



PUBLIC RELEASE MEMORANDUM

Date: November 30, 2022

Subject: Officer Involved Shooting (Fatal)

Officers: Deputy Gaetano Nicassio
San Bernardino County Sheriff's Department

Sergeant Jason McFadden,
Riverside County Sheriff's Department

Corporal Ethan Kass
Riverside County Sheriff's Department

Deputy Steven Martinez
Riverside County Sheriff's Department

Involved Subject: Chad James Green (Fatal)
Date of Birth 02/12/1978
Riverside, California

Date of Incident: December 5, 2019

Incident location: Days Inn
1909 S. Business Center Drive
San Bernardino, California

DA STAR #: 2020-10212

Investigating Agency: San Bernardino Police Department

Case Agent: Detective Arturo Reyna

DR #: 2019-151279

PREAMBLE

This was a fatal officer involved shooting by one deputy from the San Bernardino County Sheriff's Department and three deputies from the Riverside County Sheriff's Department. The shooting was investigated by the San Bernardino Police Department. This factual summary is based on a thorough review of all the investigative reports, photographs, video recordings, and audio recordings submitted by the San Bernardino Police Department, DR# 2019-151279.

PRINCIPAL INVOLVED PARTIES

Deputy Gaetano Nicassio, of the San Bernardino County Sheriff's Department, was involved in the shooting of Chad James Green.

Sergeant Jason McFadden, of the Riverside County Sheriff's Department, was involved in the shooting of Chad James Green.

Corporal Ethan Kass, of the Riverside County Sheriff's Department, was involved in the shooting of Chad James Green.

Deputy Steven Martinez, of the Riverside County Sheriff's Department, was involved in the shooting of Chad James Green.

Chad James Green, DOB: 02/12/1978, of Riverside, California, was killed during the incident under review.

SCENE

This incident occurred on December 5, 2019, at around 11:20 a.m. in the parking lot of the Days Inn located at 1909 S. Business Center Drive, San Bernardino, California.

BACKGROUND INFORMATION

Chad James Green had a prior criminal history that included the following:

- 1) **Burglary** from December 15, 1994 in Ventura County;
- 2) **Assault with a Deadly Weapon** from May 26, 1998 in San Bernardino County;
- 3) **Violation of Parole** from September 28, 2000 in San Bernardino County;

- 4) **Vehicle Theft** from October 1, 2004 in Riverside County;
- 5) **Second Degree Burglary** from October 12, 2004 in Riverside County;
- 6) **Receipt of Stolen Property and Vandalism** from April 24, 2007 in Riverside County;
- 7) **Assault on a Custodial Officer** from April 17, 2008 in Riverside County;
- 8) **Second Degree Burglary and Vehicle Theft** from April 15, 2011 in Riverside County;
- 9) **Felon in Possession of a Firearm** from October 21, 2014 in Riverside County;
and
- 10) **Evading** from October 2, 2015 in Riverside County.

At the time of this incident, Green had an arrest warrant for Burglary from Riverside County, warrant number INF1901077.

Green was also identified as a murder suspect for a shooting that took place in Moreno Valley, Riverside County, on Tuesday December 3, 2019. A Ramey warrant, warrant number MV19337410, was issued for his arrest.

FACTUAL SUMMARY

The Riverside County Sheriff's Department, Homicide Unit, investigated the murder of [REDACTED], who was shot and killed in Moreno Valley, California, on Tuesday, December 3, 2019. The investigation identified Chad James Green as the suspect for the murder and a Ramey warrant was issued for Green's arrest.

On Thursday, December 5, 2019, Riverside Sheriff's Detective Brenton Ruiz spoke to a reporting party, [REDACTED]. [REDACTED] was the manager of the Days Inn, located at 1909 S. Business Center Drive, in the city of San Bernardino. [REDACTED] stated that Green and his girlfriend, [REDACTED] were staying at the Days Inn and described Green's vehicle as a white Toyota Corolla or Camry.

Based upon the information provided regarding [REDACTED] location, Detective Ruiz organized an apprehension team that included Riverside County Sheriff's Department personnel, Sergeant Jason McFadden, Corporal Ethan Kaas, and Deputy Steven Martinez. In addition, assistance was requested of San Bernardino County Sheriff's Department. Deputy Gaetano Nicassio of San Bernardino County Sheriff's Department joined the apprehension team.

Prior to his arrival at the Days Inn, Detective Ruiz spoke to [REDACTED] and learned that Green rented room number 215 on December 4, 2019, with a checkout date of December 5, 2019, at 11:00 a.m. The occupants of room 215 called the front desk the morning of December 5, 2019 and requested a late checkout.

At roughly 10:30 a.m., the apprehension team arrived at the Days Inn, wearing plain clothes and driving unmarked police units. These units were assigned to contain Green and prevent him from leaving the area until other members of the Riverside County Sheriff's Department SWAT team arrived.

Deputies located a white Toyota Camry parked in the southeast parking lot near room number 215 at the Days Inn. Corporal Kaas parked his unmarked Toyota Tundra on the passenger's side of the Camry to prevent any passengers from entering the vehicle. Corporal Kaas then entered Deputy Martinez's unmarked Toyota Highlander.

At about 11:20 a.m., while conducting surveillance at the location, Green and his girlfriend [REDACTED] were seen exiting room 215 and walking towards the parking lot at Days Inn. Sergeant McFadden positively identified Green and notified Deputy Martinez and Corporal Kaas to apprehend Green. This information was broadcasted to other units.

Deputy Nicassio drove his unmarked Dodge Ram into the north parking lot of the Secure Plus Hotel by Best Western located at 294 Hospitality Lane in the city of San Bernardino. This location was south of room number 215 of the Days Inn. A wrought-iron fence separated the two parking lots.

Green was seen entering the driver's seat of the Camry and backed his vehicle out of the parking stall. [REDACTED] was in the parking lot waiting for Green to back out his vehicle. At that time, Deputy Martinez activated his emergency lights and siren and positioned his vehicle directly behind the Camry to prevent Green from driving away.

Sergeant McFadden approached Green in his unmarked Chevrolet Tahoe to the south of the Camry to also prevent Green from driving away.

Green stopped his vehicle then drove forward over the curb to the parking stall. Green then exited his vehicle as the vehicle was moving forward. The vehicle struck the apartment building before coming to rest.

Green then ran in a westbound direction and climbed the wrought-iron fence on the south side of the hotel. Corporal Kaas and Deputy Martinez exited their vehicles wearing their tactical vests and pointed their firearms at Green.

Deputy Martinez was armed with a Glock 17 9-millimeter pistol and Corporal Kaas was armed with a BCM 5.56 caliber rifle. Sergeant McFadden also exited his vehicle and was armed with a BCM 5.56 caliber rifle. Deputy Nicassio exited his vehicle wearing his tactical vest and armed with a Colt 5.56 caliber rifle.

Deputies ordered Green to get on the ground, but Green did not comply. Deputy Nicassio noticed that Green was holding a dark colored object in one of his hands. Green went back down to the ground on the Days Inn side of the wrought-iron fence.

Green then raised his right hand with a dark object in it (which was later determined to be a Browning 9-millimeter semi-automatic pistol) and pointed it in an eastbound direction at Corporal Kaas, Deputy Martinez, and Sergeant McFadden. Green then fired two rounds at deputies.

Through the opposite side of the fence, Deputy Nicassio saw Green lifting his hand and firing his firearm. Deputy Nicassio then fired numerous rounds towards Green and used the building of the motel as a backdrop.

Corporal Kaas, Deputy Martinez, and Sergeant McFadden then fired multiple rounds at Green in a westbound direction. Sergeant McFadden moved to his right and used the Camry as cover. Sergeant McFadden continued firing his rifle towards Green in a southwest direction and struck the back and passenger side of the Camry as he was firing at Green.

Green then fell to the ground in a prone position. Corporal Kaas, Deputy Martinez, and Sergeant McFadden noticed Green drop an additional semi-automatic Beretta pistol that was contained in a holster. The weapon was found lying next to Green.

Green was observed with his hands underneath his body and the deputies knew that Green was still armed with the pistol he used to fire at them. Deputies ordered Green to show them his hands. Green was unresponsive.

Riverside County Sheriff's Department SWAT team arrived and took over Green's apprehension. Multiple commands were given to Green, but he did not respond. SWAT members then used a light sound diversionary device to solicit a response from Green. In addition, SWAT team members used two 40-millimeter impact munition rounds on Green who was still unresponsive.

At that time, Deputy Ray deployed his K-9 on Green. The K-9 bit Green's head and pulled Green towards deputies. At that time, deputies were able to see the firearm that Green used to shoot at deputies. Green did not respond to commands by deputies. The K-9 was deployed a second time, again biting Green's head, with no response from Green. At that time, SWAT team members decided to approach Green and apprehended him without further incident.

