



## PUBLIC RELEASE MEMORANDUM

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**Date:** September 30, 2020

**Subject:** **Non-Fatal Officer-Involved Incident**

**Involved Officers:** Deputy Daniel Beare,  
San Bernardino County Sheriff's Department

Deputy Ty James,  
San Bernardino County Sheriff's Department

Deputy Tyler Loup,  
San Bernardino County Sheriff's Department

Deputy Troy Verral,  
San Bernardino County Sheriff's Department

**Involved Subject:** Christopher Bowers (DOB 08/05/1981)  
**Subject's Residence:** Apple Valley, CA

**Incident Date:** January 23, 2019

**Case Agent:** Detective David Lara  
San Bernardino County Sheriff's Department

**Agency Report #:** 181900351, H-2019-007

**DA STAR #:** 2020-06232

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**PREAMBLE**

The summary of this non-fatal incident is drawn from a submission of materials prepared by the San Bernardino County Sheriff's Department. The case agent for this submission was Detective David Lara.

The submission reviewed includes the following: reports of law enforcement witnesses, reports summarizing interviews of involved law enforcement and civilian witnesses, dispatch audio recordings, deputy belt recorder audio recordings, audio recordings of law enforcement and civilian interviews, law enforcement photographs, medical records, scientific investigation reports, news media video, and modified news media video prepared by the case agent.

**FACTUAL SUMMARY**

On January 23, 2019, at approximately 8:54 p.m., San Bernardino County Sheriff's Department (SBCSD) Deputies Danny Beare, Ty James, Tyler Loup and Troy Verral fired their duty pistols at 38-year-old Christopher Bowers in the City of Fontana. Mr. Bowers was injured as a result. Mr. Bowers survived his injuries. No officers sustained physical injury.

The lethal force encounter occurred after Mr. Bowers led deputies on a vehicle pursuit for nearly an hour, from Apple Valley to Fontana. On the evening of the shooting, Deputy Loup and others were alerted to the circumstances of a January 19<sup>th</sup> crime report in a shift briefing at the Apple Valley SBCSD Station. Mr. Bowers—a parolee, was said to have injured his live-in girlfriend—Victim #1 and vandalized her car. The deputy who took Victim #1's initial crime report was informed by Mr. Bowers's parole agent that the new crime allegations would be the subject of a "no bail" arrest warrant and parole hold. In preparation, Deputy Loup was assigned to locate Mr. Bowers. Deputy Loup obtained a photo of Mr. Bowers at the station and set out to Mr. Bowers's residence after the January 23<sup>rd</sup> briefing.

Prior to arriving at Mr. Bowers's residence, Deputy Jonathan Walsh—who also participated in the shift briefing about Mr. Bowers, had already begun undercover surveillance there. Deputy Walsh reported a dark-colored car leaving Mr. Bowers's address. Deputies believed that Mr. Bowers would be driving a dark colored car and Deputy Walsh trailed it until Deputy Loup arrived. Mr. Bowers and Victim #1 were in the car being trailed by Deputy Walsh and were well aware that deputies were approaching. Mr. Bowers told Victim #1 that the police were after him and that the units approaching would attempt to pull them over.

At approximately 8:04 p.m., after observing several traffic violations, Deputy Loup initiated a traffic stop of Mr. Bowers's car.<sup>1</sup> At first, Mr. Bowers slowed and Deputy Loup believed that Mr. Bowers was pulling over. Suddenly, Mr. Bowers fled at a high rate of speed and ignored

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<sup>1</sup> The submitted reports indicate that Mr. Bowers was *not* the registered owner of the vehicle he drove. Any reference to Mr. Bower's vehicle is meant only to refer to Mr. Bower as the operator of the vehicle.

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posted stop signs. As soon as Mr. Bowers initiated these evasive maneuvers, three SBCSD units, including one operated by Deputy Loup, pursued Mr. Bowers with emergency lights and sirens activated.

Less than two minutes after Mr. Bowers began evading SBCSD personnel, Mr. Bowers pointed a gun out of the front driver-side window and back towards Deputy Loup. Deputy Loup saw the gun because he was directly behind Mr. Bowers and had his unit spotlight trained on Mr. Bowers's front driver-side mirror. Deputy Loup veered hard to the passenger side and backed off as soon as he saw Mr. Bowers's gun. Deputy Loup believed that Mr. Bowers was going to start shooting at him. A short time later, Mr. Bowers also pointed his gun at Deputy Verral, as Mr. Bowers passed Deputy Verral's location on the side of the road. Deputy Verral joined the pursuit, thereafter.

Mr. Bowers continued to recklessly evade SBCSD units through residential areas of Apple Valley at speeds topping 96 mph. The pursuit proceeded from Apple Valley, through Victorville, Hesperia, Lytle Creek, Rancho Cucamonga, and Ontario. Mr. Bowers violated numerous traffic laws during the pursuit, and at one point did drive into oncoming traffic. Other motorists and pedestrians were forced to stop suddenly to avoid being hit by Mr. Bowers's fleeing car.

In furtherance of his effort to evade pursuing deputies, Mr. Bowers also called 9-1-1 and threatened to shoot and kill Victim #1. Mr. Bowers also threatened to shoot deputies unless the deputies backed away. All pursuing SBCSD personnel were further advised by dispatch that Mr. Bowers stated that he knew he was going to jail for life and would not give himself up. Additionally, Mr. Bowers pointed his gun at Deputy Loup six or seven *more* times, and would cause the deputy to back off each time.

When an opportunity to end the pursuit arose atop the I-10 Freeway Citrus Avenue Overpass in Fontana, SBCSD personnel used two Pursuit Intervention Technique (PIT) maneuvers upon Mr. Bowers's car. However, neither PIT maneuver disabled Mr. Bowers car. As such, SBCSD units attempted to box Mr. Bowers's car in, to keep Mr. Bowers from continuing to flee. This caused Mr. Bowers's car to stop momentarily. While stopped, Victim #1 got out of the car. Then, Mr. Bowers broke away from SBCSD units by moving suddenly and rapidly, in reverse. While doing so, Mr. Bowers's car narrowly missed Deputies Loup, Walsh and Beare and Victim #1, all of whom were on foot. Mr. Bowers did hit Deputy Beare's patrol unit while reversing. Deputies Loup, James, Verral and Beare each drew their department-issued handguns and fired at Mr. Bowers's car. Combined, the shooting deputies fired 50 rounds at Mr. Bowers's car.

As gunfire ceased, Mr. Bowers's car came to rest on the overpass. SBCSD personnel on scene immediately began giving Mr. Bowers orders to come out of his car. It is unclear whether Mr. Bowers ignored those orders or was physically unable to comply due to the damage to his car and/or injuries he sustained. Ultimately, Mr. Bowers was removed from the car after he discarded his weapon—a black Airsoft pistol.

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First aid was administered to Mr. Bowers at the scene by SBCSD personnel. Mr. Bowers was later transported by ambulance to a hospital where he received treatment for gunshot wounds to his back right shoulder, right lower lumbar, left flank, left bicep, left forearm, and left chin. Medical providers were unable to determine how many times Mr. Bowers was shot, particularly because his chin injury was a gaping wound. Mr. Bowers also sustained a fracture of his mandible and left ulna, secondary to his gunshot wounds. Medical tests also revealed that Mr. Bowers was positive for opiates and amphetamines.

**STATEMENTS BY LAW ENFORCEMENT OFFICERS<sup>2</sup>**

**Deputy Tyler Loup** gave a voluntary statement to Detectives Charles Phillips<sup>3</sup> and Oscar Godoy, in the presence of his attorney on January 28, 2019, approximately five days after the shooting incident. Deputy Loup reviewed unspecified audio and video footage of the incident prior to his interview.

At the time of the shooting incident, Deputy Loup had been a deputy for approximately three years. Deputy Loup was driving a marked SBCSD patrol unit and was wearing a department-issued uniform with SBCSD patches and his badge and nameplate on his chest. Deputy Loup was carrying his department-issued Glock 17, 9mm handgun, that was previously loaded with 18 rounds.

Additional relevant portions of Deputy Loup's statement can be summarized as follows:

At the beginning of his evening shift at the Apple Valley sheriff's station, Deputy Loup was briefed about Christopher Bowers—a non-compliant parolee in the area, who was alleged to have committed a new felony crime. In coordination with other deputies on his shift, Deputy Loup proceeded to the last known address for Mr. Bowers, believing that Mr. Bowers was driving a dark-colored sedan. As Deputy Loup neared the address, he saw a dark-colored sedan with unlawfully tinted windows, roll through a stop sign, and fail to display a turn signal before turning. Deputy Loup initiated a traffic stop by engaging his unit overhead emergency lights and siren. However, the offending vehicle did not yield and a pursuit began. The driver of the vehicle being pursued was later determined to be Mr. Bowers.

