department, Coroner-Public Administrator, conducted the autopsy of Mark Dawson, Jr. on September 1, 2020. Witness #7 noted one gunshot wound. Witness #7 determined the cause of death was one perforating gunshot wound of the chest.

**Entrance:** Present to the mid-sternal region, located 18 inches from the top of the head, directly within the midline, is a roughly circular entrance gunshot wound defect. The injury proper measures 3/8" in rough diameter with a fairly well-circumscribed abrasion collar immediately surrounding the injury for a distance of approximately 1/8". Surrounding contusion is also noted measuring up to 1". No carbonaceous debris or soot-like material is present around or within the depths of the injury.

**Exit:** Present to the lower mid-back region, located 22 inches from the top of the head and 4 inches left of the posterior midline, is an irregular and somewhat stellate in configuration exit defect. The injury proper measures 3/4" in rough dimension with the edges of the injury noted to be everted.

**Trajectory of Projectile:** The projectile travels from front to back, downward, and from right to left.

**Recovery of Projectile:** By gross and radiographic assessment, this is a perforating gunshot wound with no projectile recovered.

### TOXICOLOGY

Chest blood, vitreous, and urine were collected from Dawson during the autopsy.

Toxicology results for the Chest Blood Sample were as follows:

Methamphetamine 0.089 Mg/L  
Amphetamine 0.030 mg/L

Toxicology results for the Urine Sample were as follows:

Methamphetamine 6.440 mg/L  
Amphetamine 1.660 mg/L

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Diphenhydramine Less than 0.005 mg/L  
Pseudoephedrine/Ephedrine Detected  
Phenylpropanolamine Detected

Toxicology results for the Vitreous Sample were as follows:

Methamphetamine 0.192 mg/L  
Amphetamine 0.036 mg/L

**CRIMINAL HISTORY**

Mark Dawson, Jr. has a criminal history that includes the following convictions:

1999, 243 (e)(1) of the Penal Code, Battery on Spouse or Cohabitant, San Bernardino County case number MVA903946, a misdemeanor.

1999, 245 (a)(1) of the Penal Code, Assault by Means Likely to Cause Great Bodily Injury, San Bernardino County case number FWV18507, a felony.

2000, 459 of the Penal Code, Second Degree Burglary, San Bernardino County case number FWV019606, a felony.

2002, 211 and 12022.53(b), of the Penal Code, Robbery with Use of a Firearm, San Bernardino County case number FWV026053, a felony.

2014, 537 (a)(1) of the Penal Code, Defrauding an Inn Keeper, San Bernardino County case number MWV1402361.

2017, 21310 of the Penal Code, Carry Concealed Dirk or Dagger, San Bernardino County case number FSB17003592.

**Crimes Upon Peace Officers**

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**Attempted Murder of a Peace Officer**

**California Penal Code section 664/187.** Every person who attempts to commit any crime, but fails, or is prevented or intercepted in its perpetration, shall be punished where no provision is made by law for the punishment of those attempts, as follows:

(e) [...] if attempted murder is committed upon a peace officer or firefighter, [...], and the person who commits the offense knows or reasonably should know that the victim is a peace officer [...] engaged in the performance of his or her duties, the person guilty of

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the attempt shall be punished by imprisonment in the state prison for life with the possibility of parole.

This subdivision shall apply if it is proven that a direct but ineffectual act was committed by one person toward killing another human being and the person committing the act harbored express malice aforethought, namely, a specific intent to unlawfully kill another human being. The Legislature finds and declares that this paragraph is declaratory of existing law.

(f) Notwithstanding subdivision (a), if the elements of subdivision (e) are proven in an attempted murder and it is also charged and admitted or found to be true by the trier of fact that the attempted murder was willful, deliberate, and premeditated, the person guilty of the attempt shall be punished by imprisonment in the state prison for 15 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce this minimum term of 15 years in state prison, and the person shall not be released prior to serving 15 years' confinement. (Penal Code section 664/187, summarized in pertinent part.)

