



PUBLIC RELEASE MEMORANDUM

SUBJECT: Officer Involved Shooting (Fatal)

Officers: Sergeant Ernesto Luna
San Bernardino Police Department

Detective Jason Stack
San Bernardino Police Department

Officer Jordan Robison
San Bernardino Police Department

Officer Christopher Shipley
San Bernardino Police Department

Involved Subject: Ervin Olikong (Deceased)
Date of Birth 1/8/1987
San Bernardino, CA

Date of Incident: August 18, 2021

Incident location: Rosemary Drive and Victoria Avenue
Highland, CA

DA STAR #: 2022-26500

Investigating Agency: San Bernardino County Sheriff's Department

Case Agent: Detective Mauricio Rivas

Report Number#: DR # 132103302 / H # 2021-105

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PREAMBLE

This was a fatal officer involved shooting with officers from the San Bernardino Police Department (SBPD). The shooting was investigated by the San Bernardino County Sheriff's Department. This factual summary is based on a thorough review of all the investigative reports, photographs, video and audio recordings submitted by the San Bernardino County Sheriff's Department, DR# 132103302, H#2021-105. This summary is also based on a thorough review of all the investigative reports, photographs, video and audio recordings of a prior related incident investigated by Det. William Flesher of SBPD, DR#2021-0093680.

FACTUAL SUMMARY

On August 17, 2021, at approximately 4:14 in the afternoon, San Bernardino County Sheriff's Department Deputy Carlos Velasco was assigned to patrol in the unincorporated county portion of San Bernardino for the Central Division. Deputy Velasco initiated a traffic stop on a white BMW for illegal window tint near the intersection of Waterman Avenue and 10th Street, in San Bernardino. Deputy Velasco conducted a records' check on the BMW just prior to broadcasting his traffic stop over the radio.¹ The vehicle failed to yield and travelled east on Olive Street. Deputy Velasco broadcasted the failure to yield, and the suspect vehicle turned south on Bobbett Drive.

Deputy Velasco pursued the vehicle and broadcasted "shots fired" within one minute of his previous broadcast. Surveillance video recordings from residences at the intersection of Bobbett Drive and Olive Street showed Deputy Velasco chasing after the vehicle and then suddenly stop as the suspect vehicle turned south. The video also captured several gunshots, fired in rapid succession. Deputy Velasco and his patrol vehicle were struck by gunfire during the incident. Deputy Velasco did not suffer any significant injuries. San Bernardino Police Department investigated this incident. The investigation revealed that the suspect who fired at Deputy Velasco used a high-powered assault rifle. At the scene of the incident detectives located 36 fired cartridge casings (FCCs) measuring 7.62 x 39 caliber, consistent with an AK-47 style rifle.

SBPD continued their investigation into the lethal force encounter with Velasco. Investigators were able to investigate the license plate and vehicle driven by the suspect. Using police resources, investigators were able to trace the BMW to Apartment 75 on 1455 West Date Street in San Bernardino. On August 18, 2021, detectives executed a search warrant at the apartment on West Date Street.

Inside the apartment detectives located indicia that the person who lived there was Ervin Olikong, a known South Side Verdugo Flats gang member with an active felony warrant for assault with a deadly weapon (Court Case# FSB19002728). Detectives also located the BMW involved in the incident parked at the complex. Inside officers found an AK-47

¹ Investigators later identified that the BMW belonged to Ervin Olikong, though he was not yet the registered owner.

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rifle, two high-capacity magazines and mail addressed to Olikong². Detectives also located surveillance video from the apartment complex from August 17, 2021. The video showed the BMW arriving at the complex shortly after the assault on Deputy Velasco. The person exiting the vehicle matched the description of the person seen in surveillance video of the assault of Deputy Velasco.

Investigators then wrote search warrants to track Olikong's phone and tracked him to his work at a warehouse, in the city of Perris. SBPD had surveillance teams and an apprehension team ready to arrest Olikong at the earliest and safest opportunity. At approximately 2:00 in the afternoon, Olikong's coworker, Tony White, drove Olikong from the warehouse in Perris to a residence on 9th Street, in the city of Highland. San Bernardino County Sheriff's Department Aviation's *Sheriff12*, a fixed wing aviation unit, assisted with surveillance of Olikong. *Sheriff12* conducted surveillance and recorded their activities with video cameras affixed to the aircraft.

Olikong remained at the 9th St. residence for approximately 20 minutes while SBPD prepared to apprehend him. Olikong got into a gray Chevrolet four-door sedan with a Hispanic male adult, later identified as Witness 2. Witness 2 told investigators Olikong asked him for a ride to buy a phone charger, so he drove Olikong to various liquor stores in the San Bernardino area. Witness 2 stopped at the Sterling Market at 7576 Sterling Avenue, in San Bernardino, for approximately two minutes. Olikong stayed in the vehicle while Witness 2 went into the Sterling Market. Witness 2 left the Sterling Market and drove to the 99 Cent Plus store at 26481 Base Line Street, in Highland. Witness 2 and Olikong exited the vehicle and went into 99 Cent Plus for approximately one minute. Witness 2 left 99 Cent Plus and drove to the Coin Laundry at 7563 Victoria Avenue, in Highland. Witness 2 parked in front of the Coin Laundry for approximately one minute. Witness 2 and Olikong stayed in the vehicle while parked at the Coin Laundry. Witness 2 left the Coin Laundry and turned west on Rosemary Drive from Victoria Avenue.

Witness 2 pulled over and parked his vehicle on the north side of Rosemary Drive adjacent to a large dirt lot, bordered on the northside by an "L" shaped strip mall. Witness 2 and Olikong remained in the vehicle. The SBPD apprehension team then decided this location was the best and safest area to apprehend Olikong. The apprehension team consisted of the following SBPD officers: Sergeant Ernesto Luna, Detective Jason Stack, Officer Christopher Shipley, and Officer Jordan Robison, all travelling together in an unmarked white van. Detective Stack drove the van while Sergeant Luna, Officer Robison, and Officer Shipley rode in the rear cab. Sergeant Luna authorized the apprehension team to move in and take Olikong into custody. Detective Stack turned west on Rosemary Drive from Victoria Avenue, engaged his forward-facing emergency red light, and briefly initiated his emergency siren. Olikong pulled out a black Glock 40, 10-millimeter semiautomatic pistol out of a black bag on his shoulder before the apprehension team contacted the gray sedan.

² Subsequent testing by the San Bernardino County Sheriff's Department Scientific Investigations Division confirmed that the rounds fired at Deputy Velasco were fired from the rifle located in the apartment (LIMS Report No. 21-08707-F-02).

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Detective Stack then drove up to the gray sedan and used the front passenger side bumper to pin the driver's door closed on the gray Chevrolet sedan. Olikong immediately exited the front passenger seat and fired the pistol multiple times at the apprehension team. Olikong began shooting at the apprehension team before they exited the van.³

Officer Robison was the first to exit the passenger side sliding door of the van and was immediately struck by several fired bullets from Olikong's pistol. Officer Robison was struck on his abdomen, both arms, right shoulder, left leg, and a graze wound to his ribs. Officer Robison did not realize immediately he was shot, and attempted to return fire before realizing both his arms were shot and he was unable to discharge his firearm.

Officer Shipley followed Officer Robison out of the van and was struck in his left leg by a single fired bullet from Olikong. Officer Shipley fired his department-issued Colt M4 rifle at Olikong. When Sergeant Luna saw Olikong shooting at Officer Robison and Officer Shipley, he followed behind Officer Shipley and fired his department-issued Colt M4 rifle approximately six to eight times at Olikong. Detective Stack saw Olikong shooting at Officer Robison, Officer Shipley, and Sergeant Luna. Detective Stack exited the van's driver door and fired his department-issued Colt M4 approximately four to six times at Olikong.

Olikong was struck by several rounds, fell backwards, and landed on his back in the dirt field. Olikong still held his pistol in his right hand. Sergeant Luna fired one more time at Olikong. Sergeant Luna then approached Olikong and removed the pistol. Olikong did not move after the shots stopped and had gunshot wounds throughout his body. Olikong had approximately 17 gunshot wounds, which were determined to be immediately fatal. Fire Department personnel arrived on scene and pronounced Olikong deceased at approximately 3:57 in the afternoon.

SBPD officers loaded Officer Robison and Officer Shipley into vehicles and transported them to Loma Linda University Medical Center for treatment. Officer Robison's injuries required a variety of surgeries and extensive rehabilitation treatment. He remained hospitalized for approximately one month after the LFE. Officer Shipley was released from the hospital one day after receiving treatment for his wound.

³ The van was struck seven times by rounds fired by Olikong. (See, Laboratory Report LIMS 21-08708-C-04).

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STATEMENTS BY POLICE OFFICERS

On November 15, 2021, at approximately 10:00 in the morning, **Officer Christopher Shipley** was interviewed by Detective Mauricio Rivas and Detective Brett Chandler of the San Bernardino County Sheriff's Department.⁴

On August 17, 2021, Officer Shipley learned of an encounter involving San Bernardino County Sheriff's Deputy Velasco. As part of the SBPD Special Weapons and Tactics Team (SWAT Team), Officer Shipley and his team were notified about the attempt on Deputy Velasco's life through county official channels. Officer Shipley was informed that the suspect led Deputy Velasco on a short pursuit wherein the suspect made a turn around a blind corner, exited the vehicle, and ambushed the deputy.⁵ Officer Shipley believed Olikong fired approximately 30 rounds from a 7.62-caliber rifle. Officer Shipley believed the deputy was struck and transported to a nearby hospital for medical attention. Following that incident, the SWAT Team set up at a location off Date Street where officers located Olikong's vehicle. Olikong had not been personally located at this point.

On August 18, 2021, at approximately 1:30 in the afternoon Officer Shipley was serving a search warrant in Fontana, unrelated to the shooting of Deputy Velasco. At approximately 1:30 in the afternoon, Officer Shipley was contacted by Corporal Ryan Thornburg, who was tracking Olikong via his cell phone. Corporal Thornburg asked Officer Shipley if he was available to assist with the apprehension of Olikong. Corporal Thornburg needed some tactical units from the SWAT Team to assist with the apprehension. Officer Shipley called Sergeant Luna and asked if he needed assistance. Sergeant Luna indicated yes, and Officer Shipley told investigators he could sense stress from Sergeant Luna indicating that the situation was "a big deal." Officer Shipley's immediate supervisor, Sergeant Josh Simpson, gave him permission to leave the search warrant and assist in the apprehension of Olikong. Officer Shipley responded to the SBPD station and awaited further instructions.

Officer Shipley changed into his SBPD uniform consisting of a black polo shirt with his name embroidered on the front, chest piece and an embroidered SBPD badge on both sides. He also wore his SWAT tactical vest with the word "Police" largely identified on both sides, his tactical helmet, his SWAT belt, and firearms. Officer Shipley met with some of the SWAT Team members, including Officer Robison and Officer Spencer Brumbaugh, in the parking lot of the department. Officer Shipley was assigned to the white, raid van. Detective Jason Stack drove the raid van while Officer Robison and Officer Shipley sat in the back passenger seats. The SWAT Team then left the station soon after.

The team formed a plan to apprehend Olikong at the location where he was last seen, but Olikong drove to a different residence before they could get there. Olikong drove to

⁴ Officer Shipley reviewed his audio or video recording prior to being interviewed by Detective Rivas and Detective Chandler.