Deputy Loup was joined by additional units in pursuit, each with flashing emergency lights and sirens. The beginning of the pursuit took place in residential areas of Apple Valley. Within two minutes of initiating the pursuit, Deputy Loup saw Mr. Bowers point a handgun barrel directly at him, through the driver-side window. Deputy Loup had his

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<sup>2</sup> Herein is a summary only. All reports submitted were reviewed, but not all are referenced here. No law enforcement personnel became aware of or used any civilian person's name until investigations revealed it, or as otherwise specified. All references to any witness or Christopher Bowers by name are made here for ease of reference.

<sup>3</sup> Since taking this interview, Detective Charles Phillips has promoted to the rank of Sergeant at SBCSD.

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spotlight on Mr. Bowers's driver-side mirror, in addition to his overhead flood lights, on at the time. Deputy Loup explained, "it registered in my head, he is pointing a gun at me, he's trying to kill me, I need to veer to the passenger side, where he can't shoot me. So as soon as I veered, I jerked the wheel towards the passenger side of the vehicle. I told it over the air, hey, he's got a gun." Deputy Loup explained that Mr. Bowers kept pointing the gun at him each time that the deputy got close to Mr. Bowers's car. Each time that Mr. Bowers pointed the gun, Deputy Loup pulled back out of concern for his safety.

Deputy Loup maintained his position behind Mr. Bowers for the duration of the pursuit, during which time the deputy believed that Mr. Bowers pointed his gun at him approximately seven or eight times. Also during the pursuit, Deputy Loup observed Mr. Bowers vehicle violate a host of traffic laws including failing to stop at stop signs and stoplights and traveling at a top speed of 96 mph.

While pursuing Mr. Bowers through Apple Valley, Deputy Loup recalled receiving information from dispatch that Mr. Bowers called 9-1-1, there was a female passenger (Victim #1) in the car with Mr. Bowers, who Mr. Bowers would shoot if pursuing deputies didn't back off. Dispatch also relayed that Mr. Bowers did not want to go back to jail and was not going to give himself up. Deputy Loup recalled that there were multiple calls made to 9-1-1, including the repeated threat that Mr. Bowers would shoot Victim #1—the "hostage."

Deputy Loup described Mr. Bowers as driving erratically, veering into oncoming traffic and narrowly avoiding pedestrians and head-on collision with other motorists. Specifically, Deputy Loup noted while the pursuit passed through Victorville, that approximately three to five pedestrians would have been hit by Mr. Bower's vehicle had they not jumped out of the way.

Deputy Loup described the pursuit of Mr. Bowers to continue beyond Victorville and onto the southbound lanes of the I-15 Freeway, towards Rancho Cucamonga. By that time, SBCSD helicopter support joined the pursuit and placed a spotlight by air on Mr. Bowers's vehicle.

As the pursuit continued onto the eastbound I-10 freeway, Deputy Loup and other pursuing deputies followed. Mr. Bowers led the pursuit off the I-10 Freeway at Citrus Avenue in Fontana. After exiting, Mr. Bowers proceeded northbound on Citrus Avenue. Then, Deputy Loup recalled another deputy using a "PIT" maneuver on Mr. Bowers's car, causing it to spin and face south. Mr. Bowers then drove his car in reverse in an attempt to further evade deputies. A second "PIT" maneuver spun Mr. Bowers's car to face north once more, and two other SBCSD units pinned Mr. Bowers against the east curb of the Citrus Avenue freeway overpass.

At this point, Deputy Loup got out of his patrol unit with his duty weapon drawn and pointed it at Mr. Bowers. Deputy Loup made eye-contact with Mr. Bowers and ordered

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him to come out with his hands up. Deputy Loup stood at a distance of approximately 20 feet while he gave those commands. Deputy Loup explained that he chose lethal force at this juncture because Mr. Bowers had threatened to kill Victim #1, pointed his gun multiple times at Deputy Loup, and believed that once Mr. Bowers appreciated that he was boxed-in that Mr. Bowers would also shoot at the deputy.

Next, Deputy Loup saw Mr. Bowers's passenger door open and Victim #1 stepped out. Deputy Loup then saw Deputy Walsh approach Victim #1, when the reverse lights on Mr. Bowers's vehicle came on. Mr. Bowers's car reversed so rapidly that Deputy Loup recalled hearing the front tires of Mr. Bowers's car lose traction. The whole car shook and hopped as it regained traction. Deputy Loup explained that at the moment this was happening, his mindset was as follows:

I had to jump out of the way of the vehicle because he was trying to kill me. He was trying to run me over because he did not want to go back to jail. He did not want to be caught and didn't want us to take him into custody. So, he tried to run me over and he also tried to turn the vehicle towards my partner, Deputy Walsh, who was trying to cover the hostage.

Deputy Loup explained that while reversing, Mr. Bowers's car hit the marked patrol unit that Deputy Loup was taking cover behind. Deputy Loup fired his duty weapon at Mr. Bowers to try to keep Mr. Bowers from running him over. Deputy Loup also saw Mr. Bowers reaching around his car while reversing, causing Deputy Loup to believe that Mr. Bowers was going to grab his gun and return fire.

Deputy Loup believed he shot 18 rounds at Mr. Bowers, emptying his duty weapon of all of its pre-loaded rounds. Deputy Loup believed he fired a first volley of 10 rounds. Deputy Loup explained that he paused fire because Victim #1 and Deputy Walsh were in his line of fire. However, as Mr. Bowers continued to move in reverse, Deputy Loup was able to resume fire into the windshield of Mr. Bowers's vehicle. Deputy Loup explained that he resumed fire because Mr. Bowers was still armed, still trying to flee, and with the presence of other civilians that Mr. Bowers might attempt to carjack another vehicle, injure a bystander, or take a new hostage.

Deputy Loup reloaded his handgun after completing his second volley. Then, Deputy Loup noticed that Mr. Bowers's vehicle had stopped and both of Mr. Bowers's hands could be seen on the steering wheel of his vehicle. Deputy Loup also saw that Mr. Bowers was injured with a gunshot wound to the left side of his face. Thereafter, other law enforcement officers arrived and commands were given to Mr. Bowers to surrender via public address speaker. Within minutes, a plan to approach Mr. Bowers was executed. Mr. Bowers was removed from his vehicle and medical aid was immediately rendered. Deputy Loup initially assisted by providing gloves to attending personnel, but when none were needed, he went to sit in his patrol unit until further orders were given to him.

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**Deputy Ty James** gave a voluntary statement to Detectives Tremayne Phillips and David Lara, in the presence of his attorney on January 28, 2019, approximately five days after the shooting incident. Deputy James reviewed his audio belt recording, audio dispatch recordings, 9-1-1 calls, and news media video footage of the incident prior to his interview.

At the time of the shooting incident, Deputy James had been a deputy for approximately four and a half to five years. Deputy James was driving a marked SBCSD patrol unit. Deputy James wore a department-issued uniform with SBCSD patches and his badge and nameplate on his chest. Deputy James was carrying a department-issued Glock 21, .45 caliber, Generation 4, semi-automatic pistol, that he previously loaded with 13 rounds, plus one additional round in the chamber.

Additional relevant portions of Deputy James's statement can be summarized as follows:

Deputy James joined in the pursuit of Mr. Bowers whilst it was underway in Apple Valley. He activated his unit's emergency lights and sirens in doing so. Deputy James was initially in the third position behind Mr. Bowers, but later moved up to second position (behind Deputy Loup). Prior to joining the pursuit, Deputy James was informed and believed that Mr. Bowers was a known parolee facing a new felony charge and that a parole violation warrant was to be issued.

Deputy James stated that the pursuit of Mr. Bowers through Apple Valley reached speeds of 90 mph. Deputy James observed Mr. Bowers make erratic lane changes and commit numerous failures to stop. Deputy James also recalled Mr. Bowers driving into on-coming traffic and on five separate occasions getting within three to five feet of hitting other commuters head-on.