**Assault With a Deadly Weapon**

**California Penal Code section 245 (a)(1).** Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars, or by both fine and imprisonment.

(c) Any person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for four, six, or eight years. (Penal Code 245, summarized in pertinent part.)

**APPLICABLE LEGAL PRINCIPLES**

A peace officer may use objectively reasonable force to effect an arrest if he believes that the person to be arrested has committed a public offense. (Calif. Penal Code §835a(b).)  
<sup>14</sup> Should an arresting officer encounter resistance, actual or threatened, he need not retreat from his effort and maintains his right to self-defense. (Penal Code §835a(d).) An officer may use objectively reasonable force to effect an arrest, prevent escape or overcome resistance. (Penal Code §835a(d).)

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<sup>14</sup> All references to code sections here pertain to the California Penal Code.

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An arrestee has a duty to refrain from using force or any weapon to resist arrest, if he knows or should know that he is being arrested. (Penal Code §834a.) This duty remains even if the arrest is determined to have been unlawful. (*People v. Coffey* (1967) 67 Cal.2d 204, 221.) In the interest of orderly resolution of disputes between citizens and the government, a *detainee* also has a duty to refrain from using force to resist detention or search. (*Evans v. City of Bakersfield* (1994) 22 Cal.App.4th 321, 332-333.) 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.) The force used by the officer to effectuate the arrest or detention can be justified if it satisfies the Constitutional test in *Graham v. Connor* (1989) 490 U.S. 386, 395. (*People v. Perry* (2019) 36 Cal. App. 5th 444, 469-470.)

An officer-involved shooting may be justified as a matter of self-defense, which is codified in Penal Code sections 196 and 197. Both code sections are pertinent to the analysis of the conduct involved in this review and are discussed below.

**PENAL CODE SECTION 196.** Police officers may use deadly force in the course of their duties, under circumstances not available to members of the general public. Penal Code Section 196 states that homicide by a public officer is justifiable when it results from a use of force that "is in compliance with Section 835a." Section 835a specifies a ***police officer is justified in using deadly force*** when he reasonably believes based upon the totality of the circumstances, that it is necessary:

- (1) to defend against an imminent threat of death or serious bodily injury to the officer or another, or
- (2) to apprehend a fleeing felon who threatened or caused death or serious bodily injury, if the officer also reasonably believes that the fleeing felon would cause further death or serious bodily injury unless immediately apprehended,

(Penal Code §835a(c)(1).) Discharge of a firearm is "deadly force." (Penal Code §835a(e)(1).) The "[t]otality of the circumstances" means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force." (Penal Code §835a(e)(3).)

While the appearance of these principals is new to section 835a in 2020,<sup>15</sup> the courts have been defining the constitutional parameters of use of deadly force for many years. In 1985, the United States Supreme Court held that when a police officer has probable cause to believe that the suspect he is attempting to apprehend "has committed a crime involving the infliction or threatened infliction of serious physical harm" to the officer or

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<sup>15</sup> Assem. Bill No. 392 (2019-2020 Reg. Sess.) approved by the Governor, August 19, 2019. [Hereinafter "AB-392"]

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others, using deadly force to prevent escape is not constitutionally unreasonable. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11-12.) California courts have held that when a police officer's actions are reasonable under the Fourth Amendment of our national Constitution, that the requirements of Penal Code § 196 are also satisfied. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 349; *Brown v. Grinder* (E.D. Cal., Jan. 22, 2019) 2019 WL 280296, at \*25.) There is also a vast body of caselaw that has demonstrated *how* to undertake the analysis of what is a reasonable use of force under the totality of the circumstances. (See *Reasonableness* discussion, *infra*.) As such, our pre-2020 state caselaw, developed upon the former iteration of section 196, is still instructive.