⁵ The suspect was later identified as Ervin Olikong.

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a different residence off 9th Street and entered with another subject. Olikong then left the 9th Street location and stopped at two separate locations for extremely short durations. One location was a 99 Cent Store and the other a liquor store or laundromat. Based on basic maneuvers and different turns, Officer Shipley believed Olikong was engaged in countersurveillance, which involved a subject using different tactics to make sure the subject loses law enforcement. Officer Shipley became concerned for public safety and the lives of other law enforcement officers if Olikong were to escape apprehension.

Officer Shipley was informed that Olikong drove northbound on Victoria Avenue and made a westbound turn on Rosemary Drive. Olikong's vehicle parked on the north side of Rosemary Drive and Victoria Avenue while the SWAT Team came westbound on Rosemary Drive from Victoria Avenue. At this point, the team decided to go ahead with the apprehension using the "bump method," which meant slightly ramming the driver's side door of the vehicle then exiting through the raid van's sliding door. Officer Shipley hoped Olikong would peacefully surrender but anticipated that Olikong was going to try and kill the team given his behavior with Deputy Velasco the day before. According to Officer Shipley, the team intended to exit through the sliding door, which was already open at the time of the "bump," but the door came off the tracks and officers had to pry it open. When the van stopped, the team was immediately met with gunfire from Olikong, who had exited the passenger side of his vehicle. Officer Shipley stated neither he nor the team had time to de-escalate the situation based on Olikong's actions. Officer Shipley observed Olikong in a "tactical platform," or a stance to fire upon someone. Based on this, Officer Shipley believed Olikong was extremely experienced with shooting and handling a firearm. Officer Shipley heard approximately seven to 10 rounds in rapid succession. Officer Shipley estimated that Olikong was 10 to 12 feet from the van.

When Officer Robison opened the door, he was struck by gunfire. Officer Shipley knew Officer Robison had been shot because Officer Robison was screaming in pain. Officer Shipley was struck in the right leg. Officer Shipley knew he was shot because he felt as if his leg had been "hit by a car." This made Officer Shipley think he would be shot in the head next. He described his mindset during the incident as "scared shitless," because he was getting shot at and he was scared that both he and Officer Robison were going to die. Officer Shipley believed that Officer Robison had died immediately after being shot by Olikong. Officer Shipley's biggest concern then became getting to Officer Robison.

Officer Shipley and Sergeant Luna fired back at Olikong. Officer Shipley shot his rifle from a kneeling position, with his right knee placed on the raid van's floorboard and his left leg at a 90-degree angle. Officer Shipley used his left hand on the foregrip of his rifle and his right hand to pull the trigger. Officer Shipley used his rifle because it was the weapon that he felt most comfortable with to engage a suspect at a greater distance. While officers returned fire, Olikong was engaged in a "tactical retreat." Officer Shipley believed that Olikong was trying to gain distance with the ultimate goal of killing officers and being able to flee. Officer Shipley estimated that Olikong retreated about 20 or 30 feet while shooting at officers. Officer Shipley recalled firing six rounds.

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Officer Shipley believed that the SWAT Team would have died and Olikong would have gotten away if he did not use his firearm. Officer Shipley stopped shooting when Olikong fell backwards because it looked like the threat was neutralized or eliminated. Officer Shipley estimated that the time between opening the raid van's door and shooting Olikong was within 10 seconds. Officer Shipley did not remember hearing any commands given, but also believed there was no time to give such commands.

When he reached Officer Robison, Officer Shipley noticed there was a large amount of blood coming from his right arm. Officer Shipley applied a tourniquet to Officer Robison's right arm and began working on Officer Robison's left arm. Officer Spencer Brumbaugh began rendering aid to Officer Robison, so Officer Shipley began rendering aid to himself. Officer Shipley applied a tourniquet to his right leg. Both Officer Shipley and Officer Robison were transported to Loma Linda University Medical Center (LLUMC) shortly after the LFE.

On November 15, 2021, at approximately 12:30 in the afternoon, **Officer Jordan Robison** was interviewed by Detective Mauricio Rivas and Detective Brett Chandler of the San Bernardino County Sheriff's Department.⁶

On August 17, 2021, Officer Robison was assigned to the personnel and training division of the SBPD. Officer Robison was also assigned to the SWAT Team. Officer Robison learned of the San Bernardino County Sheriff's deputy that was ambushed when he turned a corner and the deputy's vehicle was struck several times with gunfire from a rifle. Officer Robison believed the suspect also advanced and flanked the deputy while engaging him. Officer Robison was contacted by several SWAT Team members regarding the incident, and he also watched the surveillance video of the incident. Officer Robison believed that the suspect may have had military training because of the actions he took during the shooting. Officer Robison was aware that the SBPD Special Investigations Unit (SIU) Team was attempting to locate the suspect. Officer Robison was unaware how the SIU team did so, but he knew the team had located the suspect vehicle and recovered a rifle believed to be the one involved in the shooting of the deputy. At this point, Officer Robison believed the suspect was still outstanding.

On August 18, 2021, Officer Robison worked at his assignment in the personnel and training division. At about 2:00 in the afternoon, Officer Robison received a call from Sergeant Luna and was told the suspect had been located. Sergeant Luna advised Officer Robison that he needed to get ready to assist with the suspect's apprehension. Officer Robison was instructed to wear his SWAT gear. Officer Robison wore black pants and a black San Bernardino Police Department polo with San Bernardino Police Department patches on each shoulder. The shirt had stars and Officer Robison's name on the chest. Officer Robison also wore his SWAT vest, with "Police" identifiers on the front and back, and his SWAT helmet, with his name on the back.

⁶ Officer Robison reviewed his audio or video recording prior to being interviewed by Detective Rivas and Detective Chandler.

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Officer Robison was told he would be in a van with Detective Stack and Officer Shipley. Detective Stack drove while Officer Shipley rode next to Officer Robison.⁷ Officer Robison was told the suspect was Olikong. The SWAT team followed Olikong to an address off 9th Street in Highland. The team observed as Olikong exited the residence and entered the passenger seat of a gray sedan. The team tried to formulate a plan to apprehend him, but Olikong was too mobile while in the vehicle. Based on the frequency of locations Olikong was going to, Officer Robison believed Olikong was conducting countersurveillance, meaning a subject believes they are being surveilled and attempting to expose or identify who is following them. Officer Robison believed the purpose of Olikong conducting countersurveillance was to identify which cars were being driven by undercover officers. Olikong eventually parked on Rosemary Drive and the team was given the order by Sergeant Luna to proceed with the apprehension. While the raid van turned west on Rosemary Drive and approached the suspect vehicle, Officer Robison held the van's sliding door open. Detective Stack formulated a plan to prevent the vehicle's driver from opening the door, the team would exit, and officers would attempt to apprehend Olikong.

Officer Robison believed there was a high possibility there would be an LFE from this encounter based on the previous incident with Deputy Velasco. When the SWAT Team van contacted the vehicle, the force of the contact caused the van's door to close. Officer Robison and Sergeant Luna fell forward onto their hands and knees. Officer Robison got up and was the first officer by the van door. Officer Robison opened the door and jumped out of the van as fast as possible. Before Officer Robison was able to look up, he was already taking gunfire from Olikong. Officer Robison saw Olikong with a black, semi-automatic handgun. Olikong was standing with his arms extended, the gun gripped in both hands, and the gun aimed at the officers. Based on this, Officer Robison believed that Olikong possibly had military training. Officer Robison could not remember why he did not shoot back but remembers perceiving that he was getting shot.

Officer Robison heard five or six gunshots. Officer Robison believed Olikong's intention was to murder him because he was wearing a clearly marked police uniform. Officer Robison stated his stress level was elevated because he was unsure if he was going to die or if he was going to see his parents or fiancée again. Officer Robison was very scared and did not want to die, but he was also in pain. Officer Robison recalled hearing an additional four to five shots but could not tell who was shooting. Olikong was approximately 10 feet from the raid van when the shooting began. Officer Robison believed that Olikong would have continued shooting and killed the rest of the SWAT Team if they did not return fire. Officer Robison also believed that officers saved his life by shooting back at Olikong. Officer Robison's biggest concern was Olikong escaping and murdering another law enforcement officer, and Olikong being a danger to public safety.

Officer Robison said he was shot in the leg and fell down. Officer Robison did not want to get executed so his first reaction was to get back in the fight. Officer Robison realized

⁷ According to Officer Robison, Sergeant Ernesto Luna joined in the van later, but before this LFE.

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both of his arms were broken when he tried to get up and that he had been shot in the hands. Thus, though he tried, he could not fire back.

Officer Robison suffered extensive injuries. He was struck on the outer portion of his left arm, with an exit wound on the inner portion, and on the inner portion of his right arm, with an exit wound on the outer portion. Officer Robison was struck in the right shoulder, through the deltoid muscle. Officer Robison was struck laterally across his abdomen, with a bullet entering through one side and lodging on the opposite side. He was shot in the left femur, on the upper left portion. Officer Robison also suffered a grazing wound to the right side of his ribs. He estimated that the incident lasted about 10 seconds. Officer Robison remembered multiple people from the SWAT Team and SIU rendering medical aid within four or five minutes. Officer Robison was transported to Loma Linda University Medical Center (LLUMC) for further medical treatment and arrived within 10 minutes.

Officer Robison almost died as a result of his injuries and spent several weeks in the hospital.

On August 23, 2021, at approximately 3:33 in the afternoon, **Sergeant Ernesto Luna** was interviewed by Detective Mauricio Rivas and Detective Brett Chandler of the San Bernardino County Sheriff's Department.

On August 17, 2021, Sergeant Luna was working when he heard SBPD Dispatch put out a "999" call, which meant that an officer needed assistance or there was an officer down, in the area of Olive Street and Bobbett Drive in San Bernardino. Sergeant Luna responded to the location and became part of the Incident Command team. Sergeant Luna observed the deputy's vehicle riddled with bullet holes. The vehicle ignited and became fully engulfed in flames. Sergeant Luna was advised of some of the circumstances of the incident. He learned that the deputy was involved in a vehicle pursuit. The vehicle turned a corner, and the suspect ambushed the deputy, firing numerous rifle rounds at him. There was blood on the scene and the deputy was transported for medical aid. Sergeant Luna learned that 35 shell casings⁸ were recovered from the scene belonging to an AK-47 assault-style rifle. Although the suspect was at large, the team was able to get a license plate of a suspect vehicle. Sergeant Luna worked with SBPD Special Investigations Bureau (SIB) to establish a plan and begin scouting various locations for the suspect. Sergeant Luna watched surveillance footage of the LFE. After 10:00 in the evening, Sergeant Luna received a call from SBPD Sergeant Tollefson that the suspect had been identified as Olikong.

On August 18, 2021, at 9:00 in the morning, Sergeant Luna held a briefing with SIB to discuss an operations plan. Sergeant Luna was in plain clothes consisting of a black T-shirt and blue jean pants. The team planned to use components of SIU and VICE to go where Olikong's cellphone was actively pinging GPS coordinates. Sergeant Luna and others received constant cellphone pings for Olikong's location. Sergeant Luna's team

⁸ Subsequent investigation revealed 36 FCCs at the scene.

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went to a location based on the GPS coordinates, but, since there were no actual observations of Olikong, he was unwilling to attempt a suspect apprehension. Sergeant Luna's team was able to locate and positively identify Olikong after a few hours of surveillance.