It caused Deputy James further concern to hear from dispatch that 9-1-1 calls were made and the driver (Mr. Bowers) threatened to shoot a female passenger (Victim #1) if the deputies did not back off in their pursuit. The driver indicated that he was going to jail anyway. Deputy James also recalled that during the pursuit and prior to reaching Victorville (from Apple Valley), Deputy Loup announced via radio that Mr. Bowers pointed a gun multiple times at Deputy Loup. Deputy James did not see those gun-pointing incidents.

Deputy James continued to pursue Mr. Bowers from Victorville onto the southbound I-15 Freeway, then to the eastbound I-10 Freeway in Ontario. Deputy James then followed Mr. Bowers off the freeway at the Citrus Avenue exit in Fontana. Deputy James then heard a SBCSD airship support announce it would be a good time to "PIT" the suspect vehicle. Deputy James then used the front passenger bumper of his patrol unit to "PIT" Mr. Bowers's vehicle at the driver's side rear quarter panel. This maneuver caused Mr. Bower's vehicle to spin around so that Deputy James faced Mr. Bowers and Victim #1, and their respective cars were "hood-to-hood" with Mr. Bowers's car facing south. It



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appeared to Deputy James that Mr. Bowers was reaching into the car. Believing Mr. Bowers's vehicle to be disabled, Deputy James then got out of his patrol unit. Deputy James drew his weapon, pointed it at Mr. Bowers and yelled "let me see your hands" several times. Mr. Bowers refused to show his hands, and instead put his car in reverse at a "high rate of speed" into the east curb on the Citrus Avenue freeway overpass.

Next, Deputy James saw Sgt. Marshall (in his unit) push Mr. Bowers's car so that the latter was again facing north. Deputy James got back into his unit and blocked in Mr. Bowers's car to the front and got out of his unit once more. It was around that time that Deputy James saw Victim #1 get out of Mr. Bowers's car. Deputy James then saw Mr. Bowers's car move in reverse at approximately 15-20 mph and almost run Victim #1 and Deputy Walsh over. Deputy Loup was also in the area and had to jump out of Mr. Bower's way. Deputy James recalled yelling "he's backing up" but did not immediately fire his weapon because deputies and Victim #1 were in his backdrop. Deputy James believed that Mr. Bowers's vehicle came within a foot of hitting Deputies Loup and Walsh and Victim #1. Moreover, Deputy James felt that Deputies Loup and Walsh and Victim #1 would have been struck and killed had they not jumped out of the way.

As Mr. Bowers's vehicle continued to back away, Deputy James ran toward it and saw Mr. Bowers hit the rear passenger panel of another marked SBCSD unit. Deputy James believed at the time that Mr. Bowers was going to do whatever it took to get away, and that other civilians in the immediate area were in danger. At a distance of 25-35 feet, Deputy James fired his weapon three times at Mr. Bowers through the front windshield of Mr. Bowers's car. Deputy James then recalled moving forward about 10-15 feet and firing three additional rounds through Mr. Bowers's driver-side window. Deputy James elaborated that he believed that Mr. Bowers would shoot at deputies and potentially hurt deputies or bystanders, or take another civilian hostage, because Mr. Bowers was already going to jail. Deputy James stated his intent in firing his weapon was to stop Mr. Bowers from continuing to flee and stop the threat of Mr. Bowers hurting anyone else.

After Mr. Bowers's vehicle came to a rest, Deputy James witnessed numerous commands given to Mr. Bowers via loudspeaker. After Mr. Bowers's threw out his gun, Deputy James assisted SBCSD Special Enforcement Division operators pull Mr. Bowers out of his car.

**Deputy Troy Verral** gave a voluntary statement to Detectives Tremayne Phillips and David Lara, in the presence of his attorney on January 31, 2019, approximately eight days after the shooting incident. Deputy Verral reviewed unspecified audio and video of the shooting incident prior to his interview.

At the time of the shooting incident, Deputy Verral had been a deputy for more than five years, and had previously served in the Army. Deputy Verral was driving a marked SBCSD patrol unit. Deputy Verral wore a department-issued uniform with SBCSD patches and his badge and

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nameplate on his chest. Deputy Verral was carrying a department-issued Glock 21, .45 caliber, Generation 4, semi-automatic pistol, that he previously loaded with 13 rounds, plus one additional round in the chamber.

Additional relevant portions of Deputy Verral's statement can be summarized as follows:

Deputy Verral believed that Mr. Bowers was a known parolee, wanted for a parole violation and on a misdemeanor vandalism warrant. Deputy Verral was informed that Deputy Loup was attempting to contact Mr. Bowers at his parole address. Shortly thereafter, Deputy Verral became aware of the pursuit of Mr. Bowers and attempted to get ahead of it to deploy spike strips. During that effort, Deputy Verral heard Deputy Loup broadcast that Mr. Bowers pointed a handgun at him. Later, as Mr. Bowers (trailed by pursuing SBCSD vehicles) passed Deputy Verral's location, Mr. Bowers pointed his gun at Deputy Verral. Deputy Verral had his emergency lights flashing and siren blaring at the time Mr. Bowers pointed his gun at the deputy. Deputy Verral ducked down to avoid getting shot and broadcasted that Mr. Bowers pointed his gun at him. Deputy Verral immediately joined in the pursuit of Mr. Bowers thereafter. Deputy Verral was the fourth unit to get in line behind Mr. Bowers, with Deputies Loup and James and Sergeant Marshall ahead of him.

Deputy Verral recalled the pursuit reached speeds in excess of 90 mph, and heard Deputy Loup broadcast several times via radio that Mr. Bowers was pointing a gun at Deputy Loup. Deputy Verral also heard dispatch updates about a female in the car (Victim #1) that Mr. Bowers would shoot if deputies didn't back off. As such, Deputy Verral believed Mr. Bowers to not only be in violation of his parole, but also to be committing the felony crimes of kidnapping, criminal threats, evasion, and being a felon in possession of a firearm.

Deputy Verral maintained his fourth position in the pursuit until exiting on Citrus Avenue from the I-10 Freeway in Fontana. By the time Deputy Verral reached the top of the offramp, he had heard SBCSD airship announce that it was a good time for a "PIT" to take place, as well as that the suspect vehicle had gone in reverse. Deputy Verral pulled to the north of Mr. Bowers's car; Mr. Bowers hit the front push bar of Deputy Verral's unit. It appeared to Deputy Verral that Mr. Bowers was boxed in, so Deputy Verral got out of his unit and drew his duty weapon. Deputy Verral stated that he turned his spotlight into the passenger compartment of Mr. Bowers's car and pointed his weapon at Mr. Bowers from a distance of approximately five feet.

Next, Deputy Verral "heard a bunch of crunching noises" and saw Mr. Bowers's vehicle back away in reverse. Deputy Verral saw Deputy Loup move quickly out of Mr. Bowers's way. Deputy Verral estimated that Deputy Loup was about a foot away from being hit by Mr. Bowers's car. Then, Deputy Verral heard the SBCSD airship announce "we just had a 245 on an officer or deputy"—which Deputy Verral understood to be assault with a deadly weapon on a deputy. Deputy Verral heard gunfire and believed that

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Mr. Bowers was shooting at the deputies or ran over Deputies Loup and Walsh. In response, Deputy Verral ran towards Mr. Bowers's vehicle, took a position in the middle of the overpass and fired 14 times into the front driver-side door below the window, from a distance of about 20-25 meters.

Deputy Verral then noticed that Mr. Bowers's vehicle had stopped, but that there were two bystander vehicles in close proximity. Deputy Verral believed the bystanders were in danger of getting caught in cross-fire, so he crossed to the front of Mr. Bowers's vehicle in an attempt to make contact with those bystander drivers and get them to move away. While making that move, Deputy Verral fired another round into Mr. Bowers's driver's side window (his 15<sup>th</sup> shot) to cause Mr. Bowers to duck or lose visual of Deputy Verral as the deputy made that open crossing. Deputy Verral believed that had he not fired at Mr. Bowers, that Mr. Bowers would have fired at him, or would have tried to carjack someone to get away.

After all gunfire ceased, Deputy Verral stated that SWAT arrived and Mr. Bowers was given commands. Deputy Verral later saw Mr. Bowers reach down into his car and throw out his gun. Deputy Verral watched SWAT operators pull Mr. Bowers out of his car and render medical aid until paramedics arrived.

**Deputy Daniel Beare** gave a voluntary statement to Detectives Charles Phillips and Oscar Godoy, in the presence of his attorney on February 6, 2019, approximately two weeks after the shooting incident. Deputy Beare reviewed news media video and his belt recording of the shooting incident prior to his interview.