There are two new factors in section 835a that did not appear in the section previously, nor did they develop in caselaw pertaining to use of deadly force. First, a peace officer must make reasonable efforts to identify themselves as a peace officer and warn that deadly force may be used, prior to using deadly force to affect arrest. (Penal Code §835a(c)(1).) This requirement will not apply if an officer has objectively reasonable grounds to believe that the person to be arrested is aware of those facts. (Penal Code §835a(c)(1).) Second, deadly force cannot be used against a person who only poses a danger to themselves. (Penal Code §835a(c)(2).)

While the codified standards for use of deadly force in the course of arrest are set forth at subsections (b) through (d) of Section 835a, the legislature also included findings and declarations at subsection (a). These findings and declarations lend guidance to our analysis but are distinct from the binding standards that succeed them within the section. In sum, the findings are as follows:

- (1) that the use of force should be exercised judiciously and with respect for human rights and dignity; that every person has a right to be free from excessive uses of force;
- (2) that use of force should be used only when necessary to defend human life and peace officers shall use de-escalation techniques if it is reasonable, safe and feasible to do so;
- (3) that use of force incidents should be evaluated thoroughly with consideration of gravity and consequence;<sup>16</sup>

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<sup>16</sup> Penal Code §835a (a)(3) conflates a demand for thorough evaluation of a use of force incident with a dictate that it be done “in order to ensure that officers use force consistent with law and agency policies.” On its face, the section is clumsily worded. Nothing included in AB-392 plainly requires that a use of force also be in compliance with agency policies. A provision in the companion bill to AB-392—Senate Bill No. 230 [(2019-2020 Reg. Sess.) approved by the Governor, September 12, 2019] (Hereinafter “SB-230”), does explicitly state that “[a law enforcement agency’s use of force policies and training] may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably, but shall not be considered as imposing a legal duty on the officer to act in accordance

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- (4) that the evaluation of use of force is based upon a totality of the circumstances, from the perspective of a reasonable officer in the same situation; and
- (5) that those with disabilities may be affected in their ability to understand and comply with peace officer commands and suffer a greater instance of fatal encounters with law enforcement, therefore.

(Penal Code §835a(a).)

**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 section 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.) The showing required under section 197 is principally equivalent to the showing required under section 835a(c)(1), as stated *supra*.

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

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with such policies and training.” (Sen. Bill No. 230 (2019-2020 Reg. Sess.) §1.) It is noteworthy, however, that this portion of SB-230 is uncodified, unlike the aforementioned portion of Penal Code §835a (a)(3).



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Imminence newly defined in the context of use of force to effect an arrest, is similar:

A threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.

(Penal Code §835a(e)(2).)

**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.) If the person’s beliefs were reasonable, the danger does not need to have actually existed. (CALCRIM 505.) Yet, a person may use no more force than is reasonably necessary to defend against the danger they face. (CALCRIM 505.)

When deciding whether a person’s beliefs were reasonable, a jury is instructed to consider the circumstances as they were known to and appeared to the person and considers what a reasonable person in a similar situation with similar knowledge would have believed. (CALCRIM 505.) It was previously held that in the context of an officer-

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involved incident, this standard does not morph into a “reasonable police officer” standard. (*People v. Mehserle* (2012) 206 Cal.App.4<sup>th</sup> 1125, 1147.)<sup>17</sup> To be clear, the officer’s conduct should be evaluated as “the conduct of a reasonable person functioning as a police officer in a stressful situation.” (*Id.*)

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

Whether the suspect posed an immediate threat to the safety of the officer or others has been touted as the “most important” *Graham* factor. (*Mattos v. Agarano* (9<sup>th</sup> Cir. 2011) 661 F.3d 433, 441-442.) The threatened use of a gun or knife, for example, 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* (9<sup>th</sup> Cir. 1994) 858 F.Supp. 1064, 1071-72 “an officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack.”) Again, the specified factors of *Graham* were not meant to be exclusive; other factors are taken into consideration when “necessary to account for the totality of the circumstances in a given case.” (*Mattos v. Agarano, supra*, 661 F.3d at 441-442.)

The use of force policies and training of an involved officer’s agency *may* also be considered as a factor to determine whether the officer acted reasonably. (Sen. Bill No. 230 (2019-2020 Reg. Sess) §1. See fn. 3, *infra*.)