Medical aid was given initially by a medic on scene who was one of the San Bernardino County Sheriff's deputies present on the team. Then San Bernardino Fire Department paramedics arrived and took over the medical aid for Green. He was later pronounced deceased at the scene.

INTERVIEWS

DEPUTY GAETANO NICASSIO¹

On the date of this incident, Deputy Gaetano Nicassio was employed with the San Bernardino County Sheriff's Department and had been employed in that capacity for 13 years. Deputy Nicassio was assigned to the Specialized Enforcement Division, Sheriff's Department SWAT team. On the date of the incident, Deputy Nicassio was wearing a t-shirt with jeans and a tactical vest. The tactical vest had the words "Sheriff" on the front with badges throughout. He was armed with a Colt M4 556, standard issued rifle. The rifle was loaded with 1 round of live ammunition in the chamber and 28 rounds in the magazine.

On December 3, 2019, at roughly 10:45 a.m., Deputy Nicassio was on duty at the San Bernardino County Sheriff's Department headquarters when he was told by his Sergeant, Joshua Smith, that a murder had taken place in Riverside County. He was told that there was a named suspect, Chad Green, a white male, 6 feet tall, and that Green had a warrant for his arrest for the involvement in the murder as well as a secondary felony warrant for his arrest. Deputy Nicassio was told by Riverside County Sheriffs that the suspect was at the Days Inn in the city of San Bernardino with another individual. At that time, Deputy Nicassio did not have a picture of the suspect but had his name.

At roughly 10:50 a.m., Deputy Nicassio was first on scene at the Days Inn. Deputy Nicassio was provided the warrant information on the Green, a possible description of his clothing, a booking photograph of Green, the room number Green was believed to be in, and a vehicle description of a white Toyota Camry associated with Green. Upon arrival, Deputy Nicassio drove down the parking lot of Days Inn, located the room number and a possible vehicle. Deputy Nicassio was then advised to stand perimeter. He was told that Green requested a late checkout.

Deputy Nicassio was informed via radio that Green was considered armed and dangerous, that he just killed a bail bondsman, and was believed to have the firearm on his person.

Deputy Nicassio stated that he then repositioned himself. His location was in a hotel parking lot to the south of room 215 and continued to set up as perimeter. While there, Deputy Nicassio heard units broadcast that Green and ██████ exited room 215 and Green was entering his vehicle wearing a black colored sweatshirt and dark jeans. Deputy Nicassio determined that his position would prevent Green from fleeing to the southeast.

¹ On January 3, 2020, at approximately 11:23 a.m., Deputy Nicassio was interviewed by Detective A. Reyna.

At that time, Deputy Nicassio heard police sirens sounding and saw Green on top of the south fence to the Days Inn, looking up at Deputy Nicassio. Green had a dark colored object in his right hand and was resting that hand on the top of the fence. Green had his left foot positioned on the fence. Green used his left hand to pull himself up on the fence. Deputy Nicassio gave Green numerous commands to get off the fence and to show his hands. Deputy Nicassio was afraid for his life at that moment.

Green then started to get down from the fence on the Days Inn side of the fence and Deputy Nicassio noticed that Green's right hand started to come up. Deputy Nicassio heard a gunshot and believed Green was firing at him. Deputy Nicassio felt something skim his leg and looked down and saw bullet fragmentation.

Deputy Nicassio returned fire in a northbound direction in fear for his safety and the safety of other officers. He continued to give commands to Green. Deputy Nicassio then saw Green turn and start to run east. At that time, Deputy Nicassio heard multiple gunshots. Deputy Nicassio continued to fire his weapon at Green until Green fell to the ground. Deputy Nicassio was concerned about crossfire and took cover behind his vehicle, then moved to the northeast side of the parking lot.

SERGEANT JASON MCFADDEN²

On the date of this incident, Sergeant Jason McFadden was employed with the Riverside County Sheriff's Department and had been employed in that capacity for over 20 years. Sergeant McFadden was assigned to the Special Weapons and Tactics team, the Fugitive Warrant Enforcement team, and cross sworn as a United States Marshall. Sergeant McFadden was wearing a sweatshirt, grey cargo type pants, and a Philadelphia Eagles baseball cap. He was armed with his department issued BCM M-4 Rifle and Springfield handgun at the time of the shooting. The rifle was loaded with 30 rounds of ammunition.

On December 3, 2019, Sergeant McFadden, while on duty, heard a dispatch regarding a possible active shooter in a hotel in Moreno Valley. Sergeant McFadden contacted SWAT team members and advised his team of the shooting and an active shooter. Upon his arrival, Sergeant McFadden, learned that the victim was a bail agent. Sergeant McFadden obtained information from the bail company that they had been tracking an individual by the name of Chad James Green for over a year. The bail company located Green on December 3, 2019 using cellphone location evidence and open wifi pings. Green's phone pinged to a hotel in Moreno Valley.

The bail company setup an apprehension team in the room adjacent to Green, shots were fired, and Green jumped from the third story window and was observed by bail agents holding a firearm in his hand. It was reported and told to Sergeant McFadden that Green fled in a white Toyota. Sergeant McFadden received information that Green

² On December 9, 2019, at approximately 1:48 p.m., **Sergeant McFadden** was interviewed by Detective A. Reyna. The interview was audio and video recorded.

was a Public Enemy #1 (PENI) Neo-Nazi Gang drop out and that Green had stated that he was not going to be taken back to jail. Sergeant McFadden along with Deputy Ruiz sat in on the briefing with Homicide Detectives from Riverside County Sheriff's Department and formulated a plan to apprehend Green. Green was considered armed and dangerous.

On December 5, 2019, Sergeant McFadden and his team had a briefing regarding a plan on how to apprehend Green. Sergeant McFadden reviewed several photographs and physical descriptions of Green that were provided by Moreno Valley Sheriff's Department. The team was informed that someone had called into the Moreno Valley Sheriff's Department stating they knew the whereabouts for Green. Deputy Ruiz contacted the individual and was provided information on Green's location at the Days Inn in the city of San Bernardino. The individual stated that he rented the room for Green and his girlfriend [REDACTED]. Based upon this information, Sergeant McFadden and his team conducted another briefing on how to apprehend Green.

Upon arrival at the Days Inn, Sergeant McFadden and his team located the white Toyota Camry and verified the vehicle was associated with Chad James Green. Deputy Ruiz and Corporal Kaas entered the hotel and contacted [REDACTED], the manager of Day's Inn, and verified that room 215 was rented out to the reporting party and that a female from that room called that morning requesting a late checkout. Hotel staff advised the female the latest she could checkout was 11:30 a.m.

Sergeant McFadden then began to relay information via his radio of the location of the vehicle, the location of room 215, the distance from the room to the vehicle, and any other civilians located in the area of room 215.

Corporal Kaas then drove his vehicle, a Toyota Truck, and parked it close to the Toyota Camry to avoid a passenger from entering the vehicle.

Sergeant McFadden took lead to positively identify Green once he exited room 215. Sergeant McFadden positioned himself across from room 215 in the parking lot of the hotel. With his binoculars, Sergeant McFadden observed a male and female exit room 215 and was able to positively identify the male as Chad James Green.

Sergeant McFadden broadcasted the positive identification of Green via radio and then observed Green enter the driver's seat to the Camry. At that time, Sergeant McFadden was advised by SWAT team members that they were 90 seconds away from the scene. Based upon the defendant being armed and dangerous, that he had just killed bail agent Black, and that he could elude capture, Sergeant McFadden gave orders for his apprehension team to act.

Green attempted to back up the Toyota Camry at which time Deputy Martinez blocked Green's vehicle from leaving. Deputy Martinez had his red and blue lights on.

Green then drove the Camry forward and went up the curb onto the sidewalk. Sergeant McFadden drove his unmarked vehicle towards the Camry to prevent Green from leaving. Corporal Kaas was outside of his vehicle with his weapon pointed at Green, giving Green commands. Green exited the Camry while the vehicle was still moving.

Deputies got out of their vehicle and gave Green commands to show his hands. Green did not comply. Green reached into his pockets. Sergeant McFadden broadcasted that Green was reaching in his pockets. Green then jumped onto the south fence with both of his hands holding onto the top of the fence. Green got back down to the ground and walked towards Sergeant McFadden, Deputy Martinez, and Corporal Kaas. Deputies continued to give Green commands while pointing their firearms at Green.

Green then reached down and removed a gun from his waistband area and pointed the gun at deputies. At that point, Corporal Kaas and Deputy Martinez were out in the open with no cover. Sergeant McFadden, in fear for his and his deputies' lives, fired at Green using his rifle. Sergeant McFadden stated that he had to duck down and flinch due to gunfire which he believed came from Green firing at him and deputies. Sergeant McFadden believed Green shot at deputies. Sergeant McFadden was within seven feet of Green at the time of the shooting.