At the time of the shooting incident, Deputy Beare had been a deputy for almost 13 years. Deputy Beare was driving a marked SBCSD patrol unit and was assigned to patrol areas of Rancho Cucamonga. Deputy Beare wore a department-issued uniform with SBCSD patches and his badge and nameplate on his chest. Deputy Beare was carrying a department-issued Glock 21, .45 caliber, Generation 4, semi-automatic pistol, that he previously loaded with 13 rounds, plus one additional round in the chamber.

Additional relevant portions of Deputy Beare's statement can be summarized as follows:

Deputy Beare first learned of the pursuit from Apple Valley while at the Rancho Cucamonga Sheriff's Station on the evening of the shooting incident. Deputy Beare was not aware of the reason Mr. Bowers was being pursued, nor any details of Mr. Bowers's criminal history. Deputies Beare was assigned to set up spike strips ahead of the pursuit while Mr. Bowers made his way down the I-15 Freeway towards Rancho Cucamonga. Deputy Beare heard radio traffic advising "Rancho deputies" that Mr. Bowers has been pointing a gun at deputies. In response, Deputy Beare attempted to conduct a traffic break on the I-15 Freeway to limit risk to civilians.

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Deputy Beare fell in line behind the pursuit of Mr. Bowers in the area of the I-15 interchange with the I-10 Freeway in Ontario, at approximately 100-150 yards off from Mr. Bowers's vehicle. Deputy Beare had his emergency lights and sirens on at the time.

When the pursuit exited off the I-10 Freeway and proceeded towards Citrus Avenue in Fontana, Deputy Beare was still at the very back. By the time he reached the top of the freeway offramp at the Citrus Avenue overpass, he heard on the radio that Mr. Bowers was boxed in. Deputy Beare saw Mr. Bowers's car facing northbound and Victim #1 got out and ran along the sidewalk. Deputy Beare parked his unit in traffic lanes, got out and approached on foot. Then, Deputy Beare heard the screeching of Mr. Bowers's wheels. Mr. Bowers's car reversed towards deputies and Deputy Beare heard the sound of gunfire. Deputy Beare believed that Mr. Bowers was shooting at deputies because he heard the gunfire and saw "pops in the windshield" of Mr. Bowers's car. Deputy Beare fired into the windshield of Mr. Bowers's car as it passed in front of him, at a distance of approximately seven to ten feet. Deputy Beare explained that he believed Mr. Bowers was trying to run him over and continue to flee, or hurt someone else on the freeway off-ramp. Deputy Beare intended "to stop [Mr. Bowers] from trying to hurt anyone else or hurt partners."

After Mr. Bowers's car came to a stop, Deputy Beare took cover and continued to watch Mr. Bowers from a distance of about 10-15 feet. Sometime after public address announcements were made, Deputy Beare saw Mr. Bowers lift his gun with his right hand and throw it out the passenger window. This was the first time that Deputy Beare saw Mr. Bowers's gun. Deputy Beare watched as other law enforcement officers removed Mr. Bowers from his vehicle.

**Additional Sheriff's Department Personnel** who participated in the pursuit of Mr. Bowers either by car or airship were interviewed as part of the submitted investigation. The additional pursuing personnel who followed Mr. Bowers by car gave statements that were generally consistent with the accounts given by the deputies who fired their weapons at Mr. Bowers. The non-shooting SBCSD personnel who were present when shots were fired at Mr. Bowers each explained that they did not fire at Mr. Bowers because other deputies were in their line of fire and/or they were not in a position to see the threat posed by Mr. Bowers.

Sheriff's personnel who followed Mr. Bowers by helicopter also gave statements. Two separate airships participated in the pursuit—the Desert Airship and the San Bernardino (SB) Airship. No video footage was recorded of the shooting incident by either of the SBCSD airships. The Desert Airship took over broadcast of the pursuit of Mr. Bowers while it was still in Apple Valley. Corporal Edward Leon, the Tactical Flight Officer aboard the Desert Airship, told Detectives Phillips and Godoy, that immediately prior to the shooting incident that he saw Mr. Bowers's vehicle travel right at deputies and collide with a patrol vehicle. It was Corporal Leon's opinion that at least one deputy had to move to avoid being seriously injured or killed by Mr. Bowers's fast-approaching car.

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The SB Airship joined the pursuit in Muscoy and its occupants had duties pertinent to managing air safety above the pursuit. Deputy David Negron, who served as the Tactical Flight Officer aboard the SB airship, observed Mr. Bowers's car go in reverse towards a deputy on foot. Deputy Negron saw that same deputy fire upon Mr. Bowers's driver door, and opined that had the deputy not moved out of the way he risked being hit or killed by Mr. Bowers.

**STATEMENT BY CIVILIAN WITNESS<sup>4</sup>**

**Female Passenger.** Victim #1, a 35-year-old resident of Apple Valley, dated Mr. Bowers for about five months immediately before the shooting incident and on and off for several years from 2001-2007. Victim #1 identified herself as the front passenger of the car Mr. Bowers drove during the pursuit.

On the night of the shooting incident, Victim #1 was briefly contacted by Deputy Jonathan Walsh and Sergeant James Marshall at the scene. Deputy Walsh was the first contact Victim #1 had after she got out of Mr. Bowers's car. Within seconds of reaching Deputy Walsh and before shots were fired, Victim #1 told Deputy Walsh, "he wanted you to kill him." Then, less than 20 minutes after the shooting a very emotional Victim #1 admitted to Sergeant Marshall that Mr. Bowers threatened to shoot her, and that the injuries that the sergeant noticed on her face had been inflicted upon her by Mr. Bowers on a different day.

Victim #1 was later interviewed by Detective Godoy in the early morning hours of January 24, 2019—approximately six hours after the shooting incident. Victim #1 indicated to the detectives that on the day of the shooting, her boyfriend (Mr. Bowers) knew that the "cops" were looking for him. Victim #1 stated that as she and Mr. Bowers were driving away from home, they noticed "three cops" approaching in the opposite direction. Mr. Bowers told Victim #1 that the officers would pull them over. Victim #1 stated that Mr. Bowers kept going after the Sheriff's units "turned on their lights." Victim #1 said that Mr. Bowers asked her if she wanted to get out. Victim #1 told Mr. Bowers that she did want to get out, but not yet. Victim #1 told Mr. Bowers that she wanted to be with him a little longer.

Victim #1 stated that while they were being pursued, she noticed that Mr. Bowers had a gun. Mr. Bowers told her the gun was a ".45". Victim #1 stated that Mr. Bowers kept the "little black gun" on his lap as he drove. Mr. Bowers told Victim #1 to call 9-1-1 to let the operator know that she was in the car, so that deputies wouldn't shoot at them; the call was "on speaker" in the car. Victim #1 heard Mr. Bowers say he would shoot Victim #1. However, Victim #1 believed that Mr. Bowers would never shoot her and that he just said that to get officers to back off. Mr. Bowers reassured her by saying, "I'm just saying that, I'm just saying that." Victim #1 believed

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<sup>4</sup> Multiple civilian witnesses were interviewed pursuant to the submitted investigation. Every civilian statement was reviewed in totality. However, only the relevant parts of those statements are included here.

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Mr. Bower's threat to shoot her was an idle one. Victim #1 stated that Mr. Bowers "hung up" on the 9-1-1 operator.

During the pursuit, Mr. Bowers repeatedly told Victim #1 that he would never go back to prison. Victim #1 explained that Mr. Bowers was formerly associated with a "skinhead" gang and risked being killed by the gang if he went back to prison.

After Mr. Bowers drove Victim #1 off the freeway, Victim #1 recalled getting hit three times, and described it feeling like, "bumper cars." Victim #1 stated that they reversed, got hit again and were "trapped." Then, Victim #1 saw Mr. Bowers pick up his gun. Victim #1 told Mr. Bowers to put the gun down or the deputies would start shooting. Mr. Bowers then told Victim #1 to get out of the car and that he loved her. Victim #1 got out of the car and ran towards an officer on the sidewalk, who told her to get down. As the officer and Victim #1 were going to the officer's car, Victim #1 saw Mr. Bowers's car go in reverse and deputies started shooting at it. Victim #1 recalled the officer shielding her with his body.

Victim #1 denied knowing what Mr. Bowers plans were, after she got out of the car. Victim #1 believed that "Apple Valley cops" hated Mr. Bowers and what Mr. Bowers was attempting to do by continuing to flee was to commit "suicide by cop."

