



## PUBLIC RELEASE MEMORANDUM

**DATE:** June 26, 2024

**SUBJECT:** Sergeant Imran Ahmed  
San Bernardino Police Department  
  
Officer Michael Yeun  
San Bernardino Police Department

**Involved Subject:** Rob Marquise Adams (Deceased)  
Date of Birth: June 1, 1994  
San Bernardino, CA

**Date of Incident:** July 16, 2022

**Incident location:** Rear north parking lot of \*\*\* West Highland Avenue  
San Bernardino, CA

**DA STAR #:** 2023-00-0003990

**Investigating Agency:** San Bernardino Police Department

**Case Agent:** Detective William R. Flesher

**Report Number#:** DR #: 2022-00078818

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**PREAMBLE**

This was a fatal officer involved shooting by officers from the San Bernardino Police Department. The shooting was investigated by the San Bernardino Police Department. This factual summary is based on a thorough review of all the investigative reports, photographs, and audio recordings submitted by the San Bernardino Police Department, DR# 62022-00078818.

**PRINCIPAL INVOLVED PARTIES**

**Rob Marquise Adams**, DOB: 06/01/1999, of San Bernardino, California was killed during the incident under review.

**Sergeant Imran Ahmed** of the San Bernardino Police Department was a law enforcement officer involved in the shooting of Rob Marquise Adams.

**Officer Michael Yeun** of the San Bernardino Police Department was a law enforcement officer involved in the shooting of Rob Marquise Adams.

**SCENE**

This incident occurred on July 16, 2022, at 8:04 p.m. The location of the occurrence was in the rear parking lot of a business located at \*\*\* West Highland Avenue in the City of San Bernardino, California.

**FACTUAL SUMMARY**

On July 16, 2022, at approximately 8:04 in the evening, Sergeant Imran Ahmed and Officer Michael Yeun of the San Bernardino Police Department Multiple Enforcement Team (MET) were on duty wearing authorized police uniforms and driving an undercover vehicle equipped with dark tinted windows. They entered the north parking lot of an illegal gambling business located at \*\*\* West Highland Avenue to gather information for a search warrant and check for an armed suspect known to frequent the rear parking lot of the business. Sergeant Ahmed and Officer Yeun entered the parking lot through the west alleyway off D Street and north of Highland Avenue. Officer Yeun was driving, and Sergeant Ahmed was seated in the front right passenger seat.

As they traveled slowly through the parking lot heading west, they observed two African American males, one wearing a white shirt and the other wearing a black tank top standing in the parking lot near a few vehicles parked along the western wall of the Golden Valley Medical building. The clinic was located just north of the illegal gambling business.

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The African American male wearing the white shirt was later identified as Rob Marquise Adams; the other male wearing the black tank top initially provided a false name. He was later identified and will be referred to as Witness #1.

Sergeant Ahmed and Officer Yeun observed Adams lift his shirt, exposing a black handgun tucked in his waistband. Adams placed his right hand on the grip of the pistol and removed it from his waistband. Adams held the pistol down against his right leg and slowly started walking toward Sergeant Ahmed and Officer Yeun's undercover vehicle. Officer Yeun parked and both he and Sergeant Ahmed exited the vehicle with their service pistols pointed at the suspects. Sergeant Ahmed and Officer Yeun identified themselves as police officers and ordered the suspects to freeze. Witness #1 complied with the officers' orders and immediately went to the ground on his knees with his hands raised above his head. Adams refused to comply with the orders. He turned and ran between two parked vehicles with the handgun still in his right hand. When Adams reached the front of his vehicle, he looked back at Sergeant Ahmed and Officer Yeun with the gun still in his hand. Officer Yeun fired his duty service pistol six times at Adams, striking him in his arms, legs, and back. Adams tossed the handgun he was holding onto the roof of the Golden Valley Medical building just before collapsing to the ground against the clinic wall. Both Sergeant Ahmed and Officer Yeun had activated their body worn cameras upon exiting the vehicle and captured the officer involved shooting.

Sergeant Ahmed and Officer Yeun notified police dispatch shots were fired and requested additional units and medical aid to respond. Officer Yeun began administering medical aid to Adams. Additional patrol units arrived on the scene to assist Sergeant Ahmed with taking Witness #1 into custody and helping Officer Yeun render medical aid to Adams. County Fire Medical Aid arrived and staged at the outer scene perimeter. Sergeant Ahmed and another officer carried Adams from between the parked vehicles to the paramedics for additional treatment. AMR transported Adams to Saint Bernadine's Medical Center emergency room where he was pronounced deceased by Dr. Garrett Suchecki at approximately 8:41 p.m. A Taurus 9-mm pistol was subsequently located on the roof of the Golden Valley Medical building.