Green then went down to the ground. Sergeant McFadden could see an additional firearm inside of a holster on the ground next to Green. Members of SWAT then arrived and Green was subsequently apprehended.

CORPORAL ETHAN KAAS³

On the date of this incident, Corporal Kaas was employed as a Corporal with the Riverside County Sheriff's Department and had been employed as a sworn peace officer for 19 years. Corporal Kaas was assigned to the Special Enforcement SWAT team. On the date of the incident, Corporal Kaas was wearing a t-shirt and jeans, along with a tactical vest with Riverside County Sheriff's patches. Corporal Kaas was assigned a silver 2016 Toyota Tundra as his assigned vehicle and was equipped with lights and sirens. Corporal Kaas was armed with a department authorized BCM, 5.56 caliber rifle, loaded with .223 caliber cartridges.

On December 3, 2019, Corporal Kaas and his team were called out to an active shooter at a hotel room in Moreno Valley, California. Upon arrival, Corporal Kaas and his team determined that Chad Green had shot a bail recovery agent, and then jumped out a 3rd story window and fled the scene. That night, Corporal Kaas and his team began their investigation into locating and apprehending Green. Corporal Kaas was shown several photographs of Green on that date. Based upon the actions of Green, it was believed that Green was armed and dangerous and that he was willing to shoot law enforcement to avoid capture.

³ On December 9, 2019, at approximately 4:02 in the evening, **Corporal Kaas**, was interviewed by Detective Cunningham of the San Bernardino Police Department.

On December 5, 2019, the Moreno Valley station of the Riverside County Sheriff's Department received a call regarding an individual who knew the whereabouts of Chad Green and who wanted the reward money posted by the bail bonds company for information leading to Green's capture.

Corporal Kaas and his team were informed by this individual that Green was staying at the Days Inn in San Bernardino and that the individual rented a room for Green under his own name. Corporal Kaas then responded to the Days Inn and spoke to management at the front desk. Management told Corporal Kaas that a female from room 215 had called and asked for a late checkout. Furthermore, room 215 was booked under the name of the individual who called Moreno Valley station and provided the information on Green. According to Corporal Kaas, this confirmed the information he was provided.

Corporal Kaas then joined his team to setup around room 215. Green's vehicle was parked in the parking lot. Corporal Kaas parked his vehicle as close to Green's vehicle to limit any passengers from getting into the vehicle.

Deputy Martinez then picked up Corporal Kaas in his vehicle. The plan was for their vehicle to be the first vehicle in response to Green moving out of room 215.

Sergeant McFadden then told Corporal Kaas that he observed Green and [REDACTED] exit room 215 and approach the Camry. At that time, Sergeant McFadden told Corporal Kaas and Deputy Martinez to apprehend Green.

Green was in the Camry and began backing up his vehicle. Deputy Martinez then proceeded to block Green's vehicle and activated his emergency lights and sirens. Green looked at Corporal Kaas then drove forward and exited the vehicle as the vehicle struck the motel wall. Corporal Kaas was the first one out of his vehicle.

Green was given numerous commands and would not comply. Green then attempted to climb the wrought iron fence. Sergeant McFadden then parked his vehicle towards the front of the Camry and also approached Green.

Corporal Kaas heard Deputy Nicassio giving Green commands from the opposite side of the fence. Green then jumped off the fence and immediately turned towards deputies. Corporal Kaas heard Green say, "fuck it". Green then removed a gun from his sweatshirt pocket or waistband area and pointed it at Corporal Kaas. Corporal Kaas then identified Green from the prior photos that he had seen during briefing.

Green fired a shot at Corporal Kaas. Corporal Kaas felt something hit his elbow and in fear for his safety returned fire. Green was able to fire a second shot at deputies before being struck and falling to the ground. Corporal Kaas yelled a cease fire. The gunfire stopped. Corporal Kaas could see a gun in a holster next to Green. Corporal Kaas knew that this was not the gun which Green had fired at deputies.

Corporal Kaas fired 7 rounds towards Green.

SWAT arrived on scene and Green was subsequently apprehended.

DEPUTY STEVEN MARTINEZ⁴

On the date of this incident, Deputy Steven Martinez was employed with the Riverside County Sheriff's Department and had been employed as a sworn peace officer for over

12 years. Deputy Martinez was assigned to the Special Enforcement SWAT team and the Fugitive Warrant Enforcement team. Deputy Martinez was assigned an unmarked 2016 silver Toyota Highlander that was equipped with a radio and lights and sirens. Deputy Martinez was wearing blue jeans, blue shirt, and a green tactical vest with Riverside County Sheriff's Department decals and badges. Deputy Martinez was equipped with a personal 9-millimeter Glock handgun. This firearm was loaded with 18 rounds of live ammunition.

On December 3, 2019, Deputy Martinez was advised by his Corporal that there was an active shooter in the area of Moreno Valley, California and that a bail bonds agent had been shot. Furthermore, Deputy Martinez was advised the suspect had jumped out of a 3rd story window, was armed, and fled in a white vehicle.

Deputy Martinez and his team received a briefing from a bail bonds agent who advised that Chad Green had an active warrant for his arrest and was armed and dangerous. Deputy Ruiz, with Riverside County Sheriff's Department, was advised that Chad Green was at a hotel in San Bernardino. This information was relayed to Deputy Martinez and the rest of the SWAT team. In addition, Deputy Martinez was shown multiple photographs including booking photographs of Green.

At roughly 11:00 a.m., Deputy Martinez arrived at the Days Inn hotel and attempted to locate the suspect vehicle. Deputy Martinez located two Toyota Camry vehicles at the hotel. Deputy Martinez checked the first vehicle and it was not linked to the suspect. The second Toyota Camry was surveilled. While conducting surveillance, additional law enforcement agents arrived at the hotel. Corporal Kaas spoke to the desk manager at the hotel and relayed that Green may be in room 215.

Deputy Martinez and his team decided to have Corporal Kaas park his vehicle as close as possible to the suspect vehicle's passenger side door. Deputy Martinez picked up Corporal Kaas and waited for additional law enforcement agents. Deputy Martinez and Corporal Kaas were assigned to drive up to the suspect vehicle if Green exited room 215.

⁴ On December 10, 2019, at approximately 1:17 p.m., Deputy Martinez was interviewed by Detective A. Reyna.

Deputy Martinez positioned his vehicle behind Sergeant McFadden's vehicle in the Days Inn parking lot. Deputy Martinez observed Green and [REDACTED] exit room 215 of the Days Inn. Deputy Martinez identified [REDACTED] from the December 3, 2019 incident. Deputy Martinez identified Green as the individual he observed in photographs provided by bail bonds agents and Deputy Ruiz. In addition, Sergeant McFadden identified Green as he exited room 215. Green entered the Camry and began driving forward into a walkway to the hotel. Deputy Martinez then activated his lights and sirens and approached Green's vehicle.

Deputies gave Green numerous commands to stop and show his hands to law enforcement. Green exited the vehicle and attempted to jump over the south fence to the hotel. Green ended up back on the ground, pulled out his gun from his waist area, said "fuck," and fired at deputies.

Deputy Martinez, afraid that Green would kill Deputy Martinez or his partners, returned fire. Based upon Deputy Martinez's knowledge that Green shot and killed a bail agent, and that he was armed with a firearm, Deputy Martinez was afraid that Green would shoot and kill deputies.

Deputy Martinez shot 8-10 rounds at Green. Green then fell to the ground. As Green fell, Deputy Martinez saw a second weapon fall to the ground. While Green was on the ground, deputies continued to give Green commands to show his hands.

SWAT team members arrived and subsequently took Green into custody.

SERGEANT JOSHUA SMITH⁵

On the date of this incident, Sergeant Smith had been employed by the San Bernardino County Sheriff's Department. He was assigned to the Specialized Enforcement SWAT team and team leader of squad two.

On December 5, 2019, at approximately 10:08 a.m., Sergeant Smith received a call from Sergeant McFadden with the Riverside County Sheriff's Department. Sergeant McFadden told Sergeant Smith that he needed assistance with surveillance and backup with a wanted murder suspect staying at the Days Inn, room 215, in San Bernardino.

Sergeant McFadden identified the suspect as Chad Green and stated that Green had shot and killed a bail bonds agent in Moreno Valley on December 3, 2019. After the murder, Green jumped out of a three-story window armed with at least one firearm.

Sergeant Smith was told by Sergeant McFadden that Green's whereabouts were received from [REDACTED] who stated he rented the room for Green and his girlfriend

⁵ On December 5, 2019, at roughly 7:30 p.m., Sergeant Joshua Smith was interviewed by Detective W.R. Flesher with the San Bernardino Police Department.

██████████. Sergeant Smith was told that Green was armed with a firearm and driving a white Toyota Corolla or Camry with fake license plates.