**INCIDENT AUDIO/VIDEO**

**Dispatch Recordings.** SBCSD Apple Valley dispatch recordings were submitted for this review, including two calls to 9-1-1 by Mr. Bowers and/or Victim #1. The run-time for the submitted recordings in total is one hour, 22 minutes and 45 seconds. The actual timing of the submitted radio dispatch recordings is not apparent from the recordings themselves, nor is the recording submitted in real time. However, the companion dispatch log in this shooting event notes approximate timestamps for radio communications delayed only by the time to receive and input the information.

During the first 9-1-1 call, an emotional Victim #1 told the operator, "I'm in the car. The police are chasing us. I'm in the 2013 Chevy Malibu. I'm [Victim #1]. The police are chasing us." The operator repeatedly tells Victim #1 to "pull over." Victim #1 then goes on to tell the operator, "he has a gun." After further exchanges, Mr. Bowers said, "I'm not pulling the fuck over bitch" and "if the cops don't back the fuck up, I'm gonna start shooting them or her."

The 9-1-1 operator tried to elicit a definitive statement from Mr. Bowers about whether he had a gun. Then, the following exchange occurred:

BOWERS: Look, tell your fucking deputies to back the fuck up.

OPERATOR: Quit yelling, and they're not going to leave you alone sir.  
You need to pull over.

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BOWERS: No, then I'm going to fucking shoot her.

OPERATOR: Okay, then you're going to go to jail.

BOWERS: I don't, I'm already going to go to jail for life anyways.

Mr. Bowers ended the call shortly thereafter, and the 9-1-1 operator tried to call back.

In a later call to 9-1-1, Mr. Bowers told the operator that he wanted to let Victim #1 out, but re-affirmed "I'm not giving myself up. So, I just want the deputies to back the fuck up a little bit." Mr. Bowers restated, "As soon as they slow down and get off my ass, I'll pull over to let her out. Otherwise, fucking, she can die in this car with me." Mr. Bowers then also indicated to the operator that there were five people in the car, and that Victim #1 was a hostage, who was not in the car willingly. When the operator pressed Mr. Bowers about whether he was going to pull over, Mr. Bowers stated "yeah, but I don't see the deputies backing up from me. There's a sheriff's helicopter right above me." Mr. Bowers ended this call without pulling over.

Communications between SBCSD personnel during the pursuit of Mr. Bowers form the bulk of the submitted dispatch recordings. Numerous locations, estimated speeds of travel and traffic violations are described by SBCSD operators throughout the dispatch recordings, including at least 10 failures to stop at either a stop sign or stoplight, driving erratically and going into on-coming lanes. The following is a partial summary of events, *not including* the location, speed and traffic information, that are relevant to the analysis below. The timestamps included here are approximated based upon information contained in the call log for the incident:

- 8:04 p.m. Mr. Bowers fails to yield to initiated traffic stop.
- 8:06 p.m. Deputy Loup announces that the driver pointed a gun out his window.
- 8:07 p.m. Deputy Verral states "Hey, he pointed a gun out at me as he passed me."
- 8:08 p.m. Deputy Verral states, "Hey when he passed, it looked like driver had a gun."
- 8:09 p.m. Deputy Loup announces again, "he just pointed a gun out the window."
- 8:10 p.m. Dispatch operator alerts deputies that the driver is "saying that he'll shoot the female in the vehicle if deputies don't back off."

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- 8:11 p.m. Dispatch operator alerts the deputies that the driver is saying “he’s going to jail anyway so he won’t pull over and he’s going to shoot the female.”
- 8:14 p.m. Deputy Loup announces that the gun is a “black semi-automatic handgun.”
- 8:17 p.m. Deputy Loup announces “he’s pointing the gun again.”
- 8:19 p.m. Dispatch advises deputies that the driver is on 9-1-1, saying that if the deputies back off, he’ll let the female out.”
- Sergeant Marshall radios back that if the female is let out, that they would allow it, but that deputies would not let Mr. Bowers go. The sergeant then advises units to give the driver a “wide berth” to allow the female out, designating the last unit in the pursuit to pick her up.
- 8:21 p.m. Deputy James requests that Deputy Loup put his spotlight on Mr. Bowers’s driver-side window and mirror to see if the gun is sticking out.
- Sergeant Marshall advises the Desert Airship that a “gun has been coming out the driver-side.”
- After the Desert Airship asks for more information about Mr. Bowers’s car, the dispatch operator advises that the driver will not pull over until deputies back off and the driver will not give himself up or give any further description of anyone in the vehicle.
- 8:23 p.m. Deputy Loup confirms that there are two people inside the Car—a male and a female.
- 8:31 p.m. Dispatch relays the substance of a call (to CHP dispatch) that the driver keeps calling and hanging up, won’t confirm if anyone else is in the car, is threatening to shoot the passenger.
- 8:53 p.m. The pursuit continues eastbound I-10 Freeway, and exits at Citrus, and the Desert Airship announces that there’s a “good chance to pit him right here, if you have a chance, cross traffic you’re clear now.”



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- 8:54 p.m. The Desert Airship announces that one PIT maneuver is completed, followed by Mr. Bowers's car going in reverse.
- Then, the Desert Airship announces that a second PIT maneuver is completed. Then, the passenger door opens and the female gets out of the car.
- The Desert Airship announces, "[d]river, male driver, 245 in reverse, against uh, deputies now...in reverse against deputies." [Within 11 seconds of this announcement, "shots fired" is announced by an unidentified deputy on the ground and the Desert Airship.]
- 8:55 p.m. Sergeant Jose Ruiz requests medical aid.
- 9:02 p.m. Dispatch notes that the suspect is inside his vehicle, moving around and not coming out.
- 9:03 p.m. Deputies on the ground request that the Desert Airship hover higher so that deputies can hear on the ground. The Desert Airship complies with the request.
- 9:05 p.m. Unidentified deputy announces that the suspect has tossed the gun out of his window.
- 9:06 p.m. Unidentified deputy announces that the suspect is out of the vehicle.
- 9:07 p.m. Sergeant Mascetti announces that medical aid is clear to enter the scene and notes that Mr. Bowers has gunshot wounds to the face and chin. [Within a minute, the Desert Airship announces that the fire department is on scene.]

**Deputy Belt Recordings.** The case agent's submission included SBCSD belt recorder audio recordings. In addition to the name of the belt recording files attributed by the case agent, the identities of the recording SBCSD personnel can be inferred from the audio content. The recordings do not indicate the time being recorded, though they do appear to record in real time. Recordings of five deputies, one detective, and one sergeant were submitted. Each recording was reviewed in light of the interview given by the person to whom the recording is attributed. The submitted belt recordings were generally consistent with the interviews.

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A belt recording is attributed to each of the shooting deputies. The belt recording taken by Deputy Loup, however, is a mere two seconds long and contained nothing relevant. Deputy James's belt recording is the most substantive, with a run-time of approximately 61 minutes and two seconds. Deputy James's belt recording begins while the pursuit of Mr. Bowers is already underway and concludes just as Mr. Bowers is receiving first aid. Deputy Verral's belt recording is 17 minutes and 50 seconds long, and begins as the pursuit is making its way off the I-10 Freeway at Citrus Avenue. Deputy Verral's recording ends as Mr. Bowers is receiving first aid. Deputy Beare's belt recording is 22 minutes and 37 seconds long and includes post-shooting events only.

Taken in sum, the belt recordings indicate that Deputy James completed the first PIT maneuver less than 10 seconds after the Desert Airship recommended that it was safe to do so at the Citrus Avenue offramp. Both Deputies James and Verral gave commands demanding to see Mr. Bowers hands, prior to the eruption of gunfire. The first sound of gunfire can be heard about 29 seconds after the Desert Airship announced that the first PIT maneuver was complete. All gunfire occurred within the span of approximately 15 seconds. Orders to Mr. Bowers via loudspeaker began about one minute and 15 seconds after the last shot was fired. PA announcements were given for approximately eight minutes and 45 seconds and consisted of approximately 30 repeated commands, like "get out of the car with your hands up" and "throw the gun out the passenger window." Mr. Bowers threw his weapon out of his front passenger-side window just under two minutes after first being asked to do so. Mr. Bowers was removed from his vehicle and first aid was administered to him within two minutes of Mr. Bowers discarding his weapon.