Olikong was at a warehouse in Perris, but Sergeant Luna was concerned for the public's safety. Sergeant Luna wanted to ensure the apprehension would occur at an ideal location where no innocent bystanders would be injured. Sergeant Luna spoke to several SBPD officers about various plans. One plan involved using a marked unit to initiate a stop or takedown. However, all agreed that the element of surprise would be the best way to apprehend Olikong in a public setting because Olikong was likely to engage officers in clearly marked units. Sergeant Luna spoke to Lieutenant Carrington about using tactical personnel to conduct the apprehension. The two discussed having the team's tactical medic, Officer Spencer Brumbaugh, respond in case there were any injuries during the operation. Sergeant Luna requested a fixed-wing aircraft to assist, because Olikong would likely identify that he was being followed if a helicopter was used.

Sergeant Luna was informed that Olikong left the warehouse in Perris and was found by the airship going northbound on the 215 Freeway. Olikong was tracked to the 26000 block of East 9th Street. Sergeant Luna asked Lieutenant Carrington to activate the entire SWAT Team because Sergeant Luna believed it would be an opportunity to apprehend Olikong. Lieutenant Carrington informed Sergeant Luna that he had tactical units dressed and ready to go, and that he was deploying a raid van with a team to conduct the apprehension. Sergeant Luna believed that Olikong was suspicious of being followed. Olikong soon came out of the residence, looked up and down the street, and returned to the residence.

Olikong was later picked up from the 9th St. location by another vehicle and taken to various liquor stores. While the team conducted mobile surveillance, they formulated various plans to apprehend Olikong if the situation presented itself. Sergeant Luna had not yet contacted Detective Stack to verify the plan, so he was uncomfortable with executing a plan at this time. The team became aware of possible countersurveillance and were afraid to lose Olikong. Sergeant Luna felt the necessity of apprehension had to be immediate, especially believing that Olikong would probably get rid of the phone used to ping his GPS coordinates soon.

Sergeant Luna requested that Detective Stack, who was driving the raid van, pull over onto 11th Street. Sergeant Luna entered the van there. The van included Detective Stack, Officer Shipley, and Officer Robison. The three officers made up the SWAT Team for the operation to apprehend Olikong. Sergeant Luna wanted to speak with Detective Stack about the plan to apprehend Olikong. Detective Stack stated that he planned to use the raid van to "bump" the suspect vehicle and lock the driver inside. The SWAT Team would then exit the van, surround the vehicle, and command Olikong to surrender. Sergeant Luna decided to join the officers because he did not feel comfortable having only three officers conduct the apprehension. Sergeant Luna felt comfortable that with Detective

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Stack and Officer Robison being primary team leads of the SWAT Team, they would be able to handle the situation even if it became a foot pursuit. When he entered the van, Sergeant Luna wore his department issued SWAT vest, with "Police" written on the front and back, and SWAT helmet, with his name on the back and a San Bernardino Police Department SWAT emblem on the side.

Sheriff12 advised that Olikong was parked on Rosemary Drive and Victoria Avenue, which Sergeant Luna believed was the safest place to carry out the apprehension. With the location being an empty field, Sergeant Luna believed the team would have to apprehend Olikong if a foot pursuit began. Sergeant Luna weighed all his options, thinking through the possible scenarios that could arise, and believed it was best to engage Olikong at the location on Rosemary Drive. As the raid van approached the suspect vehicle, Officer Robison prepared the door. Sergeant Luna said he asked Detective Stack to turn on the van's lights and sirens at the last minute and that Detective Stack was able to complete that task.

When the "bump" occurred, both Officer Robison and Sergeant Luna fell forward, and the van's door closed. Officer Robison opened the door and Olikong was already displaying a gun in a shooter's stance, which meant Olikong had his feet spread shoulder width apart, with the firearm raised at eye-level. This indicated to Sergeant Luna that Olikong was trained to use firearms. Sergeant Luna said that Olikong was already shooting at the van and at the officers before they exited.

Sergeant Luna recalled hearing several rounds fired at the SWAT Team. Sergeant Luna had his M4 rifle ready and began shooting at Olikong from inside the raid van before he exited. Sergeant Luna was crouched down, with his feet shoulder width apart. Sergeant Luna used his rifle set to semi-automatic because he maintained better control of the weapon in that configuration. Sergeant Luna was completely fearful for his life and scared that Olikong would kill him and his partners. Sergeant Luna heard glass breaking and between five or six rounds fired. Sergeant Luna saw muzzle flashes from Olikong's weapon and observed Olikong tracking the officers with his gun. Sergeant Luna fired six or eight times and Olikong fell backwards. Sergeant Luna was unsure if Olikong had only tripped or if he had been shot.

As Sergeant Luna exited the van, he could hear Officer Robison screaming and saw blood. Sergeant Luna observed Officer Shipley on the ground and although he was not screaming, Sergeant Luna knew Officer Shipley was hit. When Sergeant Luna looked at Olikong, there was still a gun in Olikong's right hand pointing in the direction of officers. It appeared to Sergeant Luna as if Olikong was about to move, or "playing opossum" causing him to fear that Olikong would ambush him as he rendered medical aid. Sergeant Luna then fired one more shot at Olikong. Now convinced that Olikong was incapacitated, Sergeant Luna then approached Olikong and attempted to kick the gun out of Olikong's hand. Sergeant Luna described feeling very emotional about the incident, which caused him to miss the gun as he kicked it and he fell to the ground. Sergeant Luna then either tossed the gun or moved the gun out of Olikong's hand. Sergeant Luna observed

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Olikong's eyes open but did not see Olikong's mouth because Olikong wore a mask. Sergeant Luna believed Olikong was completely incapacitated.

Officers began rushing to the scene to detain Olikong. Sergeant Luna told the officers that they needed to rescue the officers who were injured. Officer Brumbaugh began rendering medical aid to Officer Robison and Officer Shipley. Sergeant Luna later realized he was injured by some glass or bullet fragments on his left arm. Sergeant Luna did not render medical aid to Olikong because he did not feel qualified to do so and was still acting as lethal coverage. Olikong was pronounced deceased on the scene.

On August 23, 2021, at approximately 11:34 in the morning, **Detective Jason Stack** was interviewed by Detective Mauricio Rivas and Detective Brett Chandler of the San Bernardino County Sheriff's Department.

On August 17, 2021, Detective Stack learned of a deputy who was shot in SBPD jurisdiction. He saw some surveillance footage of the pursuit and the assault on Deputy Velasco. When he viewed the footage, he formed the opinion that the suspect led the deputy on a pursuit so he could ambush him. After seeing the footage, Detective Stack believed his team would be tasked with apprehending the suspect. He also believed that given the nature of Olikong's actions, any contact with him might end up in a LFE and the public was in danger with him at large.

Later in the afternoon on August 17, 2021, Detective Stack learned that other members of SBPD identified the suspect in the shooting. The following day, August 18, 2021, Detective Stack learned that several SBPD officers were out surveilling the suspect. Around 2:00 in the afternoon Sergeant Luna texted several members of the SWAT Team and asked if they could help with the apprehension of the suspect. Detective Stack agreed.

He then went to the SWAT Team office and met with personnel to prepare gear and vehicles for use in the apprehension. Detective Stack wore tactical SWAT gear that clearly identified him as a police officer. A plan was then set for Detective Stack to drive a large van, with Officer Robison and Officer Shipley occupying the rear. Detective Stack said the plan was to try to apprehend Olikong away from his apartment. The team hoped to find Olikong in his vehicle, so Detective Stack could use the van to pin the driver's door closed and officers could detain Olikong. He would also initiate the lights and sirens of the van to distract Olikong so the remainder of the team could detain him safely.

When Detective Stack left the station, he received regular radio communications about Olikong's location. Officers followed Olikong to various locations around San Bernardino, but every time Olikong stopped his movements, the location was not ideal for an apprehension. Thus, Detective Stack and his team would continue to follow Olikong around until an ideal location presented itself. Detective Stack eventually believed that Olikong knew he was being followed by police based on his erratic movements.

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When Detective Stack received information that Olikong was in the area of Victoria Avenue and Baseline Street, he met up with Sergeant Luna who also entered the van. Detective Stack stated that everyone in the van agreed with the plan to pin the driver's door of Olikong's vehicle with the van and then attempt to take him into custody. The team set up a plan that Officer Robison and Officer Shipley would contact Olikong while he maintained cover on the driver's side of the van. Detective Stack knew Olikong had an outstanding felony warrant for assault and was probably armed with a firearm.

Shortly after picking up Sergeant Luna, air units advised that Olikong's vehicle parked on the north side of Rosemary Drive. Detective Stack noticed that the vehicle parked right next to a large dirt field, with a large brick wall as a backdrop. He believed that this location would provide the ideal place to attempt the apprehension and avoid any civilian casualties. Detective Stack drove the van westbound on Rosemary Drive and just before he got to Olikong's vehicle, initiated the lights and sirens on the van. He then used the front right side of the van to pin the driver's door of the suspect vehicle.

Detective Stack said that as he exited the van, he noticed Olikong exit the passenger seat of the suspect vehicle, turn towards the passenger side of the van and open fire with a handgun. He described hearing at least six shots in quick succession. Detective Stack then observed Olikong backing away, but still facing officers with a gun in his hand. He could not recall if Olikong still had the gun pointed or was shooting.

Detective Stack then approached the suspect vehicle for cover and fired four to six rounds from his M4 rifle at Olikong. Detective Stack told investigators that he was afraid of being killed or injured when he fired. He told investigators that he believed if he did not fire, then he and his fellow officers would have been killed. He was also afraid that Olikong would injure other officers, or even members of the public. De-escalation was not an option because Olikong began shooting at officers before they could even get out of their van.

When he finished firing, Detective Stack said he then saw Olikong "go down," and noticed in his peripheral vision that Sergeant Luna advanced on Olikong and held him at gunpoint. After the suspect went down Detective Stack looked to his right and noticed Officer Shipley working on Officer Robison, who was bleeding from his arm. He then broadcast a "999" call over the radio. Detective Stack then focused his attention on the driver of Olikong's vehicle. He held that person at gunpoint until he could be extracted from the car and detained. Detective Stack then assisted others with providing medical attention to Officer Robison and helped load Officer Robison into a vehicle for transport to the hospital.

On August 19, 2021, at approximately 3:19 in the afternoon, **Corporal Ryan Thornburg** was interviewed by Detective Cory Drost and Detective Amy Bilbao of the San Bernardino County Sheriff's Department.⁹

⁹ Corporal Ryan Thornburg was assigned to the San Bernardino Police Department's Special Investigations Bureau on the VICE Team working undercover in plain clothes.

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On August 17, 2021, between 3:00 and 4:00 in the afternoon, Corporal Thornburg was at the SBPD station when he learned a San Bernardino County Sheriff's Department deputy was shot at and injured near Olive Street and Bobbett Drive, in San Bernardino. Corporal Thornburg and one of his partners, Officer Justin Burgher, decided to respond in Thornburg's police vehicle. While Corporal Thornburg and Officer Burgher drove to the location dispatch relayed information that the suspect was possibly a Hispanic male and fled south from the area in a white BMW sedan.¹⁰ Olikong's BMW license plate was also relayed but Corporal Thornburg did not recall the license plate number. Corporal Thornburg and Officer Burgher ultimately never made it to the scene of the shooting due to the volume of other emergency vehicles.