Sergeant McFadden forwarded the warrant flyer for Green. Sergeant Smith decided to send Deputy Ethan Nicassio, Deputy Patrick Rose, and Detective Josh Stone to initially help in the apprehension of Green. Deputy Omar Lastra and Deputy Rudy Delgado were sent to help the responding SWAT team. Sergeant Winegar also responded to the scene.

When Sergeant Smith arrived on scene, he made contact with Deputy Steven Martinez with the Riverside County Sheriff's Department. Deputy Martinez told Sergeant Smith that they were waiting for the SWAT team and other Riverside deputies to arrive on scene.

Sergeant Smith informed his team that they would be used as a tactical element in the apprehension of Chad Green and a soft tail if Green was to leave the motel prior to the arrival of the Riverside County Sheriff's SWAT team. Based upon the plan, Sergeant Smith assigned members of his squad team to the perimeter with Deputy Stone as the point.

Sergeant Smith was in radio broadcast with Detective Stone who stated that Green and a white female exited room 215 and were walking down the stairs towards the white Toyota Camry. Detective Stone then broadcasted that the suspect was backing out of the parking stall with the female standing outside of the vehicle. At that time, Sergeant Smith observed Riverside County undercover Sheriff's deputies converge on Green from the rear. Green exited his vehicle, attempted to flee westbound towards the south perimeter on foot, and attempted to climb the wrought iron fence.

Sergeant Smith and Deputy Nicassio were position in the parking lot adjacent to Green and began giving multiple commands to Green to "stop," "get on the ground," and to "drop the firearm." Green then fired at Deputy Nicassio, who returned fire.

Green then fell from the fence back to the Days Inn side and engaged fire with Riverside County Sheriff's deputies. Sergeant Smith then went to the Days Inn parking lot where he requested medical aid for Green.

DETECTIVE BRENTON RUIZ⁶

On the date of this incident, Detective Ruiz had been employed with the Riverside County Sheriff's Department and assigned to the Special Enforcement SWAT Team. Detective Ruiz had been designated the case agent for a murder of a bailbond agent that occurred on December 3, 2019. The suspect in that case was Chad Green. A Ramey warrant had been issued for Green's arrest.

⁶ On December 5, 2019, at approximately 3:25 p.m., Detective Ruiz was interviewed by Detective W.R. Flesher of the San Bernardino Police Department.

On December 5, 2019, Detective Ruiz spoke with Detective Franisk of the Riverside County Sheriff's Department. Detective Franisk told Detective Ruiz that he had received a telephone call that morning at approximately 8:13 a.m. from an individual claiming to know possible information on the whereabouts of suspect Chad Green. This individual was identified as [REDACTED].

Detective Ruiz called [REDACTED] on December 5, 2019, at approximately 8:15 a.m. [REDACTED] told Detective Ruiz that he had known Chad Green for a while and inquired about any reward being offered for information on Green's whereabouts. [REDACTED] told Detective Ruiz

that he had rented room 215 for Green at the Days Inn Motel in San Bernardino. [REDACTED] further stated that Green was driving a white Toyota Camry or Corolla with fake license plates and the scheduled checkout time was 11:00 a.m.

At that time, Detective Ruiz and his team members responded to the Days Inn located at 1909 South Business Center Drive in the city of San Bernardino. He arrived between 10:30 a.m. and 10:40 a.m. Team member Deputy Donnie Tsuchida was the first unit to arrive at the motel. Deputy Tsuchida located a white Toyota Camry. A records check was done on the license plates and returned "no record on file."

Detective Ruiz then went to the front desk of the Days Inn and confirmed room 215 was registered to [REDACTED]. Furthermore, the front desk advised that a female from room 215 had called and asked for a late checkout.

Detective Ruiz then walked to his unmarked vehicle and began preparing a search warrant. Detective Ruiz then went back to the Motel front desk to obtain a master key to room 215. While in the lobby, Detective Ruiz saw Deputy Tsuchida's vehicle rapidly move past the lobby and towards the east end of the complex. Detective Ruiz then heard a rapid volley of gunfire coming from the east end of the motel complex. At that time, Detective Ruiz realized he was not in communication with the rest of his team members because he had left his radio and callout vest in his vehicle. He then responded on foot to the scene of the shooting.

When he arrived, Detective Ruiz observed [REDACTED] [REDACTED] being detained by Deputy Tsuchida. Detective Ruiz recognized [REDACTED] as the same individual that was interviewed on December 3, 2019 in relation to the murder of the bail bonds agent. Detective Ruiz observed Green lying in a prone position. Detective Ruiz heard over twenty commands shouted to Green for Green to show officers his hands. Green was not responsive. Less lethal 40-millimeter baton impact bags were deployed at Green with no response. A K-9 dog was also deployed towards Green with no response. Green was ultimately detained at the scene.

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DEPUTY DONNIE TSUCHIDA⁷

On December 5, 2019, Deputy Tsuchida was employed with the Riverside County Sheriff's Department and assigned to the Special Enforcement SWAT team. On that date, at roughly 9:30 a.m., Deputy Tsuchida was contacted by Sergeant Jason McFadden and Detective Brenton Ruiz. Deputy Tsuchida was told that the detectives received information that Chad Green was a suspect in a murder of a bail bonds agent on December 3, 2019.

Detective Ruiz and Sergeant McFadden told Deputy Tsuchida that they received information that Green was staying at the Days Inn Motel located at 1909 South Business Center Drive in the City of San Bernardino. Deputy Tsuchida was also told that Green was driving a Toyota Camry or Corolla, white in color, with fake license plates.

Deputy Tsuchida was told to change into plain clothes, respond to the Days Inn, and attempt to locate Green's vehicle. Deputy Tsuchida then went to the location in an unmarked police vehicle. Upon arrival, Deputy Tsuchida located two white Toyota vehicles that matched the description of the vehicle Green was driving. Deputy Tsuchida then set up surveillance on both vehicles and observed one of the vehicles leave. The occupants of the departing vehicle did not match the physical description he was provided of Green.

Deputy Tsuchida continued surveillance on the second suspect vehicle. In addition, he conducted a vehicle inquiry check as to license plate 4GSY653, that was mounted on the white Toyota. The records check came back as "no record on file."

At that time, Deputy Tsuchida was told that Corporal Kaas had contacted motel management and confirmed that Green was associated with room 215. Deputy Tsuchida determined room 215 was located adjacent to the white Toyota vehicle that Deputy Tsuchida had been surveilling.

While continuing to conduct surveillance on room 215 and the white vehicle, the remaining SWAT team members began to establish a perimeter. Sergeant McFadden set up point with the white Toyota Camry and room 215. Deputy Tsuchida set up his position in the parking lot of a business west of Business Center Drive across from the south vehicle entrance of the Days Inn.

At that time, Deputy Tsuchida was alone in his silver Nissan Quest police vehicle and monitored radio traffic from deputies. Deputy Tsuchida then heard that Green and a female exited room 215. In response, Deputy Tsuchida drove into the Days Inn parking lot through the south vehicle entrance and immediately heard rapid gunfire and relayed a "shots fired" broadcast.

⁷ On December 5, 2019, at approximately 4:00 p.m., Deputy Tsuchida was interviewed with Detective W.R. Fleisher of the San Bernardino Police Department.

Deputy Tsuchida drove towards the area of the shooting and observed the female, later identified as [REDACTED] running from the location. He then detained [REDACTED].

Deputy Tsuchida did not fire his weapon.

DEPUTY RUDY DELGADO⁸

Deputy Delgado was employed as a Deputy Sheriff with the San Bernardino County Sheriff's Department and assigned to the SWAT detail. Deputy Delgado had been employed as a Deputy Sheriff for 15 years.

On December 5, 2019, Deputy Delgado attended a briefing by Sergeant Smith where Sergeant Smith informed the SWAT team that Riverside County Sheriff's Department was requesting assistance in the apprehension of a homicide suspect. This suspect was wanted for the murder of a bail bondman in Moreno Valley on December 3, 2019. Deputy Delgado was familiar with the suspect, Chad Green, from a team email he received the night before. This information included a photograph of Green.

Deputy Delgado and his team of six officers responded to the Days Inn. Deputy Delgado arrived and parked across the street from the Days Inn. This location was in the rear parking lot of the Stuart Anderson's Black Angus restaurant. Deputy Delgado was in direct eyesight of Deputy Nicassio and was relaying information to Deputy Nicassio on when Riverside County deputies moved in on the suspect. The team received updates from Deputy Rose with snapshots of the suspect's motel room and its location.

Once the suspect was seen exiting the motel room, Deputy Delgado repositioned himself across the street and stopped west of the three-foot wide alley way behind the Days Inn. Deputy Delgado stated he then heard gunfire and could not see anything from his position.