**Submitted News Video.** Three videos depicting the end of the pursuit and the shooting incident were submitted by the case agent, and all appear to be versions of the same footage. The case agent reports that the submitted footage was originally recorded by news outlet KNBC, Channel 4. One video is approximately 31 minutes and 16 seconds long. The other two videos are shortened copies of the first, that the case agent modified to include descriptive graphics identifying the individuals depicted to assist the viewer. The case agent's modified videos do slow and/or stop when descriptive graphics appear. As such, it is apparent that the content of the source video is the only recording made in real time. The interviews given by the civilian and law enforcement personnel involved in this incident are generally consistent with what is evidenced by the submitted news video recording.

**INCIDENT SCENE INVESTIGATION**

The case agent managed the crime scene investigation with the assistance of a SBCSD Crime Scene Specialist. The Citrus Avenue overpass in Fontana is a concrete elevated platform over the I-10 Freeway, with traffic lanes marked for northbound and southbound traffic. It was determined that in the course of making contact with Mr. Bowers, SBCSD vehicles were moved after the shooting occurred and before the scene was processed. It was also determined that high

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winds in the area caused scene placards, fired cartridge casings (FCCs), and other items to move from their originally marked positions.

The patrol units of Sergeant Marshall and Deputies James and Verral were clustered in the number three northbound lane and next to the bike lane along the east curb. The patrol unit of Deputy Loup sat in the number two northbound lane, further south of the clustered units. Deputy Beare's unit sat in the number one northbound lane, south of Deputy Loup's unit.

The case agent determined that the assigned SBCSD units operated by Sergeant Marshall and Deputies James, Verral, and Beare each bore some-level of damage as a result of this incident. All of the damage noted in the crime scene investigation was consistent with the interviews given by their operators, and as depicted in the submitted media video. In sum, the units operated by Sergeant Marshall and Deputies James and Verral sustained damage consistent with the PIT maneuvers executed and their subsequent attempts to box-in Mr. Bowers atop the Citrus Avenue overpass. Deputy Beare's unit sustained collision damage to the rear passenger-side door and rear passenger quarter panel, consistent with being hit by Mr. Bowers's vehicle as Mr. Bowers attempted to flee in reverse immediately prior to coming to a stop.

Mr. Bowers's vehicle sustained significant damage, including numerous bullet holes to the driver-side front windshield, the driver-side front window and the driver-side door. A total of 47 FCC's were identified at the crimescene. Based upon the statements of the shooting deputies and an examination of their weapons, 50 rounds were fired during the incident. Therefore, it is reasonable to infer that three FCC's were not located. The majority of the FCC debris field was noted in the area west of Deputies Loup and Beare's patrol units, and north of Mr. Bowers's car, in the number one northbound lane, and the two southbound turning lanes. A second debris field of seven FCC's fired by Deputy Loup (based upon the distinctive bullets he was using at the time) was located to the south of the clustered units, in the number two and three northbound lanes. Two emptied Glock magazines were also noted at the scene, which can be attributed to Deputies Loup and Verral, based upon other information included in the submitted reports and the deputies' interviews.

**INJURED PARTY**

**INJURIES.** Mr. Bowers was transported to and received medical treatment at the hospital after the shooting incident. Mr. Bowers sustained gunshot wounds to his back right shoulder, right lower lumbar, left flank, left bicep, left forearm and left chin. As a result of those gunshot wounds, Mr. Bowers also sustained a fracture of his mandible and left ulna. Medical providers were unable to determine how many times Mr. Bowers was shot because the injury to the chin was a gaping wound. Mr. Bowers tested positive for opiates and amphetamines.

**INJURED PARTY'S STATEMENT.** Mr. Bowers was approached by SBCSD detectives for his statement on January 28, 2019, about four days after the shooting incident and while Mr.

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Bowers was under medical observation in the hospital. Mr. Bowers provided no relevant details about the pursuit or shooting incident.

**CRIMINAL HISTORY.** As a result of Mr. Bowers's conduct relative to the shooting incident, this office filed a criminal case against him on March 11, 2019. The pending matter (*People v. Christopher Bowers*, San Bernardino County Superior Court, case no. FVI19000695) alleges the following felony charges: (1) attempted murder of Deputy Walsh, (2) attempted murder of Deputy Loup, (3) attempted murder of Victim #1, (4) kidnapping, (5) evading peace officer with wanton disregard for safety, and (6) false imprisonment.<sup>5</sup>

A criminal case having to do with an incident that occurred four days prior to the shooting incident was also filed against Mr. Bowers on March 11, 2019. The prior incident case (*People v. Christopher Larae Bowers*, San Bernardino County Superior Court, case no. FVI19000696) alleges one count of infliction of corporal injury upon a spouse or co-habitant and a second count of vandalism.

One misdemeanor criminal case was already pending against Mr. Bowers prior to the shooting incident: *People v. Christopher Larae Bowers*, San Bernardino Superior Court, case no. MSB18007749 which alleges one count of domestic battery. This misdemeanor case is now trailing the two felony matters *supra*.

Mr. Bowers was previously convicted of crimes in the following cases:

- |                      |   |
|----------------------|---|
| Case No. FVI013262-2 | Convicted on 6/12/01 of Pen. C. §245(a)(1) [assault with force likely to cause great bodily injury] (felony). Initially, sentenced to 180 days jail, 36 months probation. Due to multiple subsequent probation violations, was sentenced to two years state prison. |
| Case No. FVI013976   | Convicted on 11/26/01 of Pen. C. §273.5 [infliction of corporal injury to spouse/co-habitant] (felony). Initially, sentenced to 107 days jail, 36 months probation. Due to a subsequent probation violation, was sentenced to 2 years state prison.                 |
| Case No. FVI702074-1 | Convicted on 10/04/07 of Pen. C. §12031(A)(2)(c) [carrying a loaded firearm/active participation in a gang] (felony). Sentenced to two years state prison.  |
| Case No. FVI702330   | Convicted on 1/13/09 of Pen. C. §245(a)(1) [assault with force likely to cause great bodily injury] (felony). Sentenced to two years state prison.  |

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<sup>5</sup> A transcript of the preliminary hearing held in *People v. Christopher Bowers*, San Bernardino Superior Court, case no. FVI19000695, was reviewed in preparation of this memorandum.

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- Case No. FVI900400      Convicted on 3/12/09 of Health & Saf. C. §11377(a) [possession of a controlled substance] (felony). Sentenced to 32 months state prison (admitted strike offense in FVI702074).
- Case No. FVII102464      Convicted on 9/14/12 of Pen. C. §12021(a)(1) [felon in possession of firearm], with Pen. C. §186.22(B)(1)(A) [active participation in criminal street gang] (felony). Sentenced to six years state prison (admitted strike offense in FVI702074).
- Case No. MVI17004247      Convicted on 5/15/17 of Pen. C. §273/5(a) [infliction of corporal injury to spouse/co-habitant] (misdemeanor). Sentenced to eight days county jail and 36 months probation.

**APPLICABLE LEGAL PRINCIPLES**

A police officer may initiate contact with anyone in a public place. (*People v. Divito* (1984) 152 Cal.App.3d 11, 14; *People v. King* (1977) 72 Cal.App.3d 346.) If a police officer witnesses a moving vehicle commit traffic violations, it is both reasonable and lawful for the officer to initiate a traffic stop of that vehicle. (*People v. Lomax* (2010) 49 Cal.4<sup>th</sup> 530, 564.) If the officer believes a person has committed a public offense, he may use reasonable force to effect an arrest. (Calif. Penal C. §835a)<sup>6</sup> Should the arresting officer encounter resistance, actual or threatened, he need not retreat from his effort and maintains his right to self-defense or to use reasonable force to effect that arrest. (*Id.*)

An arrestee has a duty to refrain from using force to resist arrest, if he knows or should know that he is being arrested. (Penal C. §834a.) 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. (*Evans v. City of Bakersfield* (1994) 22 Cal.App.4<sup>th</sup> 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.)

When a detainee on a traffic stop gives chase and during a high-speed pursuit engages in hazardous maneuvers threatening the lives of others, police officers can be justified in using deadly force to end the chase. (*Plumhoff v. Rickard* (2014) 572 U.S. 765, 777. See also *Weaver v. State of California* (1998) 63 Cal.App.4<sup>th</sup> 188, 209.)

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<sup>6</sup> All references to code sections here pertain to the California Penal Code, as they existed at the time of the incident. Significant modifications were made to sections 196 and 835a pursuant to Assembly Bill 392. (Assem. Bill No. 392 (2018-2019 Reg. Sess.) as Chaptered August 19, 2019.) However, those modifications do not apply retroactively. Even if they did, the conclusion of the analysis would be the same.