At an unknown time, Corporal Thornburg's supervisor, SBPD Sergeant Ernesto Luna, directed all SIB personnel to return to their station and wait for further instruction. San Bernardino County Sheriff's Department personnel, specifically undercover personnel from the Specialized Enforcement Division (SED), worked to locate Olikong. The purpose of undercover personnel waiting at the station was to prevent an unintentional encounter between SBPD and San Bernardino County Sheriff's Department undercover law enforcement personnel, which could be dangerous.

Corporal Thornburg learned the suspect's BMW license plate from SBPD dispatch. Corporal Thornburg researched law enforcement databases for possible suspect information based on the BMW's license plate. While Corporal Thornburg researched, additional information was provided by other law enforcement resources. Just before 7:30 in the evening, Corporal Thornburg learned SED personnel located Olikong's BMW parked at an apartment complex at 1455 East Date Street, in San Bernardino. Corporal Thornburg stayed at the station and continued to research Olikong until he was told San Bernardino County Sheriff's Department personnel were going to lead the investigation at 1455 East Date Street. Corporal Thornburg was told to go home.

On August 18, 2021, Corporal Thornburg started his shift at 9:00 in the morning. At the time of the LFE, Corporal Thornburg wore a black T shirt, OD green tactical pants, gun belt, external ballistic vest, and black ballistic helmet. Corporal Thornburg's gun belt had a drop down "thigh rig" for his Sig Sauer, P226 Legion series, 9-millimeter pistol. Thornburg had his department issued Colt M4 Carbine, 5.56 caliber rifle. Corporal Thornburg's rifle was equipped with an Aimpoint T2 Micro optic, Modlite tactical light, and a sling. Corporal Thornburg did not shoot his pistol or his rifle and was not injured during the LFE.

Sergeant Luna led a briefing which Corporal Thornburg and other SIB personnel attended. Sergeant Luna gave a synopsis of the events from the assault on Deputy Velasco and information regarding how Olikong was identified as the suspect. Sergeant Luna provided Olikong's California Department of Motor Vehicles (DMV) photograph. During the briefing, Corporal Thornburg learned SED personnel served a search warrant at 1455 East Date Street, which included Olikong's BMW. SED personnel recovered an

¹⁰ The suspect was later identified as Ervin Olikong.

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SKS or AK-47 rifle believed to be used in the assault on Deputy Velasco. SED personnel also identified a cellphone number for Olikong. A search warrant was authorized for global positioning system (GPS) information for Olikong's cellphone. The GPS information was actively being provided to San Bernardino County Sheriff's Department personnel at set intervals. Sergeant Luna advised that Olikong's cellphone GPS location indicated Olikong's cellphone was in Hemet, California, traveling south. Sergeant Luna assigned the VICE Team and SIU personnel to form a surveillance team to narrow down, locate, and identify if Olikong was in possession of the cellphone. The surveillance team watched Olikong starting at approximately 11:30 in the morning.

Around 3:00 in the afternoon, Corporal Thornburg heard Detective Stack broadcast that additional members of the SWAT Team were gathering in a "raid van," which was an unmarked police van. The surveillance team followed Olikong and a Hispanic male¹¹ to an unknown liquor store a block or two from the duplex. Either Olikong or Witness 2 exited the vehicle and went into the liquor store. Corporal Thornburg did not see who went in the convenience store. While either Olikong or the Hispanic male was in the liquor store, Sergeant Luna requested Detective Stack move in on the liquor store. Corporal Thornburg believed Sergeant Luna's request was to conduct an apprehension. As Sergeant Luna and Officer Stack communicated, the same person who went into the liquor store exited and returned to their vehicle. Sergeant Luna updated Stack and told him to keep the tactical personnel out of the area.

Witness 2 drove north on Victoria Avenue, away from the liquor store. Corporal Thornburg planned to surveil Olikong and drive parallel with Olikong's vehicle. Officer Burgher was in the same immediate area and drove in tandem behind Corporal Thornburg in another unmarked police vehicle. Deputy Lawrence broadcasted that Witness 2 turned into a business complex with a liquor store and laundromat. Corporal Thornburg did not remember the address of the business complex and believed it was at the southwest corner of Baseline Street and Victoria Avenue. Corporal Thornburg was suspicious that Olikong was using countersurveillance measures once again and quickly instructed Burgher to watch Olikong's vehicle from a greater distance. Corporal Thornburg and Officer Burgher returned to Victoria Avenue and stopped on the shoulder while Olikong and Witness 2 were in the business complex.

Witness 2 exited the business complex and drove south on Victoria Avenue. Corporal Thornburg and Officer Burgher made a U-turn and followed. While going south on Victoria Avenue, Witness 2 made a U-turn and drove north on Victoria Avenue. Corporal Thornburg was certain Witness 2 made a U-turn on Victoria Avenue because he and Officer Burgher had to yield on the west side of Victoria Avenue, approximately 40 to 50 yards south of Rosemary Drive, as Witness 2 drove past them. As the suspect vehicle passed, Corporal Thornburg saw Olikong was in the front passenger seat.

Corporal Thornburg wore his body armor identifying him as a police officer just before Olikong and Witness 2 drove past him. Corporal Thornburg quickly removed his body

¹¹ Later identified as Witness 2.

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armor, ducked in his front seat, and hoped his tinted windows would conceal him. Although Thornburg worked in an undercover capacity in normal clothes and an undercover vehicle, he believed Olikong would shoot any law enforcement he saw based on Olikong's violent history. Corporal Thornburg worried Olikong would identify him as a law enforcement officer even though he was in plain clothes. Corporal Thornburg noticed the vehicle turn west on Rosemary Drive. Deputy Lawrence then advised that Olikong's vehicle stopped next to a dirt field on the north side of Rosemary Drive. Corporal Thornburg suspected Olikong was using countersurveillance because he believed it was an abnormal place to stop. Less than five minutes later, Corporal Thornburg saw the SBPD raid van with the SWAT Team drive north on Victoria Avenue. At that moment, Corporal Thornburg believed the SWAT Team was going to attempt to apprehend Olikong on Rosemary Drive.

The raid van passed Corporal Thornburg and Officer Burgher, turning west onto Rosemary Drive. Corporal Thornburg tried to follow the raid van to be available to assist the SWAT personnel, if necessary, but could not immediately make a U-turn due to oncoming traffic. Almost immediately after Corporal Thornburg turned onto Rosemary Drive, he saw the raid van collide into the driver's side of Olikong's vehicle. Corporal Thornburg saw Olikong immediately exit the passenger's side of the vehicle with a handgun and shoot at the raid van. Corporal Thornburg did not remember initially hearing gunshots or seeing muzzle flashes but saw the smoke from Olikong's gun.

Olikong quickly walked backwards, away from the raid van, and into the dirt field as he shot at the raid van. Corporal Thornburg remembered that Olikong faced the raid van and used either his right or left hand to shoot the handgun. Corporal Thornburg believed Olikong had a handgun but did not remember specific details about it.

Corporal Thornburg believed Olikong was attempting to flee as he shot at SWAT personnel based on Olikong running backwards away from the raid van. Corporal Thornburg recognized Olikong posed an imminent lethal threat to not only the SWAT personnel but also the public. When Olikong shot at the raid van, Corporal Thornburg was approximately 45 to 60 yards east of Olikong and near the intersection of Rosemary Drive and Victoria Avenue. Corporal Thornburg did not see any of the SWAT personnel as Olikong fired, but he was focused on Olikong and not the raid van or SWAT personnel. Corporal Thornburg believed he needed to stop Olikong from killing the SWAT personnel. Corporal Thornburg turned into the dirt field near the area where the concrete curb on the northside of Rosemary Drive ended but east of where his vehicle was ultimately parked. Corporal Thornburg parked his vehicle approximately 40 to 45 yards east of Olikong, grabbed his rifle, and started to exit his vehicle.

Corporal Thornburg believed he heard gunshots for the first time once he opened his door. Corporal Thornburg described the gunfire as rapid, and he was unable to determine how many gunshots he heard in the split seconds it lasted. The gunfire stopped once Olikong fell. Corporal Thornburg was unable to estimate how long the gunfire lasted and his best estimation was in the same amount of time as it took to open and close his vehicle

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door. Corporal Thornburg was also unable to tell how many weapons were fired, if there were different calibers used, or differentiate Olikong's gunshots from the SWAT personnel.

Corporal Thornburg believed Olikong shot at the SWAT personnel as they opened the raid van's door, and they did not have an opportunity to deescalate the situation. Corporal Thornburg believed the events unfolded rapidly. Corporal Thornburg saw the raid van had bullet holes and noticed Officer Robison laying on his back on Rosemary Drive. Corporal Thornburg then assisted other officers in placing Officer Robison in a vehicle for transport to the hospital.

On August 18, 2021, at approximately 6:00 in the evening, **Deputy Corey Lawrence** was interviewed by Detective Malcolm Page of the San Bernardino County Sheriff's Department.¹²

On August 17, 2021, Deputy Lawrence and Witness 1 assisted SBPD officers in an attempt to locate a suspect.¹³ Olikong was wanted for the attempted murder of Deputy Velasco near the intersection of Bobbett Drive and Olive Street, in San Bernardino. Olikong fired multiple rounds at Deputy Velasco during a traffic stop and wounded him severely. After wounding Deputy Velasco, Olikong fled the area in a white BMW sedan. Deputy Lawrence attempted to locate Olikong and the BMW in the area from a sheriff's airplane, but Olikong was not located by authorities and was suspected to be armed.

On August 18, 2021, Deputy Lawrence was partnered with Witness 1, and assigned the call sign, "Sheriff 12." Witness 1 and Deputy Lawrence were assigned to fly a fixed-wing, twin engine airplane. Witness 1 sat in the front left seat of the airplane and Deputy Lawrence sat at a workstation, located at the back of the plane. Deputy Lawrence's workstation was equipped with multiple police radios, which allowed him to communicate with every law enforcement and fire department agency in San Bernardino County.

At approximately 2:30 in the afternoon, Deputy Lawrence and Witness 1 left the airport in San Bernardino and flew toward the Interstate 215 (I-215) freeway and Interstate 210 (I-210) freeway interchange. Deputy Lawrence used the SBPD radio frequency and communicated with officers, who explained that Olikong traveled east on the I-210 freeway from northbound I-215 freeway. At about 2:45 in the afternoon, Deputy Lawrence located a grey Honda Civic that Olikong occupied in eastbound lanes of I-210 freeway near the H Street offramp. Deputy Lawrence confirmed Olikong's suspected location with officers and maintained observations. The vehicle was not being pursued by officers in marked vehicles with activated emergency lights. Deputy Lawrence was unable to identify any law enforcement vehicles near Olikong's vehicle.

¹² Deputy Lawrence was a deputy sheriff with the San Bernardino County Sheriff's Department, assigned to the Sheriff's Aviation Division as a tactical flight officer.

¹³ The suspect was later identified as Ervin Olikong.

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Deputy Lawrence zoomed the camera and observed a Hispanic male, who wore an orange vest, seated in the driver's seat. Deputy Lawrence observed a Hispanic male, later identified as Olikong, seated in the front passenger seat. Olikong wore a black baseball cap, gray T-shirt, and dark colored shorts. Deputy Lawrence used the camera's mapping system and updated the location, speed, and driving conditions. According to Deputy Lawrence, the car appeared to obey traffic laws and did not travel at excessive speeds.