Deputy Delgado then exited his vehicle and heard over the radio that Riverside County deputies were involved in a gunfight. Deputy Delgado heard gunfire coming from the location believed to be where the suspect was located. Deputy Delgado heard volleys of gunfire.

Deputy Delgado arrived at the shooting location and saw a female being handcuffed. He was then radioed to return to the front of the motel. Deputy Delgado did not fire his weapon.

⁸ On December 5, 2019, at approximately 4:10 p.m., Deputy Rudy Delgado was interviewed by Detective Siems of the San Bernardino Police Department.

DEPUTY PATRICK ROSE⁹

On December 5, 2019, Deputy Patrick Rose was on duty and employed with the San Bernardino County Sheriff's Department, assigned to the Specialized Enforcement SWAT team. As of that date, Deputy Rose had been employed as a peace officer for over 10 years.

On December 5, 2019, Deputy Rose attended a briefing held by Sergeant Smith and was informed that Riverside County Sheriff's Department needed assistance in the apprehension of a suspect involved in the murder of a bail bondsman in Moreno Valley. Deputy Rose received a news story along with a photograph of the suspect, Chad Green.

Deputy Rose and his team responded to the Days Inn Motel in the city of San Bernardino. The team was informed by Riverside County Sheriff's that Green was believed to be inside room 215. He was also informed that there may be a female inside of the room as well. Deputy Rose was assigned to surveillance of room 215 and to get a visual of Green. Deputy Rose parked his vehicle about 40 yards north of room 215 at the Days Inn.

At roughly 11:30 a.m., Deputy Rose observed Green exit room 215 in a black sweater, accompanied by a female with blonde hair. Deputy Rose watched the two go down the stairs and Green enter a white Toyota. As this was occurring, Deputy Rose broadcasted his observation to his team.

At that point, Deputy Rose observed a black SUV, with its red lights and sirens activated, drive up and stop behind the white Toyota. Following the SUV was a smaller silver SUV which stopped next to the black SUV. Deputy Rose then saw plain-clothed officers exit the vehicles and begin making verbal commands to Green in the white Toyota.

Green then attempted to drive the white Toyota forward. Deputy Rose then saw Green exit the vehicle and look back at Riverside deputies while holding his waistband with his right hand. Green then ran westbound. Deputy Rose began to put on his tactical vest when he heard roughly 15 rounds of gunfire. He did not see who was shooting but saw Riverside deputies taking cover behind their SUVs.

Deputy Rose then drove to the location of the shooting, got out of his vehicle, and took cover behind the passenger side of the white Toyota. While there, Deputy Rose heard the Riverside County Sheriff's deputies giving Green commands to show his hands. Deputy Rose saw what he believed was a black Baretta style handgun on the ground next to Green.

⁹ On December 5, 2019, at approximately 5:00 p.m., Deputy Patrick Rose was interviewed by Detective Siems of the San Bernardino Police Department.

Deputy Rose then saw additional Riverside County Sheriff's deputies arriving on scene. Deputy Rose then moved his vehicle and made contact with Sergeant Smith.

Deputy Rose did not fire a weapon during this incident.

DEPUTY JOSH STONE¹⁰

On December 5, 2019, Deputy Josh Stone was employed by the San Bernardino County Sheriff's Department and was assigned to the Specialized Enforcement SWAT team. Deputy Stone had been employed as a deputy sheriff for approximately 10 years.

Deputy Stone was on duty on December 5, 2019, wearing a t-shirt and jeans. He was told that morning by his sergeant that Riverside County Sheriff's Department was investigating a homicide that occurred on December 3, 2019 in Riverside's jurisdiction.

Deputy Stone was not aware as to how Riverside deputies obtained the murder suspect's location. He was told the suspect was at the Days Inn Motel in San Bernardino. Furthermore, Deputy Stone was told that Riverside County Sheriff's Department needed additional deputies to assist at the Days Inn until additional units could arrive.

Deputy Stone was told to get dressed and that Sergeant Smith would fill the team in as they travelled to the Days Inn Motel. Deputy Stone put on his tactical vest, his gun belt, and took his M4 rifle with him in the front seat of his unmarked vehicle. Deputy Stone and his team were provided all of the suspect's information by Riverside County deputies prior to their arrival at the Days Inn. The information received included pictures of the suspect as well as his name, Chad Green.

Upon arrival, Deputy Stone was given the duty of making notifications to aviation and to the San Bernardino Police Department. He was also supposed to run plates for the person on point and create the surveillance call and put his team on it. Furthermore, Deputy Stone's team had two plans consisting of a medical plan and a perimeter plan to prevent the suspect from fleeing.

Deputy Stone was informed through his Sergeant that the suspect was located in room 215 and was associated with a white Toyota Camry that was parked in the complex. Deputy Stone's team had a point man inside of the complex relaying information via radio. The point man provided play by play information to Deputy Stone and his team. Deputy Stone was on the phone with aviation, providing updates regarding the apprehension of the suspect.

The team's point man then advised that Green and a female were leaving room 215 and walking towards the white Toyota Camry. Deputy Stone then drove towards the white

¹⁰ On December 5, 2019, at approximately 4:15 p.m., Deputy Josh Stone was interviewed by Detective B. Lewis of the San Bernardino Police Department.

vehicle when he heard gunshots. Deputy Stone got out of his vehicle and took cover while hearing additional gunfire. Thereafter, Deputy Stone observed three Riverside County Sheriff's deputies toward the rear of the white Toyota Camry, using the vehicle as cover. Deputy Stone proceeded toward the location of the shooting and was told to take the female into custody. Deputy Stone took the female, later identified as [REDACTED], and placed her in the rear seat of his unmarked vehicle. Deputy Stone secured [REDACTED] until San Bernardino Police took possession of [REDACTED].

Deputy Stone did not fire his weapon.

DEPUTY LASTRA¹¹

On December 5, 2019, Deputy Lastra was employed as a Deputy Sheriff for the San Bernardino County Sheriff's Department. Deputy Lastra had been a sworn peace officer for 14 years and was assigned to the Specialized Enforcement SWAT team.

On that date, Deputy Lastra was on duty and wearing jeans, a t-shirt, and a tactical vest. Deputy Lastra was armed with a M4 rifle as his primary weapon and a Kimber 1911 handgun as a secondary weapon.

Sergeant Smith contact Deputy Lastra on December 5, 2019 and told Deputy Lastra that he had received a phone call from Riverside County Sheriff's Department. Riverside County Sheriff's Department requested assistance in the apprehension of a wanted murder suspect involved in a murder in Moreno Valley on December 3, 2019.

The suspect was tracked to the Days Inn Motel in San Bernardino. Riverside County Sheriff's Department asked that San Bernardino County Sheriff's Department provide surveillance and potential takedown of the suspect.

Deputy Lastra and his team received a text message containing a picture, the make and model of the suspect vehicle, and the name of Chad Green. The team was further advised over the radio that Green was deemed armed and dangerous and was with a blonde female in room number 215.

Upon responding to the Days Inn, Sergeant Smith determined a game plan for the team which included establishing a perimeter at the location. Deputy Lastra's main objective was to provide cover to the east side of the motel property and the wash east of the property. Deputy Lastra set up roughly 50 yards east of the suspect vehicle.

At roughly 11:30 a.m., it was advised via radio that one of the deputies had visual contact with Green as Green exited room 215. Green and the female walked to the white Camry. Green got into the vehicle and Deputy Lastra immediately heard sirens. A Riverside County Sheriff's Department vehicle pinned Green's vehicle in. Green

¹¹ On December 5, 2019, at approximately 4:49 p.m., Deputy Omar Lastra was interviewed by Detective B. Lewis of the San Bernardino Police Department.

attempted to drive forward then got out of the vehicle. Green then climbed a wrought iron fence. Deputies were giving Green commands of "Sheriff's Department don't move." When Green reached the top of the fence, it appeared his jacket got caught. At that time, Deputy Lastra saw Green with a black handgun in his right hand.

Deputy Lastra then saw Green point a black handgun in a south direction. Lastra later realized his team member, Deputy Nicassio, was to the south of Green. At that time, Deputy Lastra heard gunshots and saw Green fall off the gate. Green got up and pointed the handgun at Riverside County Sheriff's deputies. Deputies then fired at Green.

Deputy Lastra said that there were two different volleys of gunshots. Deputy Lastra said that when he saw Green pull out a gun in his hand, he did not see if the suspect actually fired but he did hear a shot and then heard multiple shots. Green was ultimately apprehended. Deputy Lastra did not fire any weapons during this incident.

DEPUTY GREG DITFURTH¹²

On December 5, 2019, Deputy Greg Ditfurth was employed with the San Bernardino County Sheriff's Department and assigned to the aviation unit. Deputy Ditfurth had been a police officer for over 20 years.

On that date, Deputy Ditfurth was informed by the Specialized Enforcement Division that they were conducting surveillance in the area of the Hospitality Lane and Waterman Avenue and requested assistance from the aviation unit. Deputy Ditfurth was provided information on Chad Green as well as the vehicle he was believed to be using.