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

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.

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<sup>17</sup> The legislative findings included in Penal Code section 835a(a)(4) suggest to the contrary that “the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation”. As such, if the officer using force was acting in an effort to *effect arrest*, as is governed by section 835a, then it appears the more generous standard included there would apply.

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(*Martinez v. County of Los Angeles*, *supra*, 47 Cal.App.4<sup>th</sup> at 343, citing *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.) Specifically, when a police officer reasonably believes a suspect may be armed or arming himself, it does not change the analysis even if subsequent investigation reveals the suspect was unarmed. (*Baldrige v. City of Santa Rosa* (9th Cir. 1999) 1999 U.S. Dist. LEXIS 1414 \*1, 27-28.)

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.4<sup>th</sup> at 343-344, citing *Roy v. Inhabitants of City of Lewiston* (1st Cir. 1994) 42 F.3d 691, 695.) In close-cases therefore, the Supreme Court will surround the police with a fairly wide "zone of protection" when the aggrieved conduct pertains to on-the-spot choices made in dangerous situations. (*Id.* at 343-344.) One court explained that the deference given to police officers (versus a private citizen) as follows:

unlike private citizens, police officers act under color of law to protect the public interest. They are charged with acting affirmatively and using force as part of their duties, because 'the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.'

(*Munoz v. City of Union City* (2004) 120 Cal.App.4<sup>th</sup> 1077, 1109, citing *Graham v. Connor*, [*supra*] 490 U.S. 386, 396.)

**ANALYSIS**

To determine whether the deadly force used against Dawson was justified, we must look at the facts and circumstances that led up to the use of force. On August 25, 2020, Dawson attacked his father, Witness #1, with a kitchen knife and a meat cleaver, causing significant injury to Witness #1's head and neck. Witness #1 called 911 and asked for an ambulance to come to his home to help him because he had been stabbed by his son. Witness #1 and his wife, Witness #2, were inside their home with Dawson who was still armed with the knives. The location of the victim's stab wounds increased the risk of death to Witness #1 due to rapid blood loss, but with Dawson still present in the home, emergency medics could not safely get to Witness #1 to save his life. Deputies Guerrero, Espinosa, and Hogue responded to the active crime scene while the ambulance and fire department staged nearby until the deputies made the scene safe.

As the deputies drove to the scene, they were provided updates from the dispatcher who remained on the phone with Witness #1. The dispatcher told the deputies that she heard Dawson in the background saying, "he wanted suicide by cop." The dispatcher also relayed to the deputies that Witness #1 did not believe Dawson would cooperate with them, and that Dawson still had the knives in his hands and was pacing back and forth in the living room. The dispatcher also advised the deputies of Dawson's criminal record

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which included recent arrests for drugs and violence. This information rightly served as a warning to the deputies, so as soon as Deputy Guerrero arrived at the apartment complex, he asked the dispatcher, over the radio, to have Witness #1 and Witness #2 step out of the apartment to meet the deputies. Deputies Guerrero, Espinosa, and Hogue heard the dispatcher's response to this request: Witness #1 and Witness #2 were not able to leave the apartment because they were afraid Dawson would stab Witness #1 again if they tried to flee.

The deputies were now confronted with a hostage situation. Witness #1, who had been stabbed in the head and the neck, and Witness #2 were trapped inside their apartment with Dawson. Due to the location of the injuries, the deputies feared Witness #1 was bleeding to death inside the apartment. The deputies knew Witness #1 and Witness #2 were in grave danger. The deputies also feared Dawson would stab Witness #1 again and would also stab Witness #2. The deputies were confronted with an emergent situation: They needed to get Dawson into custody before he killed his parents; they needed to get Witness #1 to safety before he bled to death.