At about 3:00 in the afternoon, the Honda Civic pulled into the driveway of a residence at 2830 9th Street in Highland. After the it stopped, Olikong and the male driver casually walked into the front door of the residence. Deputy Lawrence confirmed that Olikong wore distinct red socks and did not carry any weapons. Deputy Lawrence also saw a silver, four-door, Chevrolet Cobalt parked on 9th Street, facing west, in front of the residence.

Deputy Lawrence and Witness 1 remained overhead and maintained surveillance of the residence. After approximately 10 minutes, Olikong walked out of the front door by himself. Olikong walked to the sidewalk of 9th Street, slowly looked to the east and west, and walked back into the residence. Deputy Lawrence estimated Olikong was outside the residence for about 10 seconds. After Olikong re-entered the residence, Deputy Lawrence and Witness 1 remained overhead and maintained surveillance of the residence.

After about 15 minutes, the Hispanic male, who wore the orange vest and drove Olikong, walked out of the residence alone. The Hispanic male entered the driver's seat of the Honda Civic backed out of the driveway and drove east on 9th Street. Deputy Lawrence broadcasted the direction of travel and was instructed by an unknown SBPD officer to maintain observations of the residence, since Olikong did not leave. After about 10 minutes, a Hispanic male walked out of the residence.¹⁴ Witness 2 wore a black tank-top with a white logo, black shorts, and black shoes. Witness 2 walked to the Chevrolet Cobalt parked in front of the residence and sat down in the driver's seat. The Cobalt's windows were not tinted, and Deputy Lawrence was able to see into the vehicle through the windshield and side windows.

Witness 2 drove west on 9th Street for approximately 10 feet and conducted a U-turn. After the U-turn, Witness 2 pulled the Cobalt into the driveway of the residence and parked it near the front door. After several seconds, Olikong walked out with a black satchel over his shoulder. The satchel was draped across Olikong's chest, which allowed him access to the main compartment of the bag. Olikong opened the front passenger door and sat down. Deputy Lawrence broadcasted Olikong's movements and the possession of the satchel to officers.

Witness 2 backed the Cobalt out of the driveway and proceeded west on 9th Street. Deputy Lawrence maintained observations of the Cobalt as it stopped in the Sterling

¹⁴ The Hispanic male was later identified as Witness 2.

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Market parking lot, at 7576 Sterling Avenue, in Highland. Witness 2 parked in front of the market and walked inside while Olikong remained in the Cobalt. Witness 2 was inside the market for approximately two minutes before he walked to the Cobalt empty handed and sat back in the driver's seat. Witness 2 backed the Cobalt out of the parking lot and drove north on Sterling Avenue. Witness 2 drove at normal speeds and did not appear to drive recklessly. Witness 2 continued to travel north on Sterling Avenue, before he stopped the Cobalt in the parking lot of the 99 Cents Plus store, at 26035 East Baseline Street, in Highland.

Once stopped in the parking lot of 99 Cents Plus, Witness 2 and Olikong exited the Cobalt and walked into the store. As Olikong and Witness 2 entered the store, Deputy Lawrence was only able to see their backs, due to the airplane's orbit, and was unable to confirm if Olikong wore the black satchel into the store. Olikong and Witness 2 were in 99 Cents Plus for approximately one minute before they re-entered the Cobalt. Witness 2 returned to the driver's seat as Olikong sat in the front passenger seat. Once in the Cobalt, Witness 2 drove out of the parking lot and turned south on Victoria Avenue. After leaving 99 Cents Plus, Witness 2 drove to Coin Laundry, at 7578 Victoria Avenue in Highland, and parked in front of the laundromat. The Cobalt remained parked in front of the laundromat for approximately two minutes, with the rear brake lights activated. Deputy Lawrence believed Witness 2 was possibly attempting to identify any SBPD vehicles or personnel by conducting frequent stops, which Deputy Lawrence referred to as "surveillance counter measures."

Deputy Lawrence requested that SBPD confirm if Olikong was still in the vehicle, as Witness 2 reversed the Cobalt away from the laundromat. As the Cobalt exited the parking lot and turned north on Victoria Avenue, an unknown SBPD officer broadcasted that Olikong was still seated in the front passenger seat. Witness 2 continued north on Victoria Avenue and turned west on Rosemary Drive. While on Rosemary Drive, Witness 2 pulled the Cobalt onto the north shoulder of the roadway. Deputy Lawrence zoomed the camera and observed Olikong and Witness 2 seated in the vehicle.

Deputy Lawrence broadcasted the Cobalt's position on Rosemary Drive to SBPD officers. An unknown officer broadcasted that officers were going to approach and attempt to apprehend Olikong as he sat in the Cobalt. Officers broadcasted their intention to use a white panel van to pin the Cobalt's driver's door closed when they arrived. According to Deputy Lawrence, after approximately one minute, a white panel van approached the driver's side of the Cobalt. The front passenger bumper of the van impacted the Cobalt's driver side door and caused the Cobalt to rock back and forth. Immediately after the van impacted the Cobalt, Olikong exited the front passenger seat armed with a black semi-automatic handgun. After Olikong exited the Cobalt, Deputy Lawrence broadcasted, "Foot bail, foot bail," indicating Olikong ran from the vehicle.

As Olikong exited the Cobalt, Deputy Lawrence saw that he turned south toward the van and ran backwards to the north. Olikong raised the handgun with his right hand toward SBPD officers. As Olikong ran backwards, he fired his handgun toward the officers.

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Deputy Lawrence then observed him fire approximately four to five rounds. Deputy Lawrence saw smoke and muzzle flashes emerge from the front of Olikong's handgun. Deputy Lawrence broadcasted, "Shots fired, shots fired," over the police radio.

According to Deputy Lawrence, as Olikong fired his handgun toward SBPD officers, he fell backwards onto the ground approximately 20 feet north of the Cobalt and lay on his back. As Olikong fell, Deputy Lawrence saw multiple bullet strikes impacting the dirt around Olikong. Due to the focused camera view, Deputy Lawrence did not observe which officers fired their weapons at Olikong. Once Olikong fell onto the ground, an unknown officer approached Olikong and removed his handgun from his left hand. The officer placed the gun on the ground while he maintained lethal coverage on Olikong. An unknown officer broadcasted, "999," over the police radio. "999" was a police code, which indicated an officer was down and needed immediate assistance. Deputy Lawrence moved the camera and observed an officer lying on the ground north of the white panel van.¹⁵ Multiple officers, who wore black ballistic vests, with "Police" written in white letters, surrounded Officer Robison. He was motionless, as officers removed clothing and tactical gear to render medical aid. Multiple officers requested medical aid to respond to the scene as a second "officer down" was broadcast. Deputy Lawrence observed another officer sitting down on the ground east of Robison.¹⁶

SBPD officers picked Officer Robison up and carried him to a grey Dodge Durango while officers broadcasted their intention to transport him to LLUMC for treatment. SBPD officers drove Officer Robison away from the scene while Deputy Lawrence and Witness 1 followed, attempting to coordinate roadblocks to expedite arrival at the hospital. Deputy Lawrence and Witness 1 followed until Officer Robison arrived at LLUMC then returned to the Sheriff's Aviation Division.

STATEMENTS BY CIVILIAN WITNESSES¹⁷

On August 18, 2021, at around 5:40 in the afternoon, **Witness 1** was interviewed by Detective Justin Carty and Detective Simon DeMuri of the San Bernardino County Sheriff's Department.¹⁸

At approximately 8:00 in the morning, Witness 1 and Tactical Flight Officer Deputy Corey Lawrence were assigned to call sign "Sheriff 12". At around 2:00 in the afternoon, Deputy Lawrence received a phone call from SBPD Detective Loera. Detective Loera asked Deputy Lawrence and Witness 1 if they could provide aerial surveillance, while they tracked a suspect.¹⁹ Olikong was responsible for the attempted murder of Deputy

¹⁵ The officer was later identified as Officer Robison.

¹⁶ The officer was later identified as Officer Shipley.

¹⁷ All civilian witness statements regarding the lethal force encounter were reviewed. Not all those statements will be included in the summary of statements by civilian witnesses. Only those relevant to this analysis are included.

¹⁸ Witness 1 was a non-sworn employee working for the San Bernardino County Sheriff's Department as a pilot flying fixed wing aircraft for the Emergency Operations Division.

¹⁹ The suspect was later identified as Ervin Olikong.

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Velasco on August 17, 2021, in San Bernardino. Witness 1 received preliminary information that Olikong was in a grey, four-door sedan with another unknown subject. An unknown SBPD officer advised that the passenger of the sedan was believed to be Olikong.

At about 2:20 in the afternoon, Witness 1 and Deputy Lawrence taxied out to the runway when Deputy Lawrence received a phone call from Detective Loera. Detective Loera told Deputy Lawrence that the suspect vehicle, a grey Honda Civic, was at the I-215/I-10 Freeway interchange. As they arrived at the I-215/I-10 freeway interchange, Witness 1 was able to locate the vehicle on the I-210 Freeway as it travelled east. The Honda continued east and exited Baseline Street, in Highland. The Honda continued west on Baseline Street and travelled to a residence at 9th Street, in Highland and parked.

An unknown male adult was the driver and exited the vehicle. The driver did not look like Olikong and had long hair and an orange vest. Olikong exited the Honda on the passenger side and wore a dark colored hat, gray t-shirt, and dark colored shorts. Olikong and the driver walked into the front door of the residence. Witness 1 and Lawrence continued to orbit for approximately 30 minutes. They observed the driver exit the residence alone, get into the Honda, and drive away.

Witness 1 and Deputy Lawrence were directed on the radio by Detective Loera to maintain observation of the residence. Approximately five minutes after the driver left the residence, Olikong exited the residence and walked to 9th Street. Olikong looked north and south, and returned to the residence, and re-entered. About 30 minutes later, a male adult exited the residence and walked across 9th Street to a gray four-door, Chevrolet Cobalt, parked on the street facing west.²⁰ Witness 2 sat in the driver's seat of the Cobalt and drove it into the driveway. Olikong exited the residence and entered the front passenger seat.

Witness 2 backed out of the driveway and drove away. Witness 2 drove to the 99-Cent Store at Baseline Street and Victoria Avenue and parked. Olikong remained in the Cobalt. After a minute Witness 2 entered the 99-Cent Store and returned to the Cobalt. Witness 2 drove south on Victoria Avenue to a laundromat. The Cobalt parked at the laundromat and neither Witness 2 nor Olikong exited the Cobalt. Witness 2 backed out of the laundromat parking lot and drove north on Victoria Avenue. According to Witness 1, the Cobalt turned onto Rosemary Drive. Witness 2 parked the Cobalt on the north side of Rosemary Drive. Witness 1 and Deputy Lawrence continued to broadcast information to officers and advised them of their observations. SBPD officers advised Witness 1 and Deputy Lawrence that they were going to contact the Cobalt and attempt to arrest Olikong.

Witness 1 sent a text message to his partners at the San Bernardino County Sheriff's Department, Emergency Operations Division, prior to the lethal force encounter. Witness 1 advised his partners that, due to the ambush which occurred the day prior involving Deputy Velasco, Olikong was considered armed and dangerous. Witness 1 advised them

²⁰ The male adult was later identified as Witness 2.

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to get the air ship and rescue ship ready because SBPD officers were going to contact Olikong. Witness 1 and Deputy Lawrence orbited above the Cobalt at an altitude of 3,500 feet.