The Specialized Enforcement Division asked Deputy Ditfurth to stay out of the area. As a result, Deputy Ditfurth and his pilot, Sergeant Anderson remained in the Loma Linda, California area. Deputy Ditfurth monitored the radio broadcasts. After hearing radio broadcast that shot had been fired, Deputy Ditfurth and Sergeant Anderson responded to the location and assisted by broadcasting radio traffic and making PA (public announcements) to Riverside Sheriff's Department units on scene.

Deputy Ditfurth observed the suspect, Chad Green, was on the ground face down a few feet from the suspect vehicle. Deputy Ditfurth then gave commands over public announcement for Green to show his hands. Deputy Ditfurth did not observe any use of force.

Deputy Ditfurth did not fire a weapon during this incident.

¹² On January 16, 2020, at approximately 8:36 a.m., Deputy Greg Ditfurth was interviewed by Detective Reyna of the San Bernardino Police Department.

SERGEANT JON ANDERSON¹³

On December 5, 2019, Sergeant Jon Anderson was employed with the San Bernardino County Sheriff's Department and assigned to the aviation unit. Sergeant Anderson had been a police officer for over 16 years.

On that date, Sergeant Anderson was piloting the helicopter and his partner, Deputy Ditfurth, was sitting in the passenger seat. During the morning hours, Sergeant Anderson was informed by the Specialized Enforcement Division that they were conducting surveillance in the area of the Hospitality Lane and Waterman Avenue and requested assistance from the aviation unit.

When Sergeant Anderson heard on the radio that shots were fired, he responded to the location. Upon arriving, Sergeant Anderson observed units to the southeast portion of the complex. He did not see Green because Sergeant Anderson was piloting the helicopter. Sergeant Anderson heard Deputy Ditfurth give commands over the public announcement system for Green to show his hands. Sergeant Anderson did not observe any further details but heard through radio broadcast that Green was apprehended.

Sergeant Anderson did not fire a weapon during this incident.

DEPUTY JAMES RAY¹⁴

On December 5, 2019, Deputy James Ray was on duty and employed by the Riverside County Sheriff's Department. Deputy Ray was assigned as a K-9 handler.

On that date, Deputy Ray was informed by Sergeant Reyes that Riverside County SED team had located a wanted suspect for the murder of a bail bondsman in Moreno Valley. The suspect was believed to be at the Days Inn Motel in San Bernardino. The suspect was identified as Chad Green.

Deputy Ray was directed to respond to the area and to contact the SED team. When Deputy Ray responded, the shooting had already occurred. When Deputy Ray arrived at the location, he was informed of the circumstances of the suspect and told to take position along the south fence line with other members of the SWAT team. From his position, Deputy Ray could see the suspect and heard other deputies giving the suspect commands. He saw the suspect's left hand was under his body, but his left shoulder was moving as if he was trying to manipulate something beneath him. Deputies continued to give the suspect commands, but the suspect was not complying. At one

¹³ On January 28, 2020, at approximately 10:30 a.m., Sergeant Jon Anderson was interviewed by Detective Reyna of the San Bernardino Police Department.

¹⁴ On December 11, 2019, at approximately 2:30 p.m., Deputy James Ray was interviewed by Detective Cunningham of the San Bernardino Police Department.

point the suspect looked up and around as if he was trying to see which deputies were going to take him into custody.

After additional commands were given to the suspect, a flash bang was deployed but ineffective. More commands were given without success and two 40-millimeter rubber baton rounds were deployed. Those rounds were ineffective as well.

At that time, Deputy Ray was ordered by Sergeant Walsh to deploy the K-9. Deputy Ray gave the suspect commands to show his hands. Furthermore, Deputy Ray told the suspect that he may get bit by the K-9 and to comply with commands. The suspect did not respond, and the K-9 was deployed. The K-9 took hold of the suspect's head and pulled the suspect towards Deputy Ray. As the suspect was being pulled, deputies observed an additional firearm underneath the suspect. The K-9 was called back and redeployed to see if the K-9 could dislodge the suspect's left arm from underneath him. This was ineffective. The K-9 was then called off.

██████████¹⁵

██████████ stayed at the Days Inn Motel, room number 215, on December 4 through December 5, 2019 with her boyfriend, Chad Green. The two arrived at the motel on December 4, 2019, and only stayed the one night.

██████████ stated that the room was not in her name and that it was rented by her friend's father. She did not know this individual's last name. ██████████ had the room rented for her and Green because ██████████ identification was taken from her purse on December 3, 2019, by police.

██████████ stated that on December 3, 2019, she and her boyfriend were staying at the Xola Motel in the city of Moreno Valley. Green shot and killed somebody that day and ran from the scene. ██████████ remained in the motel room and locked herself in the bathroom.

██████████ was able to check her phone messages by using another individual's phone. Upon checking her messages, she saw a number she did not recognize and called it. Green answered. She told Green he had killed someone, and Green responded "yeah, I know." ██████████ then reconnected with Green in hopes that she could get Green to turn himself in. Instead, upon reconnecting with Green, Green wanted ██████████ to leave the state with him.

██████████ had known Green to always carry at least one firearm on his person because he was always on the run. ██████████ believed Green to have carried two firearms on the night of December 3, 2019. ██████████ further stated that she and Green were

¹⁵ On December 5, 2019, at approximately 2:59 p.m., ██████████ was interviewed by Detective B. Lewis of the San Bernardino Police Department.

methamphetamine users but that they did not use any the night before the shooting on December 5, 2019.

When asked if [REDACTED] had seen Green with any firearms, she said yes, he had at least one. She said she had only seen Green with one firearm on December 5, 2019. It was black in color and had a wood handle.

On the morning of December 5, 2019, the two woke up at around 9:30 a.m. Green wanted to leave immediately but [REDACTED] requested they stay for a bit. [REDACTED] then called the front desk and asked for a late checkout. During that time, Green remained paranoid and continued to check through the peephole.

The two then went downstairs to leave. Green grabbed his firearm. [REDACTED] stated Green probably had the firearm in his waistband because that is where he usually kept it. As the two approached the white vehicle she saw another vehicle had parked very close to the passenger side of Green's vehicle. She was not able to get into the passenger side of the car.

Green got into the vehicle and [REDACTED] waited for him to back the vehicle up so she could get into the front passenger seat. As Green backed up, an SUV pulled up on them with a siren on. She said she screamed because the siren scared her. She began to run when Green pulled the vehicle forward, almost striking the motel wall.

Green got out of the white vehicle and tried to jump the perimeter fence. She heard deputies give Green commands to "get down." Green then jumped off the fence and reached for his waistband area. Shortly after that she heard approximately 10 gunshots. She believed the gunshots sounded like they came from different caliber weapons but was unsure. She assumed Green had shot at law enforcement or provoked them in some way. Green was standing roughly 10 feet from law enforcement when the shots were fired.

At that point, she began to run again, but was met by another officer who ordered her to the ground.

[REDACTED]¹⁶

On December 5, 2019, [REDACTED] was employed by [REDACTED] and was working on the property of the Days Inn Motel. While standing on the east side of the property near a green trash can, he observed unmarked police vehicles pulling up as a white female adult attempted to get into a white Toyota.

[REDACTED] observed two or three officers exiting the unmarked Toyota Highlander and heard the officers yelling at the suspect to "stop." [REDACTED] then saw the suspect exit

¹⁶ On December 5, 2019, at approximately 1:48 p.m., [REDACTED] was interviewed by Detective Campos of the San Bernardino Police Department.

the white Toyota and left the vehicle in drive. The vehicle struck the building. The suspect fled on foot. It was at that time that [REDACTED] heard gunshots and he took cover behind a vehicle.

All of the officers had identifiable police gear at the time of the incident. [REDACTED] stated he heard approximately 20 gunshots.

[REDACTED]¹⁷

On December 5, 2019, [REDACTED] was performing landscaping duties at the Days Inn Motel in San Bernardino, California. [REDACTED] observed a white male and female walking out from their room which he stated was upstairs.

When the white male exited his room, he looked in [REDACTED] direction with an angry face. The white male entered a vehicle parked on the east side of the building and began to back up the vehicle.

At that time, two vehicles drove up and blocked the white male's vehicle in. The white male then exited his vehicle while the vehicle was still moving. The white male then ran towards a gate and tried to jump over the gate.

At that time, [REDACTED] heard approximately 15 rounds being fired and heard the police giving verbal commands to the white male. [REDACTED] could not make out what the police were saying.

[REDACTED]¹⁸

On December 5, 2019, [REDACTED] was working in a high-rise cell phone tower machine. He was in the machine with his partner [REDACTED]. At one point, he saw approximately six officers with AR-15 rifles. [REDACTED] also stated he saw a K-9 officer make entry into a room upstairs. [REDACTED] observed a flash bang near a white car and heard officers yelling "get down, get out of the car."