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Moreover, an officer-involved shooting may be justified as a matter of self-defense, which is codified in Penal Code at §197. These authorities are pertinent to the analysis of the conduct involved in this review and are discussed in greater detail below.

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

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

- (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury, and;
- (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger.

(CALCRIM 505.)

“Imminence is a critical component of both prongs 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* (9th Cir. 1994) 39 F. 3d 912, 915.)

There is no requirement that a person (including a police officer) retreat even if safety could have been achieved by retreating. (*Id.*, see also CALCRIM 505.) In addition, police officers are not constitutionally required to use all feasible alternatives to avoid a situation where the use of deadly force is reasonable and justified. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 348.) The court in *Scott* explained:

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

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

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

The "most important" *Graham* factor in the analysis is whether the suspect posed an immediate threat to the safety of the officer or others. (*Mattos v. Agarano* (9<sup>th</sup> Cir. 2011) 661 F.3d 433, 441-

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442.) Yet, other factors are taken into consideration when “necessary to account for the totality of the circumstances in a given case.” (*Id.*)

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.

(*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 [officer who was not in any immediate personal danger reasonably used deadly force against an unarmed car driver who posed a danger to innocent bystanders and officers in the manner in which the driver attempted to flee].)

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, 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**

This report evaluates the use of deadly force by SBCSD Deputies Daniel Beare, Ty James, Tyler Loup and Troy Verral upon Christopher Bowers on January 23, 2019 in Fontana. As indicated above, there are legal bases to justify an officer-involved shooting. We draw our conclusion here based upon those principles and a careful examination of the circumstances made apparent by the material referenced above.



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A law enforcement officer has authority to use reasonable force to effectuate an arrest or detention. The framework for determining what is “reasonable” is included in *Graham, supra*, which in turn informs the elements of Penal Code §197. Whether Deputies Beare, James, Loup and Verral are justified in their use of a firearm under the principles of self-defense and defense of others per Penal Code §197 involves a two-part analysis: (1) did the deputy subjectively and honestly believe he needed to protect himself or others from an apparent, imminent threat of death or great bodily injury; and (2) was the deputy’s belief in the need to protect himself or others from an apparent, imminent threat of death or great bodily injury objectively reasonable.

**Subjective Belief of Imminent Need to Protect.** Deputies James, Loup and Verral endured a prolonged pursuit of Mr. Bowers prior to firing their weapons. Deputy Beare’s participation was substantially shorter. Still, Deputy Beare was informed prior to joining the pursuit in Rancho Cucamonga that Mr. Bowers had been pointing out a gun at pursuing deputies. All four deputies were present for the violent crescendo of the chase atop the Citrus Avenue overpass in Fontana. After which, each shooting deputy expressed their belief of an imminent need to protect themselves, other deputies and/or the public from Mr. Bowers.

Deputy Loup was in the first position behind Mr. Bowers during the near hour-long pursuit, until deputies took offensive measures to stop the pursuit. Deputy Loup understood that Mr. Bowers was a non-compliant parolee who was reported to have committed a new felony. While Mr. Bowers’s initial traffic violations prior to the traffic stop were banal, Mr. Bowers’s flight was not. Mr. Bowers recklessly drove through stop signs in a residential area, and thereby forced Deputy Loup, to his own peril, to do the same. Then, when Deputy Loup closed in on Mr. Bowers’s car, Mr. Bowers pointed a gun out of his front driver-side window and back at Deputy Loup. Deputy Loup explained that he believed that Mr. Bowers was trying to kill him. The fact that Deputy Loup jerked his vehicle towards the passenger side and backed away would support an inference that Deputy Loup honestly believed that Mr. Bowers was trying to kill him during that first pointing incident. The same pattern and inference would follow each time Mr. Bowers pointed his gun at Deputy Loup thereafter. Deputy Loup also announced via radio that Mr. Bowers pointed a gun at him, evidencing his concern for the safety of his SBCSD partners as well.

Deputy James and Verral, who were also previously briefed about Mr. Bowers’s recent criminality, each heard Deputy Loup’s shared information regarding Mr. Bowers pointing a gun at Deputy Loup. Although Deputy James never saw a gun pointed by Mr. Bowers for himself, Deputy Verral did. Deputy Verral ducked down when he saw Mr. Bowers point his gun at Deputy Verral, supporting an inference that the deputy honestly believed that Mr. Bowers was going to shoot him. Deputy Verral also announced via radio that Mr. Bowers pointed a gun at him, further evidencing his concern for himself and fellow deputies.

Deputies Loup, James and Verral each recalled hearing the dispatch operator relay that Mr. Bowers was threatening to shoot deputies and Victim #1 if the deputies did not fall back in their pursuit. All deputies were also alerted that Mr. Bowers repeatedly expressed that he would

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neither give himself up nor return to jail. Such pronouncements support the deputies' conclusions that Mr. Bowers would employ desperate and dangerous measures to avoid capture.

Before Mr. Bowers last effort to escape by putting his car in reverse towards deputies, Deputy Loup yelled commands that Mr. Bowers show his hands and get out. Deputy Loup explained,

At this point, I had to jump out of the way of the vehicle because [Mr. Bowers] was trying to kill me. He was trying to run me over, because he did not want to go back to jail and he did not want to be caught and didn't want us to take him into custody. So, he tried to run me over and he also tried to turn the vehicle towards my partner, Deputy Walsh, who was trying to cover the hostage.

To further substantiate his belief, Deputy Loup stated that Mr. Bowers's car moved in the deputy's direction (in reverse) and actually collided with the unit that Deputy Loup was taking cover behind. Deputy Loup also explained that Mr. Bowers was reaching around inside his car while he reversed, and Deputy Loup "believed [Mr. Bowers] was going to grab the gun and come up, point the gun at [Deputy Loup] and shoot [Deputy Loup]." Moreover, Deputies Verral and James also believed, from their separate vantage points, that Deputies Loup and Walsh would have been hit or killed by Mr. Bowers's car had Deputies Loup and Walsh not jumped out of the way. This common belief supports each shooting deputy's assessment that they and/or Deputies Loup and Walsh, faced an imminent lethal threat immediately prior to firing their duty weapons.

Deputy Beare was the last shooting deputy to arrive, as he was at the back of the pursuit when the pursuit was led from the freeway to Citrus Avenue. Deputy Beare was approaching the clustered units on foot when gunfire erupted. Deputy Beare explained that he believed Mr. Bowers was shooting because he saw "pops" in Mr. Bowers's windshield. Deputy Beare also believed Mr. Bowers was driving (in reverse) directly at him. Deputy Beare stated that he believed that if he didn't move out of the way, that *he* would have been run over. Deputy Beare described Mr. Bowers's car as a "two-ton bullet" that was coming at him with "lethal force." Deputy Beare stated that he started shooting into the driver compartment of Mr. Bowers's car, explaining as follows:

I felt like this guy is, he's shooting and he's going to run me over and he's trying to get away. He's going to do what he can to get away, and if he gets away, either he is going to kill me, or he is going to continue, he is going to hurt someone else that's there on the freeway off-ramp and he is going to keep going with that gun.

Based upon the foregoing, it is apparent that Deputies Beare, James, Loup and Verral each bore an honest and subjective belief that they or their fellow officer were under threat of imminent deadly harm or bodily injury at the time they each used lethal force.

**Reasonable Belief of Imminent Need to Protect.** More than the stated belief of Deputies Beare, James, Loup and Verral, however, the materials detailed above and contemplated in total

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support a finding that each deputy had an objectively reasonable belief of the need to use deadly force to protect himself or another.