After knocking loudly on the door multiple times and announcing, "Sheriff's Department," the deputies received no response from inside the apartment. The deputies justifiably feared the worst: that Witness #1 and his wife had been or were in the process of being murdered inside the apartment by Dawson. Even if their worst fears were not realized, the deputies knew they had to get inside as soon as possible because the location of Witness #1's stab wounds meant Witness #1 may have been bleeding to death. The circumstances were exigent, and Deputy Hogue decided the best course of action was to force entry. This decision was appropriate and necessary and likely saved the lives of both Witness #1 and Witness #2. Because it was reported that Dawson still had the knives in his hands, Deputies Hogue and Guerrero had their handguns drawn and Deputy Espinosa was armed with a less-lethal shotgun.

As soon as he got the door opened, Deputy Hogue stepped just past the threshold into the apartment. Deputy Guerrero was behind Deputy Hogue and Deputy Espinosa stood behind Deputy Guerrero in the hallway just outside the apartment. All three deputies immediately saw Dawson standing in the living room only 15 to 18 feet away from Deputy Hogue. The deputies saw that Dawson had two knives in his hands. Dawson raised his right hand with one of the knives above his head. Deputies Hogue and Guerrero pointed their handguns at Dawson and all three deputies immediately ordered Dawson to drop the knives and to get on the ground. The deputies repeated their commands to Dawson as Deputy Hogue quickly stepped away from the doorway, to his left, so that another deputy could enter the apartment. Deputy Guerrero moved into the apartment and stopped approximately two feet into the entry way. Deputy Guerrero saw that Dawson was only 12 to 13 feet away from him. Deputy Guerrero had no cover or concealment because there was nothing between him and Dawson. Almost immediately, while the deputies repeated their commands, Dawson ran toward the deputies. Dawson had a knife in each hand and held them between the level of his chest and waist as he charged the

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deputies. Fearing for their lives, the lives of their partners, and the lives of Witness #1 and Witness #2, Deputy Hogue and Deputy Guerrero each fired one round. Dawson was struck one time in the chest and he fell to the ground, ending the threat.

The fear felt by the deputies was both honestly and objectively reasonable. Dawson had already stabbed one person, he had said he wanted to be killed by the deputies, he refused to let the victims leave the apartment, and he charged at the deputies while armed with two knives in his hands. That the threat was imminent is obvious. Dawson was already dangerously close to the deputies when they entered the tiny apartment. The deputies instantly saw Dawson had two knives in his hands and recognized the threat he posed. As soon as the deputies entered the apartment, they saw Dawson was armed with the knives. The deputies tried to end the threat with their commands to Dawson to drop the knives and to get on the ground. Dawson ignored their commands and instead ran toward the deputies with the knives raised above his waist. From the time the deputies breached the doorway until the shots were fired, only four seconds had elapsed. The deputies had very little time to diffuse the situation and when Dawson started running toward them, Deputies Guerrero and Hogue then had very little time to react to the imminent threat posed by Dawson. Dawson was armed with two knives and his actions clearly demonstrated an intent to attack the deputies.

It was also objectively reasonable for Deputies Guerrero and Hogue to believe Dawson posed an immediate threat of serious bodily injury or death to Witness #1 and Witness #2. The deputies did not know exactly where Witness #1 and Witness #2 were in the small apartment. Neither deputy could see into the bedroom, but both were concerned Witness #1 and Witness #2 were inside that room. The doorway to that bedroom was directly in Dawson's path as he ran toward the deputies. Furthermore, Witness #1 had already been stabbed twice by Dawson and the couple's fear of Dawson prevented them from fleeing.

Given the facts and circumstances confronting Deputies Guerrero and Hogue, it was objectively reasonable for them to believe Dawson posed an immediate threat of serious bodily injury or death to them, as well as Witness #1 and Witness #2.

**CONCLUSION**

Based on the facts presented in the reports and the applicable law, Deputy Guerrero's use of deadly force was a proper exercise of Deputy Guerrero's right of self-defense and defense of others and therefore his actions were legally justified.

Based on the facts presented in the reports and the applicable law, Deputy Hogue's use of deadly force was a proper exercise of Deputy Hogue's right of self-defense and defense of others and therefore his actions were legally justified.

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