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¹⁷ On December 5, 2019, [REDACTED] was interviewed by Detective Plummer of the San Bernardino Police Department.

¹⁸ On December 6, 2019, [REDACTED] was interviewed by Detective Plummer of the San Bernardino Police Department.

████████████████████¹⁹

On December 5, 2019, ██████████ was working in a high-rise cell phone tower machine. He was in the machine with his partner ██████████. At one point, he heard sirens and observed a blonde white female being handcuffed by officers. ██████████ heard officers yell something towards the suspect and he heard roughly 10 gunshots. He then left the area when officers told him it was safe.

████████████████████²⁰

On December 5, 2019, at roughly 10:00 a.m., ██████████ was in the parking lot of the Days Inn Motel when she saw a white female adult with blond hair standing near room 215. Stephen stated that the door to room 215 was open and the female appeared to be “high.” ██████████ then walked into her room, room 217.

After about 15 minutes, ██████████ heard gunshots. Prior to the gunshots, ██████████ heard yelling in the parking lot. She looked out of the east window to her room and saw several police officers walking back and forth between their vehicles. ██████████ heard gunshots on two separate occasions but did not witness the shooting.

Belt Recording²¹

DEPUTY GAETANO NICASSIO

Deputy Nicassio had a belt recording initiated prior to the shooting incident. At 9 minutes and thirty-seven seconds, a broadcast is heard about subjects heading toward the white sedan. The male was backing up the sedan; the female was not in the vehicle. At 10 minutes and 6 seconds the sirens could be heard in background. Someone broadcasted that the subject was on foot. At 10 minutes and 15 seconds, Deputy Nicassio could be heard saying “get down, let me see your hands”. Rapid fire from numerous different firearms could then be heard. Deputy Nicassio is then heard saying, “Let them know they have a unit south of them” and he did not want them to shoot him (Deputy Nicassio). Someone broadcasted that the suspect had both hands underneath his waist. A flashing went off. Suspect still had his hands underneath him. Deputy Nicassio then broadcasted that he (suspect Chad Green) had shot at him (Deputy Nicassio). The deputy is heard ordering people back inside. Someone broadcasted that there was no response from suspect and that the K-9 was there. There was a broadcast that someone was going to

¹⁹ On December 6, 2019, ██████████ was interviewed by Detective Plummer of the San Bernardino Police Department.

²⁰ On December 5, 2019, at approximately 4:30 p.m., ██████████ was interviewed by Detective Campos of the San Bernardino Police Department.

²¹ The belt recording of Deputy Nicassio was reviewed in its entirety. What follows are summaries of the relevant information. Deputy Nicassio was the only involved law enforcement officer who had a belt recording.

clear the room. Then a broadcast that they were launching the 40 mm. At 18 minutes 24 seconds, a loud band could be heard. Someone then broadcasted that the subject was not moving. The recording was approximately 20 minutes and 13 seconds long.

Green's Weapons²²

A black 9mm, Browning Arms Company, semi-automatic pistol with a laser sight, with serial number 245NX64045, was under Green's body as he was rolled over by law enforcement. This firearm had suspected blood stains. The magazine was a black metal magazine. The magazine contained one cartridge loaded in the chamber and seven hollow point bullets stamped FC 9mm Luger in the magazine.

There was a black handgun, Beretta semi-automatic pistol, 92FS, serial #A1670997 located in the dirt between the subject and the wrought iron fence. The firearm was in a black canvas holster.

There was a 9mm fired cartridge casing in the dirt area between Green and the black wrought iron fence. There was another 9mm fired cartridge casing located on the sidewalk just west of Green's feet. This fired cartridge casing was in blood that had pooled from Green's injuries. Both of the fired cartridge casings are consistent with having been fired from the Browning 9mm pistol.

De-escalation

When Green exited the hotel room and entered into his vehicle, the deputies did use their lights and sirens to stop Green from leaving. At that point, Green clearly knew they were law enforcement officers. Green then foot bailed and ran toward a fence while holding what appeared to the deputies to be a dark object in his hand. The deputies shouted commands for Green to get down on the ground. Green did not comply with the commands and continued to run toward the fence. Green then jumped up on the fence, still with the dark object in his hand. The deputies continued to give commands and Green continued to not comply with the commands. Green then dropped down from the fence and raised his hand with the dark colored object in it. Green pointed the dark object at the deputies and fired two rounds at the deputies. The deputies then returned fired. There was no further time for de-escalation based on Green's decision to shoot at the deputies.

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²² In addition to the firearms located near Green, there was also a firearm later discovered in the white 2014 Toyota Camry, however, that firearm (a black powder revolver, serial #D69905) was in a wood display case.

Autopsy

An autopsy was conducted by a Riverside County pathologist. The doctor found several gunshot wounds to Green's body. All of the bullet fragments found by the pathologist appeared to match .223 rounds. The cause of death was determined to be a result of multiple gunshot wounds.

Gunshot wound #1:

Entrance to the right lateral torso; exit to left anterior/lateral torso. The trajectory impacted ribs 10, 11 and 12 on the right. It produced a defect to the right lobe of the liver and impacted the right kidney and the small intestine.

Gunshot wound #2:

Entrance right thigh and impacted upon the right femur. A small rifle bullet was recovered that is consistent with a .223.

Gunshot wound #3:

Entrance to posterior of left thigh, gunshot wound; impacting the left femur. Projectile travelled back-to-front and slightly lateral; it is presumed that deflection has occurred. A small deformed rifle bullet is recovered, consistent with a .223.

Gunshot wound #4:

Entrance to left hip region; projectile travels primarily front-to-back, downward and slightly left-to-right. A deformed small rifle projectile is recovered, consistent with a .223.

Gunshot wound #5:

Entrance to left back region; no exit wound associated. The projectile skims along the musculature and soft tissue; right-to-left, downward, and minimally from back-to-front. A small rifle projectile is recovered.

Gunshot wound #6:

Entrance to left calf; projectile involves skin and musculature of the calf region, impacting upon the tibia, resulting in extensive fracture. The projectile becomes extremely fragmented with no evidentiary material remaining. Trajectory was back-to-front and slight upward, but may possibly be deflected, secondary to impacting the tibia. No projectile fragments are recovered.

All of the bullet fragments found by the pathologist appeared to match .223 rounds. The cause of death was determined to be a result of multiple gunshot wounds.

Cause of death was determined to be multiple gunshot wounds.

Toxicology results of blood test:

Ethyl alcohol: 0.014%

Amphetamines:

Methamphetamine 8.820 mg/L

Amphetamine 0.282 mg/L

APPLICABLE LAW

Assault with a Deadly Weapon, Penal Code section 245(a)

An assault pursuant to Penal Code section 245(a) requires

1. The defendant did an act with a firearm that by its nature would directly and probably result in the application of force to a person;
2. The defendant did that act willfully;
3. When the defendant acted, he was aware of facts that would lead a reasonable person to realize that his act by its nature would directly and probably result in the application of force to someone; and,
4. When the defendant acted, he had the present ability to apply force with a firearm to a person.

Someone commits an act willfully when he or she does it willingly or on purpose. It is not required that he or she intend to break the law, hurt someone else, or gain any advantage.

Voluntary intoxication is not a defense to assault.

(CALCRIM No. 875 (New January 2006; Revised June 2007, August 2009, October 2010, February 2012, February 2013, August 2013)).

Penal Code section 245 (a) requires only “the general intent to willfully commit an act, the direct, natural and probable consequences of which if successfully completed would be the injury of another.” (*People v. Rocha* (1971) 3 Cal.3d 893, 899; similarly, see *People v. Colantuono* (1994) 7 Cal.4th 206, 214.)

[W]e hold that assault does not require a specific intent to cause injury or a subjective awareness of the risk that an injury might occur. Rather, assault only requires an intentional act and actual knowledge of those facts sufficient to

establish that the act by its nature will probably and directly result in the application of physical force against another.

(*People v. Williams* (2001) 26 Cal.4th 779, 790; see also *People v. Golde* (2008) 163 Cal.App.4th 101, 108.)

Law of Self-Defense

The legal doctrine of self-defense is codified in Penal Code Sections 197 through 199. Those sections state in pertinent part: “Homicide is justifiable when committed by any person in any of the following cases: (1) When resisting any attempt to murder any person, or to commit a felony, or to do some great bodily injury upon any person...(4) When necessarily committed in attempting, by lawful ways and means, to apprehend any person for any felony committed,...or in lawfully keeping and preserving the peace.” Lawful resistance to the commission of a public offense may be made by the party about to be injured. (Pen. Code §692.) The resistance may be sufficient to prevent injury to the party about to be injured, or the prevent injury to someone else. (Pen. Code §693.)