Witness 1 sat in the front of the plane and watched his monitor, which was a live view of the airplane's camera view and his instruments. Deputy Lawrence was positioned in the rear seat of the plane and had a live camera view from his monitor. Witness 1 observed an SBPD van approach the Cobalt. Olikong exited the Cobalt's passenger door as soon as the van physically contacted the Cobalt's driver side. Olikong walked north, backward in the dirt lot away from the Cobalt. Olikong pointed a black firearm at officers and fired multiple times at officers as they exited the van. Witness 1 described how Olikong took a shooting platform; his feet were separated, and he raised the gun to his eye level with both hands on the firearm. Witness 1 believed Olikong had weapons training based on the way he held the gun. The first officer fell to the ground.²¹ As officers exited the passenger side sliding door of the van, and a second officer fell.²² Witness 1 observed Olikong fall after being shot by SBPD officers. Witness 1 estimated the shooting lasted only ten seconds.

An SBPD officer approached Olikong as he lay on the ground and kicked the gun away from Olikong's hands.²³ SBPD officers immediately administered first aid to Officer Robison and Officer Shipley. While officers attended to the wounded, other SBPD officers approached the driver's side of the Cobalt and detained Witness 2, who sat in the driver's seat. Witness 2 was then escorted to a patrol vehicle away from the scene. Witness 1 did not observe anyone else exit the Cobalt. Witness 1 then observed officers carry Officer Robison to a gray sports utility vehicle (SUV) and load him into the back of it. He saw other officers load Officer Shipley into another vehicle. Witness 1 eventually followed in the aircraft as officers drove Officer Robison and Officer Shipley to LLUMC.

On August 18, 2021, at around 6:30 in the evening, **Witness 2** was interviewed by Detective Gerardo Navarro and Detective Adrian Bustamante of the San Bernardino County Sheriff's Department.

Witness 2 was the boyfriend of Olikong's aunt, Ksetsuk Saito, and had known Olikong for four years prior to the incident. Witness 2 told investigators that around 2:10 in the afternoon on August 18, 2021, Olikong called Witness 2 because he wanted to go to Witness 2's house. Olikong had a friend drop him off at Witness 2's house. The reason Witness 2 believed it was one of Olikong's work friends was because the friend wore a yellow, fluorescent work vest. Olikong asked if his friend could use the restroom, so the friend used the restroom and left. While Olikong and Witness 2 ate lunch, Olikong asked if Witness 2 had a phone charger for his phone. Witness 2 told him he only had an iPhone charger, so he offered to drive Olikong to the 99 Cents Store to buy a charger.

²¹ The officer was later identified as Jordan Robison.

²² The officer was later identified as Christopher Shipley.

²³ The officer was later identified as Ernesto Luna.

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Witness 2 went to the master bedroom to grab his keys and on his way back to the kitchen, Witness 2 saw Olikong walk toward 9th Street, look around, and then walk back to the house. Witness 2 told Olikong that he had to get the recycling out of his car and walked to his vehicle, which was parked on 9th Street, facing south. Witness 2 drove his vehicle into the driveway and parked directly in front of the front door. Witness 2 grabbed two bags of recycling and put them next to the house, and Olikong got into the passenger seat. Witness 2 told Olikong he had to get cigarettes first and drove to the liquor store on Sterling Avenue and 9th Street. Witness 2 then drove Olikong to get a charger at the 99 Cents Store.

When Witness 2 and Olikong got back in the car, Olikong told Witness 2 they were being followed by police. Olikong pointed at a tan or green car, but Witness 2 did not see the car Olikong talked about. Witness 2 asked Olikong where the car was and why law enforcement was following him, but Olikong did not answer. Olikong maneuvered the rearview mirror and continually looked over both shoulders as Witness 2 drove north on Victoria Avenue. Olikong abruptly told Witness 2 to turn west on Rosemary Drive and continued to look in the rearview mirror. Olikong told Witness 2 to park on the north side of the street near the dirt lot. Olikong continued to look through the rearview mirror and said, "they're going to come." Witness 2 believed they were parked on Rosemary Drive for about one minute. Olikong then looked through the rearview mirror and suddenly said, "They're here. Fuck this. I'm going to fight."

Witness 2 looked over his left shoulder and saw a white van crash into his driver's side door. Simultaneously, Witness 2 heard a zipper then the sound of someone cocking a gun. Witness 2 did not see Olikong with a gun, but believed he must have pulled one out while Witness 2 looked at the white van that crashed into his vehicle. Olikong swung the passenger front door open and stepped out of Witness 2's vehicle. Witness 2 heard approximately four gunshots from Olikong's direction and heard approximately four louder shots from the law enforcement officers that came out of the white van. Witness 2 knew they were law enforcement because they had helmets, gear, guns, and police insignia.

Witness 2 was afraid for his safety and immediately ducked down, put his face as close to his chest as possible, raised both arms, and protected his head. Witness 2 did not know how much time elapsed between the time he gave Olikong a ride to when the shooting occurred. When police officers dragged Witness 2 out of the vehicle, he saw Olikong injured, face up in the dirt field, and injured police officers on the street.

On August 18, 2021, around 8:52 in the evening, **Witness 3** was interviewed by Detective Justin Carty and Detective Simon DeMuri of the San Bernadino County Sheriff's Department.

At approximately 3:30 in the afternoon, Witness 3 was sitting in the front yard of his home on the corner of Victoria Avenue and Rosemary Drive. Witness 3 noticed approximately three vehicles parked in front of his residence. Witness 3 did not recognize any of the vehicles, and thought it was strange for them to be parked in front of his residence.

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Witness 3 saw a white van turn west on Rosemary Drive from Victoria Avenue. The white van was full of police officers and Witness 3 could tell they were law enforcement right away. Witness 3 could see through the windows of the white van and saw police officers inside, who were dressed in pads and ballistic helmets. Witness 3 stood up from his chair as he watched the white van pass his house, west on Rosemary Drive.

Witness 3 saw the white van approach a silver four-door sedan that was parked on the north side of Rosemary Drive. Witness 3 was unsure if the front of the vehicle faced east or west. The silver sedan was parked approximately 100 yards west of Witness 3's residence. Witness 3 observed the white van pull up next to the silver sedan. Witness 3 did not see any police lights or hear any sirens on the white van.

Witness 3 observed the suspect exit the silver sedan from the passenger side of the vehicle.²⁴ Olikong wore a white or tan t-shirt and gray shorts or pants. Olikong immediately backed away from the silver sedan, toward the north. Olikong raised his hands up in front of his face and Witness 3 saw a gun in his hands. Witness 3 could not tell what type of firearm Olikong was using, but believed it was a rifle or a pistol. Olikong shot toward the white van and officers who were exiting the van. Olikong continued to fire in rapid succession as he walked backward, away from the vehicle. Witness 3 estimated Olikong fired his weapon ten times over a six second period, before officers fired back. Witness 3 heard officers return fire at Olikong for approximately 10 seconds and described hearing approximately 30 to 40 total shots fired. Witness 3 believed the officers fired back due to the different sound of the shots. Witness 3 observed one officer fall to the ground and believed he was shot by Olikong. Officers continued to shoot at Olikong until he fell backward onto the ground in the field.

Multiple officers arrived at the shooting scene in unmarked and marked police vehicles. Witness 3 saw officers attempt to help the officer that was shot and saw them carry him out of the area to another vehicle. Witness 3 could not describe the vehicle the officer was placed in. Witness 3 saw officers escort a handcuffed Hispanic male adult away from the shooting scene, toward a police vehicle. The handcuffed subject was not Olikong, who he saw shooting at officers, and Witness 3 believed it was the driver of the silver sedan. The subject was not injured, did not have any blood on him, and did not say anything as he walked past Witness 3. He did not notice anyone else in the suspect vehicle at the time of the shooting.

Witness 3 did not see any helicopters or aircraft in the air during the time of the shooting. Witness 3 saw a helicopter arrive above the shooting scene and believed it was from San Bernardino International Airport approximately 15 minutes after the shooting occurred. Witness 3 described where he was seated during the shooting, at the front yard of his residence. A chair was at the northwest corner where Witness 3 sat. He demonstrated how he stood up, turned his body to face north as the white van approached, and held onto the fence post. Witness 3 watched the shooting from that location. Witness 3 had

²⁴ The suspect was later identified as Ervin Olikong.

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a clear view from the north side of his fence line to the shooting, approximately 100 yards east of the shooting scene.

On August 18, 2021, around 9:30 in the evening, **Witness 4** was interviewed by Detective Gerad Laing and Detective Jonathan Cavender of the San Bernardino County Sheriff's Department.

At approximately 3:30 in the afternoon, Witness 4 sat inside his kitchen on the east side of his residence with his wife, Witness 5, and children. Witness 4 sat next to his window, which faced east. Witness 4 saw a silver sedan parked, facing west, on Rosemary Drive east of Los Feliz Drive. Witness 4 looked outside his window to make sure no one was stealing from him or his neighbors. Witness 4 did not recognize the car as one of his neighbor's vehicles.

Within a minute or so after Witness 4 saw the vehicle parked, he heard a loud noise outside the front of his residence. Witness 4 first thought it was construction workers who used a jackhammer. Witness 4 opened his front door and looked outside. Witness 4 observed the suspect exit the passenger side of the silver sedan, manipulate a handgun by racking the slide back with both hands, raise the handgun, and shoot south in the direction of the police officers.²⁵ Witness 4 saw one police officer who stood near the front driver's side of a white van that collided with the driver's side door of the silver sedan. Witness 4 saw the police officer fire his rifle at Olikong. Witness 4 knew it was a police officer because he wore a black tactical vest with the word "Police" across the back. Witness 4 also saw the van had a forward-facing red light emitting from the van's front window.

Olikong walked backward as he faced the police officers and fired his handgun. Witness 4 only saw one police officer in front of the van. The silver sedan and van obstructed his view of the other officers. Olikong continued to walk backward and fell to the ground. Witness 4 saw a police officer approach Olikong and check his pulse. Several police officers and vehicles arrived in the area after Olikong fell to the ground. Witness 4 remained in the front yard of his residence and saw multiple law enforcement personnel arrive.

Witness 4 heard three to four gunshots in rapid succession, followed by several additional gunshots in rapid succession. The first four gunshots sounded different from the second volley of gunshots. Witness 4 saw Olikong had a handgun, and the police officer who stood to the front of the van had a rifle. Witness 4 believed the first gunshots he heard came from Olikong's handgun.

On August 18, 2021, around 9:49 in the evening, **Witness 5** was interviewed by Detective Malcolm Page and Detective Justin Carty of the San Bernardino County Sheriff's Department.

²⁵ The suspect was later identified as Ervin Olikong.

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At approximately 3:30 in the afternoon, Witness 5 stood in the living room area of her home with her husband, Witness 4, and her children. As they prepared to eat, Witness 5 heard gunshots outside her home. Witness 5 heard two distinct volleys of gunshots, with the first being approximately three to four gunshots fired rapidly. Approximately three seconds passed until Witness 5 heard the second volley of gunshots, with the second being approximately four to five additional rapid gunshots.

After the first volley, Witness 5 told Witness 4, "They're shooting!" Witness 4 initially did not believe Witness 5, but as the second volley of gunshots started, he ducked his head down. Witness 5 immediately ran to the front window of her home, on the southeast corner. Witness 5 moved a cloth window blind and momentarily looked out the closed window. Witness 5 saw a white van stopped on Rosemary Drive but did not see any law enforcement officers. Witness 5 saw a male, wearing a white shirt, point a small black handgun toward the white van.²⁶ Witness 5 heard one additional gunshot. Witness 5 admitted her view from the window was obstructed by a pool, trees, and several parked vehicles.