The preliminary *Graham* factor considers of the severity of the crime at issue. Although the initial attempt to contact Mr. Bowers was the result of traffic infractions, far more severe crimes were observed by SBCSD deputies. It was the latter that triggered lethal force. The nature of the traffic pursuit, alone, qualifies as felony evasion (Vehicle C. §2800.2(a)). During the pursuit, Deputy Verral told the case agents that he believed Mr. Bowers to be committing a kidnapping (Penal C. §207(a)) and making criminal threats against (Penal C. §422) Victim #1. Deputies Loup and James also believed that Victim #1 was a hostage, who Mr. Bowers had repeatedly threatened to kill during the pursuit. Moreover, the shooting deputies were aware that Mr. Bowers had been pointing a gun at SBCSD personnel during the pursuit, which would appear to the deputies to be an assault with force likely to cause great bodily injury, in violation of Penal Code §245(c). As indicated in the dispatch recordings, it also appeared to Corporal Leon upon the Desert Airship, that a “245” had been committed against deputies. Ultimately, that Mr. Bowers drove his car at Deputies Loup and Walsh, and also towards Victim #1, who had to jump out of the way to avoid death or great bodily injury, was an act of attempted murder per Penal Code §§ 664/187. With the exception of evasion, each of the crimes that Mr. Bowers was perceived to be committing qualify as “serious” felonies per Penal Code §1192.7(c). *Graham* only contemplates what a reasonable person acting as a police officer would have believed at the time of this stressful situation, without the hindsight benefit of a complete investigation. As such, it was reasonable for someone in Deputy Beare, James, Loup and Verral’s position to believe that the aforementioned serious crimes occurred or were occurring immediately prior to drawing firing their duty weapons.

Resistance is another essential consideration in a *Graham* analysis. Victim #1 told investigators that Mr. Bowers was aware that he was being pursued by law enforcement on the day of the incident and that Mr. Bowers anticipated getting pulled over as deputies approached them and *before* Deputy Loup initiated the traffic stop. The shooting deputies were at all times during this incident, wearing department-issued and SBCSD-marked uniforms, and operating SBCSD-marked vehicles. Thus, it is no surprise that Mr. Bowers, knew how close the deputies trailed him and that a Sheriff’s helicopter followed in the air above. Mr. Bowers said as much in his calls to 9-1-1. It is without question, Mr. Bowers knew SBCSD deputies were attempting to detain him. Therefore, Mr. Bowers was obligated, and his pursuing deputies could reasonably expect Mr. Bowers to yield and not resist detention.

Moreover, the severity of Mr. Bowers’s resistance was extreme. Mr. Bowers engaged in a prolonged high-speed pursuit that threatened the lives of all surrounding motorists (including law enforcement) and pedestrians, particularly in the residential areas of Apple Valley where Mr. Bowers drove at speeds topping at 96 mph and moved into on-coming traffic. Also, that Mr. Bowers would have deputies believe that he would shoot them or Victim #1, that he would not give up or be taken back to jail would reasonably elevate the perceived danger of the pursuit alone. Mr. Bowers did not stop there, however. Rather, Mr. Bowers conveyed through dispatch that he posed an even greater danger to others than he already appeared to be. For example, prior

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to the time that deputies could confirm how many people were in Mr. Bowers's car, he told dispatch that there were five people total in the car.

When Mr. Bowers came face-to-face with deputies on the Citrus Avenue overpass in Fontana, Deputies Loup and James both gave Mr. Bowers commands at gunpoint. Mr. Bowers still did not cease his resistance. With reason, one who at gunpoint would refuse to obey commands by a uniformed officer must be perceived to be especially dangerous, irrational and unpredictable. Here, despite sustaining two PIT maneuvers, in a dynamic that Victim #1 described as "bumper cars," Mr. Bowers still had an opportunity to stop resisting. Instead, Mr. Bowers demonstrated his unrelenting and desperate intent to avoid capture by using his vehicle to attempt to run down deputies and Victim #1. As such, Mr. Bowers resistance was both prolonged and lethal.

Immediacy is the "most important" *Graham* factor. Despite Mr. Bowers's willingness to place those around him in peril, SBCSD personnel who pursued him from Apple Valley essentially took a defensive posture dictated by Mr. Bowers's conduct. That posture only changed once deputies were advised by the Desert Airship that the circumstances presented a "good time" to use a PIT maneuver.

Even though Mr. Bowers was surrounded by SBCSD vehicles on the Citrus Avenue overpass in Fontana, Mr. Bowers chose not to surrender. After the first PIT maneuver, Mr. Bowers made eye contact with Deputies Loup and James. It is arguable that perhaps Mr. Bowers could not hear Deputies Loup and James' commands due to the siren and airship noise. However, in this context, it should have been visibly unmistakable that both Deputies Loup and James were in uniform and had their side-arms pointed at Mr. Bowers, regardless of the noise level.

Mr. Bowers did not stop after the second PIT maneuver, either. It is worth noting that Mr. Bowers did allow Victim #1 to get out of the car after the second PIT maneuver. This act might have been a segue way to a peaceful surrender, if Mr. Bowers so intended. However, Mr. Bowers again chose not to surrender. Victim #1 indicated that Mr. Bowers instead picked up his gun as she was getting out. Victim #1 recalled warning Mr. Bowers to put the gun down, or that the deputies would shoot. Although no shooting deputy recalled actually seeing Mr. Bowers with his gun as Victim #1 was getting out of the car, this falls in line with Deputies Loup and Verral's recollections of Mr. Bowers reaching in his car immediately prior to the time shots were fired. Officers had to presume Mr. Bowers was still armed; no facts suggested that Mr. Bowers discarded his weapon prior to the time shots were fired.

Immediately after Deputy Walsh was able to steer Victim #1 away from Mr. Bowers's car at the scene and before shots were fired, Victim #1 stated to Deputy Walsh "he wanted you to kill him." Later, during her interview, Victim #1 explained that Mr. Bowers was attempting to commit *suicide by cop*. Her assessment supports a conclusion that Mr. Bowers was going to do what was needed to provoke the deputies to fire upon him. And that's exactly what took place after Victim #1 got out of the car—from a stopped position, Mr. Bowers made a screeching advance in reverse towards deputies and Victim #1 with his car. All that could be reasonably assessed by the deputies on scene in this moment was that Mr. Bowers was making an attempt

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upon the lives of the deputies and Victim #1, just as Mr. Bowers had threatened to do with his firearm. Mr. Bowers narrowly missed hitting Deputies Loup and Walsh and Victim #1. Mr. Bowers's car actually made contact with the marked SBCSD unit that Deputy Loup took cover behind. Every law enforcement witness who perceived this event concluded that Mr. Bowers last attempt to flee was lethal in nature. It was reasonable for Deputies Beare, James, Loup and Verral to believe that one who attacks in the face of lethal force under these circumstances, attacks with intent to inflict lethal force. There was no way to stop this imminent lethal threat, other than to employ lethal force in return. It is also apparent from the circumstances that no additional waiting or warnings issued would have dissuaded Mr. Bowers from so provoking the deputies.

Each shooting deputy fired upon Mr. Bowers's car, within a timeframe of approximately 15 seconds. Deputies Loup, James and Beare stated that they ceased fire as soon as it appeared that Mr. Bowers's car had stopped moving and deputies could see both of Mr. Bowers's hands. While almost all of Deputy Verral's rounds were also fired while Mr. Bowers's car was moving, Deputy Verral stated that he fired his last round after Mr. Bowers had stopped. Deputy Verral had a different vantage point than Deputies Loup, James and Beare. Deputy Verral explained that at the time he fired his last shot, Deputy Verral could not see into Mr. Bowers's car and felt that Mr. Bowers could fire upon him. Deputy Verral explained that he was crossing the area in front of Mr. Bowers's car without cover to get to bystanders who the deputy felt were in danger of being in deputy cross-fire. Per Deputy Verral's belt recorder audio footage, there is an approximate two second pause in the cadence of gunfire, before a final gunshot is heard. About 19 seconds after that final shot, Deputy Verral can be heard yelling "get out of here!" The news media video also shows what appears to be a deputy cross to the front of Mr. Bowers's car and shoo-away nearby bystanders. This audio and video footage is consistent with Deputy Verral's recollection of the final shot fired. As such, although Mr. Bowers's car was no longer moving, the threat of being shot by Mr. Bowers and that bystanders were in danger of cross-fire was still reasonably in play at the time that Deputy Verral fired his last shot.

The shooting deputies were forced to make a split-second judgment under tense, uncertain and rapidly-evolving circumstances. As such, Deputies Beare, James, Loup and Verral had to act instantly to end Mr. Bowers's rampage, which was by all indications an immediate threat to kill the deputies and/or Victim #1. Based on the foregoing, the use of lethal-force by Deputies Beare, James, Loup and Verral is deemed to have been reasonably made and is also justifiable under Penal Code §197.

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**CONCLUSION**

Under the facts, circumstances, and applicable law in this matter, the use of deadly force by Deputies Daniel Beare, Ty James, Tyler Loup and Troy Verral was justifiable in self-defense and the defense of others. Accordingly, no criminal liability based on the officer's conduct attaches in this case.

**Submitted By:**  
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**Dated:**