Where from the nature of an attack a person, as a reasonable person, is justified in believing that his assailant intends to commit a felony upon him, he has a right in defense of his person to use all force necessary to repel the assault; he is not bound to retreat but may stand his ground; and he has a right in defense of his person to repel the assault upon him even to taking the life of his adversary. (*People v. Collins* (1961) 189 Cal.App. 2d 575, 588.)

Justification does not depend on the existence of actual danger but rather depends upon appearances; it is sufficient that the circumstances be such that a reasonable person would be placed in fear for his safety and the person act out of that fear. (*People v. Clark* (1982) 130 Cal.App.3d 371, 377.) “He may act upon such appearances with safety; and if without fault or carelessness he is misled concerning them and defends himself correctly according to what he supposes the facts to be, his act is justifiable, though the facts were in truth otherwise, and though he was mistaken in his judgment as to such actual necessity at such time and really had no occasion for the use of extreme measures.” (*People v. Collins, supra*, 189 Cal.App.2d at p. 588.)

Self-Defense or Defense of Another

Self-defense is a defense to the unlawful killing of a human being. A person is not guilty of that/those crimes if he/she used force against the other person in lawful self-defense or defense of another. A person acts in lawful self-defense or defense of another if:

1. The person reasonably believed that he/she or someone else was in imminent danger of suffering bodily injury or was in imminent danger of being touched unlawfully;
2. The person reasonably believed that the immediate use of force was necessary to defend against that danger; AND
3. The person used no more force than was reasonably necessary to defend against that danger.

When deciding whether a person's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the person and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the person's beliefs were reasonable, the danger does not need to have actually existed.

The person's belief that he/she or someone else was threatened may be reasonable even if he/she relied on information that was not true. However, the person must actually and reasonably have believed that the information was true.

A person is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger of death/bodily injury has passed. This is so even if safety could have been achieved by retreating.

(CALCRIM 3470 (REVISED 2012)).

USE OF DEADLY FORCE BY A PEACE OFFICER

The use of deadly force is analyzed under the Fourth Amendment's "*objective reasonableness*" standard. (*Brosseau v. Haugen* (2004) 543 U.S.194, 197.) This question is governed by the principles enunciated in *Tennessee v. Garner* (1985) 471 U.S. 1 and *Graham v. Connor* (1989) 490 U.S. 386.

In these decisions, the US Supreme Court explained "it is unreasonable for an officer to 'seize an unarmed, non-dangerous suspect by shooting him dead..... However, where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or others, it is not constitutionally unreasonable to prevent escape by using deadly force.'" (*Tennessee v. Garner, supra*, 471 U.S. at p. 11.)

Reasonableness is an objective analysis and must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. (*Graham v. Conner, supra*, 490 U.S. at p. 396.) It is also highly deferential to the police officer's need to protect himself and others. 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. (*Id.* at p. 396-397.) The question is whether the officer's actions are "objectively reasonable" considering the facts and circumstances confronting them, without regard to their underlying intent or motivation. (*Id.* at p. 397.)

The US Supreme Court in *Graham* set forth factors that should be considered in determining reasonableness: (1) the severity of the crime at issue, (2) whether the suspect poses an immediate threat to the safety of the officers or others, and (3) whether he is actively resisting arrest or attempting to evade arrest by flight. (*Graham v. Connor, supra*, 490 U.S. at p. 396.) The question is whether the totality of the circumstances justifies a particular sort of ... seizure. (*Tennessee v. Garner* (1985) 471 U.S. at p. 8-9. The most important of these factors is the threat posed by the suspect. (*Smith v. City of Hemet* (2005) 394 F.3d 689,702.)

Thus, under *Graham*, the high court advised 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." (*Smith v. Freland* (1992) 954 F.2d 343, 347.)

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)²³ Should an arresting officer encounter resistance, actual or threatened, he need not retreat from his effort and maintains his right to self-defense. (*Id.*) An officer may use objectively reasonable force to effect an arrest, prevent escape or overcome resistance. (Penal Code *Id.*)

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.)

²³ All references to code sections here pertain to the California Penal Code, as they existed at the time of the incident. Significant modifications were made to sections 196 and 835a pursuant to Assembly Bill 392. (Assem. Bill No. 392 (2018-2019 Reg. Sess.) as Chaptered on August 19, 2019.) However, those modifications became effective on January 1, 2020 and do not apply retroactively.

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. At the time of this incident, Penal Code §196 stated that homicide by a public officer was justifiable when “necessarily committed in overcoming actual resistance to the execution of some legal process, or in the discharge of any other legal duty.”

PENAL CODE SECTION 197. California law permits *all persons* to use deadly force to protect themselves from the imminent threat of death or great bodily injury. Penal Code 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.)

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.)

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-involved incident, this standard does not morph into a “reasonable police officer” standard. (*People v. Mehserle* (2012) 206 Cal.App.4th 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.*)

Whether the suspect posed an immediate threat to the safety of the officer or others has been touted as the “most important” *Graham* factor. (*Mattos v. Agarano* (9th Cir. 2011) 661 F.3d 433, 441-442.) 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* (9th 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.)

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.4th 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.4th 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.4th 1077, 1109, citing *Graham v. Connor, [supra]* 490 U.S. 386, 396.)

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ANALYSIS

Green was identified as a suspect for the murder that occurred in Moreno Valley, Riverside County on December 3, 2019. On December 5, 2019, law enforcement had information indicating that Green could be located at Days Inn in San Bernardino city. An apprehension team from San Bernardino County Sheriff's Department arrived at Days Inn to contain and prevent Green from leaving the area until the Riverside County Sheriff's Department SWAT team arrived. Prior to the arrival of the SWAT team, Green attempted to leave and officer involved shooting occurred.

Deputy Nicassio's use of deadly force was justified. Deputy Nicassio was on the opposite side of the fence from Green but heard the sirens and then the commands for Green to get off of the fence. Deputy Nicassio saw Green get down from the fence and he saw Green's right hand start to come up. Deputy Nicassio then heard a gunshot and believed Green was firing at him. Deputy Nicassio was afraid for his life and returned fire. It was later determined that Green did in fact fire two rounds from his firearm.

Sergeant McFadden's use of deadly force was justified. Law enforcement stopped Green from leaving in his vehicle. When Green fled on foot, commands were given to him to show his hands. Green did not comply and continued to run. Sergeant McFadden saw Green reach into his pockets and then jump onto a fence. Green got back down and walked toward Sergeant McFadden, Deputy Martinez, and Corporal Kaas. Despite commands being given to Green, Green did not comply and instead reached down and removed a gun from his waistband area, pointed it at the deputies. In fear for his and his deputies' lives, Sergeant McFadden fired at Green. Sergeant McFadden also ducked down and flinched due to gunfire he believed was coming from Green. Sergeant McFadden was only seven feet away from Green at the time of the shooting.

Corporal Kaas' use of deadly force was justified. Corporal Kaas saw Green fail to comply with commands and after Green jumped back off of the fence, Kaas heard Green say, "fuck it" and saw Green remove a gun from his waistband/sweatshirt pocket area. Green then fired a shot at Kaas. Corporal Kaas felt something hit his elbow and in fear for his safety, he returned fire. Corporal Kaas saw that Green was able to fire a second shot at deputies before Green was struck and fell to the ground.

Deputy Martinez's use of deadly force was justified. After law enforcement gave Green numerous commands, and after Green ran, attempting to get over the fence, Green pulled out his gun from waist area. Deputy Martinez heard Green say "Fuck" and then saw Green fire at the deputies. Deputy Martinez was afraid Green would kill him or his partners so he returned fire.

The use of deadly force by Deputy Nicassio, Sergeant McFadden, Corporal Kaas, and Deputy Martinez was justified. Each deputy was presented with a volatile and

dangerous situation as they attempted to apprehend a suspect that they knew was wanted for murder.

Green refused to comply with commands and when his attempt to flee on foot failed, Green made the decision to willingly fire his weapon putting the health and safety of others at risk. With those facts, each deputy acted under an honest and objectively reasonable belief that lethal force was necessary to avoid what appeared to be an imminent threat of death or great bodily injury.

CONCLUSION

Based on the information provided and the applicable law, Deputy Nicassio's use of lethal force was a proper exercise of his right of self-defense and defense-of-others and therefore, his use of force was legally justified.

Based on the information provided and the applicable law, Sergeant McFadden's use of lethal force was a proper exercise of his right of self-defense and defense-of-others and therefore, his use of force was legally justified.

Based on the information provided and the applicable law, Corporal Kaas' use of lethal force was a proper exercise of his right of self-defense and defense-of-others and therefore, his use of force was legally justified.

Based on the information provided and the applicable law, Deputy Martinez' use of lethal force was a proper exercise of his right of self-defense and defense-of-others and therefore, his use of force was legally justified.

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