Witness 5 locked the front door to her home once the gunfire stopped and ran to her mother's home, on the same property, to lock the front door. Approximately five minutes later, Witness 5 exited her front door and observed multiple police vehicles parked on Rosemary Drive. Due to the distance and obstructions caused by emergency vehicles, Witness 5 did not see medical aid rendered to anyone.

INCIDENT VIDEO

SHERIFF'S AVIATION DIVISION. A San Bernardino County Sheriff's Aviation Division fixed-wing aircraft, *Sheriff12* captured video of this LFE. The video is one hour and nine minutes long. The video began with the surveillance efforts of SBPD and the San Bernardino County Sheriff's Department, discussed *ante*. The portion most relevant to this analysis begins roughly 56 minutes and 34 seconds into the video through the end of the video. The video was reviewed in its entirety, but only the portion most relevant to this analysis will be discussed below as the contents of the video were largely discussed in detail in the factual summaries above.

At time stamp 22:36:46²⁷ a grey Chevy Cobalt driven by Witness 2 with Olikong in the passenger seat turned westbound on Rosemary Drive travelling west. Shortly thereafter the vehicle pulled to the north curb of Rosemary Drive and parallel parked between two vehicles, a gold-colored sedan to the west and a black colored SUV to the east. The vehicle remained parked there for approximately 52 seconds.

At time stamp 22:37:52 the camera zoomed into the Cobalt. Olikong was visible wearing a black satchel across his chest. He appeared to retrieve a firearm and began to

²⁶ The man was later Identified as Ervin Olikong.

²⁷ The video time stamp is UTC time, which is seven hours ahead of San Bernardino time in August.

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manipulate it. Approximately three seconds later, the white van driven by Detective Stack impacted the front driver's side door of the Cobalt. Olikong then opened the front passenger door of the Cobalt with a black firearm in his right hand. At time stamp 22:37:56, Olikong stood outside of the passenger side of the Cobalt in a bladed stance, with two hands on a black firearm, which is pointed in the direction of the sliding door of the white van. Detective Stack is in frame and began to open the front-driver's door of the van.

At time stamp 22:37:57 Olikong backed up slightly and fired several shots in the direction of Officer Robison, who was just outside of the sliding door of the van. Detective Stack had not yet exited the van at this point. The video continued, and showed Olikong firing in the direction of Officer Robison, who immediately fell to the ground. At time stamp 22:37:59 the video showed Olikong falling backwards, in a seated position still pointing a gun toward the white van. He eventually fell completely flat. It is clear that he had been shot at this point. Several plumes of dirt are observed from bullet strikes from SBPD officers firing at him.

Sergeant Luna entered the frame of the video at time stamp 22:38:04. He had a rifle drawn and pointed in the direction of Olikong. He quickly approached Olikong and fired a shot at him at close range. At the time of the shot Olikong held onto a handgun in his left hand. The video showed Sergeant Luna approach Olikong and attempt to kick the handgun out of his hand. While doing this, Sergeant Luna slipped on the ground and fell. He then grabbed Olikong's handgun and threw it west, away from Olikong.

At time stamp 22:38:25 Detective Stack stood at the driver's side door of the Cobalt with a rifle pointed at the driver. Sergeant Luna remained over Olikong and provided cover for fellow officers who attended to Officer Robison and Officer Shipley, both of whom were clearly wounded by Olikong.

The video continued over the scene of the LFE for several minutes and showed multiple police officers attend to Officer Robison and Officer Shipley. Both officers were eventually placed into police vehicles and transported to the hospital. The video continued to follow the wounded officers' vehicles until arrival at the hospital and then ended.

WEAPON

Investigators located a Glock model 40 Generation 4 10mm pistol at the scene of this LFE near Olikong in the dirt field just north of Rosemary Drive. The serial number (BNNX921) was registered to an individual with an address in Bullhead City, Mojave County, Arizona. Detectives learned that on January 1, 2018, San Bernardino County Sheriff's Deputies responded to an address in Needles, California for a stolen firearm report (DR# 211800018). During that encounter the reporting party claimed the firearm was stolen during a residential burglary. Investigators made multiple attempts to reach the reporting party without success.

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DECEDENT

IDENTIFICATION. The decedent was identified as Ervin Olikong, an adult male with a date of birth of January 8, 1987.

AUTOPSY. Dr. Diana Geli, Forensic Pathologist with the San Bernardino County Sheriff's Department Coroner Division, conducted the autopsy of Ervin Olikong on August 18, 2021. Dr. Geli completed the Autopsy Protocol report on August 22, 2023. Dr. Geli determined the cause of death was multiple gunshot wounds.

Gunshot Wound Number One²⁸:

Located on the right cheek, approximately six inches below the top of the head and three inches right of the midline. The path of the projectile was front to back, and slightly left to right with no significant upward/downward deviation.

Gunshot Wound Number Two:

Located on the right lower chest, approximately 18 inches from the top of the head and five inches to the right of the midline. The path of the projectile was left to right and upwards with no significant front/back deviation.

Gunshot Wound Number Three:

Located on the left lower chest, approximately 20 inches below the top of the head and four inches to the left of the midline. The path of the projectile was front to back and upwards with variable right/left deviation.

Gunshot Wound Number Four:

Located on the right side of the abdomen approximately 29 inches below the top of the head and three inches from the midline. The path of the projectile was front to back, right to left and upwards.

Gunshot Wound Number Five:

²⁸ The numbering of the gunshot wounds is for reference only and not meant to indicate the order in which the gunshot wounds occurred.

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Located on the right side of the scrotum, approximately 38 inches below the top of the head. The path of the projectile was right to left and upwards with no significant front/back deviation.

Gunshot Wound Number Six:

There are two gunshot fragment wounds identified by Dr. Geli here. One is located 37 inches below the top of the head and two inches to the right of the midline. The other is located approximately 38 inches below the top of the head and one inch to the right of the midline. The path of both projectiles was back to front, left to right and upwards.

Gunshot Wound Number Seven:

Located on the right arm approximately 8 inches below the top of the right shoulder. The path of the projectile was indeterminate.

Gunshot Wound Number Eight:

Located on the right forearm approximately 16 inches below the top of the right shoulder. The path of the projectile was back to front, left to right and downwards.

Gunshot Wound Number Nine:

Located on the dorsal aspect of the right fifth finger approximately 29 inches below the top of the right shoulder. The path of the projectile was left to right and upwards with no significant front/back deviation.

Gunshot Wound Number Ten:

This graze wound was located on the anteromedial aspect of the right thigh, located 30 inches above the bottom of the right heel. The path of the projectile was indeterminate.

Gunshot Wound Number Eleven:

Located on the medial aspect of the right thigh, approximately 29 inches above the bottom of the right heel. The path of the projectile was left to right and upwards with no significant front/back deviation.

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Gunshot Wound Number Twelve:

Located on the right thigh, approximately 29 inches above the bottom of the right heel. The direction of the projectile was back to front and upwards with no significant right/left deviation.

Gunshot Wound Number Thirteen:

Located on the left wrist, approximately 24 inches below the top of the left shoulder. The direction of the projectile was front to back and upwards with no significant right/left deviation.

Gunshot Wound Number Fourteen:

Dr. Geli located four gunshot fragment wounds on the medial aspect of the right thigh. They were all located approximately 33 inches above the bottom of the left heel. The direction of the projectiles was left to right and upwards with variable front/back deviation.

Gunshot Wound Number Fifteen:

Located on the left heel. The path of the projectile was left to right and upwards.

Gunshot Wound Number Sixteen:

Located on the left thigh approximately 29 inches above the bottom of the left heel. The path of the projectile was right to left and upwards with no significant front/back deviation.

Gunshot Wound Number Seventeen:

Located on the left thigh approximately 25 inches above the bottom of the left heel. The path of the projectile was back to front and upwards with no significant right/left deviation.

CAUSE AND MANNER OF DEATH. Dr. Geli determined the cause of death to be multiple gunshot wounds, occurring within seconds and the manner of death to be homicide.

TOXICOLOGY RESULTS. Pericardial blood, chest blood and vitreous fluid were collected from Olikong during the autopsy.

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Toxicology results from the **Pericardial Blood** sample were listed as follows:

- Ethanol – 24 mg/dL
- Blood Alcohol Concentration (BAC) – 0.024 g/100mL
- 11-Hydroxy Delt-9 THC – 3.3 ng/mL
- Delta-9 Carboxy THC – 67 ng/mL
- Delta-9 THC – 11 ng/mL

CRIMINAL HISTORY

2004, Penal Code § 653(k), Possession of a Switch Blade Knife. San Bernardino County Juvenile case number 197304, Wardship.

2004, Penal Code § 626.10, Possession of a Weapon on School Grounds. San Bernardino County Juvenile case number 197304, Wardship.

2005, Penal Code § 212.5, Robbery. San Bernardino County case number FSB051115, a felony.

2010, Penal Code § 496d(a), Possession of Stolen Property – Motor Vehicle. San Bernardino County case number FSB1001328, a felony.

2014, Penal Code § 273.5(a), Corporal Injury to a Spouse/Co-Habitant. San Bernardino County case number FWV1402948, a felony.

2019, Penal Code § 245(a)(1), Assault with a Deadly Weapon. San Bernardino County case number FSB19002728, a felony (Warrant- Pending Arrest).

DE-ESCALATION

De-escalation was not attempted nor feasible under these circumstances. Of note, every officer directly involved in this LFE told investigators that given the immediacy of Olikong's violent actions with a firearm, de-escalation was not possible. The day prior to this incident Olikong fled from the police and led Deputy Velasco on a short chase. After turning a blind corner, Olikong exited his vehicle and fired approximately 36 shots at a helpless Deputy Velasco from a high-powered assault rifle. The next day, when approached by the officers involved in this LFE, Olikong immediately exited his vehicle and began firing at officers before they could even exit their van. Given Olikong's immediate violent action, any attempt at de-escalation would have been futile and likely led to consequences graver than already experienced by these officers.

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APPLICABLE LEGAL PRINCIPLES

A peace officer may use objectively reasonable force to effect an arrest if he believes that the person to be arrested has committed a public offense. (Calif. Penal C. §835a(b).)²⁹ Should an arresting officer encounter resistance, actual or threatened, he need not retreat from his effort and maintains his right to self-defense. (Penal C. §835a(d).) An officer may use objectively reasonable force to effect an arrest, prevent escape or overcome resistance. (Penal C. §835a(d).)

An arrestee has a duty to refrain from using force or any weapon to resist arrest, if he knows or should know that he is being arrested. (Penal C. §834a.) This duty remains even if the arrest is determined to have been unlawful. (*People v. Coffey* (1967) 67 Cal.2d 204, 221.) In the interest of orderly resolution of disputes between citizens and the government, a *detainee* also has a duty to refrain from using force to resist detention or search. (*Evans v. City of Bakersfield* (1994) 22 Cal.App.4th 321, 332-333.) An arrestee or detainee may be kept in an officer's presence by physical restraint, threat of force, or assertion of the officer's authority. (*In re Gregory S.* (1980) 112 Cal. App. 3d 764, 778, *citing, In re Tony C.* (1978) 21 Cal.3d 888, 895.) The force used by the officer to effectuate the arrest or detention can be justified if it satisfies the Constitutional test in *Graham v. Connor* (1989) 490 U.S. 386, 395. (*People v. Perry* (2019) 36 Cal. App. 5th 444, 469-470.)

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

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

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

(Penal C. §835a(c)(1).) Discharge of a firearm is "deadly force." (Penal C. §835a(e)(1).) The "[t]otality of the circumstances" means all facts known to the peace officer at the

²⁹ All references to code sections here pertain to the California Penal Code.

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time, including the conduct of the officer and the subject leading up to the use of deadly force.” (Penal C. §835a(e)(3).) A peace officer need not retreat or desist from efforts to arrest a resistant arrestee. (Penal C. §834a(d).) A peace officer is neither deemed the aggressor in this instance, nor does he lose the right of self-defense by the use of objectively reasonable force to effect the arrest, prevent escape or overcome resistance. (*Id.*)

While the appearance of these principals was new to section 835a in 2020,³⁰ the courts have been defining the constitutional parameters of use of deadly force for many years. In 1985, the United States Supreme Court held that when a police officer has probable cause to believe that the suspect he is attempting to apprehend “has committed a crime involving the infliction or threatened infliction of serious physical harm” to the officer or others, using deadly force to prevent escape is not constitutionally unreasonable. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11-12.) California courts have held that when a police officer’s actions are reasonable under the Fourth Amendment of our national Constitution, that the requirements of Penal Code § 196 are also satisfied. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 349; *Brown v. Grinder* (E.D. Cal., Jan. 22, 2019) 2019 WL 280296, at *25.) There is also a vast body of case law that has demonstrated *how* to undertake the analysis of what is a reasonable use of force under the totality of the circumstances. (See *Reasonableness* discussion, *infra.*) As such, our pre-2020 state case law, developed upon the former iteration of section 196, is still instructive.

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

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

- (1) that the use of force should be exercised judiciously and with respect for human rights and dignity; that every person has a right to be free from excessive uses of force;

³⁰ Assem. Bill No. 392 (2019-2020 Reg. Sess.) approved by the Governor, August 19, 2019. [Hereinafter “AB-392”]

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- (2) that use of force should be used only when necessary to defend human life and peace officers shall use de-escalation techniques if it is reasonable, safe and feasible to do so;
- (3) that use of force incidents should be evaluated thoroughly with consideration of gravity and consequence, lawfulness and consistency with agency policies;³¹
- (4) that the evaluation of use of force is based upon a totality of the circumstances, from the perspective of a reasonable officer in the same situation; and
- (5) that those with disabilities may be affected in their ability to understand and comply with peace officer commands and suffer a greater instance of fatal encounters with law enforcement, therefore.

(Penal C. §835a(a).)

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

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

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

³¹ Penal C. §835a (a)(3) conflates a demand for thorough evaluation of a use of force incident with a dictate that it be done “in order to ensure that officers use force consistent with law and agency policies.” On its face, the section is clumsily worded. Nothing included in AB-392 plainly requires that a use of force also be in compliance with agency policies. A provision in the companion bill to AB-392—Senate Bill No. 230 [(2019-2020 Reg. Sess.) approved by the Governor, September 12, 2019] (Hereinafter “SB-230”), does explicitly state that “[a law enforcement agency’s use of force policies and training] may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably, but shall not be considered as imposing a legal duty on the officer to act in accordance with such policies and training.” (Sen. Bill No. 230 (2019-2020 Reg. Sess.) §1.) It is noteworthy, however, that this portion of SB-230 is uncodified, unlike the aforementioned portion of Penal C. §835a (a)(3).

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(CALCRIM 505.) The showing required under section 197 is principally equivalent to the showing required under section 835a(c)(1), as stated *supra*.

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

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

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

(Penal C. §835a(e)(2).)

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

The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on scene, rather than with the 20/20 vision of hindsight...The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.

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

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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.)³² 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.)

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

³² The legislative findings included in Penal C. section 835a(a)(4) suggest to the contrary that “the decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation”. As such, if the officer using force was acting in an effort to *effect arrest*, as is governed by section 835a, then it appears the more generous standard included there would apply.

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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. (*Baldridge 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.)

NON-LETHAL FORCE. This does not suggest that anything *less than* deadly force requires no justification. “[A]ll force—lethal and non-lethal—must be justified by the need for the specific level of force employed.” (*Bryan v. MacPherson* (9th Cir. 2010) 630 F.3d 805, 825, citing *Graham [v. Connor]* (1989) 490 U.S. [386], 395.) The *Graham* balancing test, as described *supra*, is used to evaluate the reasonableness of lethal and non-lethal force, alike. (*Deorle v. Rutherford* (9th Cir. 2001) 272 F.3d 1272, 1282-83.)

Use of a taser or a shotgun-fired bean bag has been categorized as intermediate non-lethal force. (*Bryan v. MacPherson, supra*, 630 F.3d at 825[taser]; *Deorle v. Rutherford,*

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supra, 272 F.3d at 1279-80 [bean bag].) This designation exists despite the fact that such force is *capable* of being used in a manner causing death. (*Id.*) To be deemed “lethal force” the instrumentality must be force that “creates a substantial risk of death or serious bodily injury.” (*Smith v. City of Hemet* (9th Cir. 2005) 394 F.3d 689, 693.); use of a taser or shotgun-fired bean bag both fall short of this definition. (*Bryan v. MacPherson, supra*, 630 F.3d at 825; *Deorle v. Rutherford, supra*, 272 F.3d at 1279-80.) Similarly, the use of a trained police dog does not qualify as “deadly force” as it too has fallen short of the lethal force definition set forth in *Smith*. (*Thompson v. County of Los Angeles* (2006) 142 Cal.App.4th 154, 165-169.)

Beyond the traditional *Graham* factors, and particularly in the use of non-lethal force, the failure of officers to give a warning and the subject’s mental infirmity can also be considered when assessing the totality of the circumstances. (*Bryan v. MacPherson, supra*, 630 F.3d at 831; *Deorle v. Rutherford, supra*, 270 F.3d at 1283-84.)

Failure to pass-muster under *Graham* can deem the use of non-lethal force as “excessive” and therefore violate the Fourth Amendment. (*Id.*) On the other hand, active resistance could justify multiple applications of non-lethal force to gain compliance and would not be deemed “excessive” nor violate the Fourth Amendment. (*Sanders v. City of Fresno* (9th Cir. 2008) 551 F.Supp.2d 1149, 1182 [not excessive to use physical force and tase an unarmed but actively resisting subject with 14 taser cycles where such was needed to gain physical control of him].)

ANALYSIS

In this case, Sergeant Luna, Detective Stack, Officer Robison, and Officer Shipley each had an honest and objectively reasonable belief that Olikong posed an imminent risk of serious bodily injury or death. The officers here were involved in an operation to apprehend a dangerous, fleeing felon, who just one day before, fired a high-powered assault rifle 36 times at a fellow officer without provocation. Prior to the apprehension operation, each of the officers involved here were aware of the facts and circumstances of the assault on Deputy Velasco and all of them were aware that Olikong was wanted for another serious felony: assault with a deadly weapon.

To determine whether these officers acted justifiably, it must first be analyzed whether they each harbored an honest and objectively reasonable belief in the imminent need to use deadly force. Here, each officer told investigators that they feared for their lives, the lives of their fellow officers and that of the general public during the engagement with Olikong. These beliefs were honest. First, the officers involved in Olikong’s apprehension took special care to attempt his apprehension in the most tactically advantageous way possible. The officers were each concerned with apprehending Olikong safely and without violence based on his previous actions. They demonstrated their fear and concern by refusing the attempt at apprehension at several locations before the incident on Rosemary Drive. Each officer told investigators that several attempts during the day were

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forgone because they did not provide the safest opportunity to do so. Importantly, *everyone* involved in the apprehension, including those who were not directly involved in the LFE, maintained fear that when approached by police, Olikong would react violently. The officers here waited until what they believed was the right moment to advance on Olikong to mitigate the potential for violence against themselves, and the general public. Thus, each officer involved here had an honest belief that Olikong posed an imminent threat of death or great bodily injury.

Each of those beliefs were inherently reasonable under the circumstances. The reasonableness of those beliefs are corroborated by other law enforcement officers on the scene, civilian witnesses in the neighborhood, and Witness 2. Here, the evidence demonstrates that upon contact, Olikong sprang from his vehicle and immediately began firing at officers, gravely wounding Officer Robison and Officer Shipley. As the video demonstrates, no sooner could Officer Robison open the door to the van he rode in, when bullets began flying in his direction from Olikong. Similarly, Officer Shipley was, in all probability, wounded while still inside the van. The officers involved here were faced with a deadly situation that unfolded in a manner of seconds. Sergeant Luna and Detective Stack were likewise immediately faced with an armed and dangerous fleeing felon who they witnessed shoot and nearly kill, two of their fellow officers and who still appeared to intend harm to them. Any reasonable person in the same or similar circumstances faced by these officers would have believed in the need to use lethal force to defend themselves, and others facing the imminent danger of a hail of gunfire in their direction.

Other evidence collected by investigators sheds further light on the reasonableness of the officers' actions here. Of note, investigators interviewed Witness 2, the individual who drove Olikong around immediately prior to this LFE. Witness 2 told investigators that while driving around prior to the LFE, Olikong told Witness 2 that the police were following them. Just before the SBPD van pulled down Rosemary Drive, Olikong told Witness 2 that the police were coming. The video corroborates this statement as it showed Olikong retrieving his pistol from his satchel *before* the van contacted the gray Cobalt. Witness 2 also told investigators that Olikong told him right before the van arrived, "They're here. Fuck this. I'm going to fight." Witness 2 told detectives that he heard the sound of a gun being cocked right before Olikong exited and began firing. Finally, Witness 2 stated that upon exit, Olikong was armed, and began firing repeatedly.

Though the officers could not have known exactly what Olikong discussed with Witness 2, or what was in his mind immediately before this LFE, that Olikong indicated an intent to "fight" immediately before readying his weapon objectively demonstrates that the officers' beliefs in the immediacy of imminent death were inherently reasonable. Importantly, Corporal Thornburg, who witnessed the LFE just east of the location, believed that his fellow officers and the general public were in imminent danger based on Olikong's actions. He sought to engage Olikong but could not, because the LFE ended so quickly. Several civilians who witnessed the LFE also opined that the officers here returned fire only *after* being shot at by Olikong.

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There was no indication that Olikong intended to be apprehended peacefully. He nearly murdered Deputy Velasco, who merely attempted a routine traffic stop on him the day before. When he realized that the police were following him, Olikong readied a firearm and stated his intention to "fight." When the officers approached, Olikong began firing before the officers could even attempt a peaceful arrest, gravely wounding two of them.

The law is clear that none of the officers involved in this LFE were required to suffer under the effects of further gunfire before utilizing lethal force in self-defense. Thus, when Olikong began firing his weapon at officers, Sergeant Luna, Detective Stack, Officer Robison and Officer Shipley honestly and reasonably believed in the imminent threat of death or great bodily injury. Their beliefs were objectively reasonable based on all of the circumstances of this incident. The officers here used no more force than that necessary to stop an immediate and deadly threat to themselves, and others. Thus, the decisions by these officers to use deadly force was legally justified.

CONCLUSION

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

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

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

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

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