**STATEMENTS BY POLICE OFFICERS**

**Sergeant Imran Ahmed**

On July 17, 2022, at approximately 3:35 in the morning, **Sergeant Imran Ahmed** was interviewed by Detective William Flesher at the San Bernardino Police Department Detective Bureau.<sup>1</sup> Sergeant Ahmed wore an authorized "SMASH" law enforcement uniform<sup>2</sup> at the time of the shooting and sat in the front passenger seat in an unmarked

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<sup>1</sup> All interviews at the San Bernardino Police Department were recorded.

<sup>2</sup> The "SMASH" uniforms consisted of a green polo shirt with San Bernardino Police Department shoulder patches, a San Bernardino Police star, and "SMASH" patches attached to the shirt. The word "POLICE"

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undercover vehicle.<sup>3</sup> Sergeant Ahmed was the unit supervisor for the Multiple Enforcement Team (hereinafter MET), working from Wednesday thru Saturday from 12:00 p.m. to 10:00 p.m. MET functions as a crime impact unit whose duties include patrolling high crime areas, suppressing gang violence, gathering intelligence on criminal street gangs, and as members of the SWAT Team, engaging in tactical situations that may arise.

Sergeant Ahmed started his shift on Saturday, July 16, 2022, at noon. During his shift, he was contacted by Patrol Field Sergeant Raymond Bonshire regarding a subject wanted on a *Ramey* warrant. Sergeant Ahmed was asked to conduct undercover surveillance at Blair Park to rescue a kidnap victim and apprehend the suspect on the outstanding *Ramey* warrant. Sergeant Ahmed and Officer Michael Yeun secured an undercover vehicle and responded to Blair Park. After surveilling for an hour and a half, the suspect never showed. After speaking with Sergeant Bonshire, Sergeant Ahmed canceled the surveillance and decided to head back to the police station.

While heading back to the station, Sergeant Ahmed and Officer Yeun decided to check on a suspect who had previously eluded them since they were in an undercover vehicle. Sergeant Ahmed had received information from Officer Luna this suspect was at a local internet café in the 400 block of West Highland Avenue in San Bernardino. Sergeant Ahmed was told an African-American male operated the illegal gambling operations at the net café and used the alleyway to park his vehicles. Although they were in an undercover vehicle, they were still in uniform, so they draped a black T-shirt over their upper bodies to conceal their uniforms. They drove past the front of the café but could not see inside the business. They then drove around to the north alleyway and parking lot on D Street and entered the rear parking area. While heading west, Sergeant Ahmed observed two African-American males standing near some vehicles north of the rear entrance of the net café. One wore a white shirt and the other wore a black tank top. Sergeant Ahmed stated the male with the white shirt caught his attention since he held the front of his waistband with his right hand and stared at the undercover vehicle as they drove past. As they passed the two males, Sergeant Ahmed observed the man in the white shirt lift the front of his shirt, exposing a black object in his waistband. Sergeant Ahmed believed it was a firearm. The male in the white shirt placed his right hand on the handle of the pistol. He then positioned his left hand across his waist to conceal the firearm. The African American male started walking toward the undercover vehicle while armed with the pistol. The man in the white shirt was later identified as Rob Marquise Adams. The man in the black tank top initially provided a false name. His true identity was later confirmed and he will be referred to as Witness #1.

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was silkscreened across the back of the shirt in large yellow letters. The acronym "SMASH" (San Bernardino Movement Against Street Hoodlums) was silkscreened on the left chest below the SBPD star.

<sup>3</sup>The undercover vehicle had no ballistic paneling, lights, sirens, cameras, or recording devices. All the windows were tinted except for the front windshield. The vehicle is designed to blend in with other vehicles without being noticed.

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Sergeant Ahmed told Officer Yeun that Adams had a gun. Officer Yeun confirmed he also saw the firearm in Adams' waistband. Sergeant Ahmed stated he believed Adams was saying something to Witness #1, but he could not hear what was being said because the windows were rolled up. Adams continued to walk toward the undercover vehicle. Sergeant Ahmed described Adams' aggressive movement as if he wanted to "fight." Sergeant Ahmed believed Adams was going to shoot the undercover vehicle as he and Officer Yeun drove away. Witness #1 immediately started walking between the parked vehicles as Adams approached the undercover vehicle. These movements made Sergeant Ahmed believe Adams was going to shoot at the undercover vehicle. Sergeant Ahmed recalled a previous incident a few years prior while in an undercover capacity within a criminal street gang area he had been shot at by a suspect.

Looking west toward E Street, Sergeant Ahmed noted it was an extremely busy roadway with a bus stop and a school as well as residents in the area. He believed if Adams started shooting, he and Officer Yeun would have to "absorb the bullets or an innocent bystander would be injured." As Adams continued to walk toward their vehicle, Sergeant Ahmed told Officer Yeun they needed to get out of the vehicle because he felt they were in a poor tactical position. They removed the dark covers over their uniforms and exited the vehicle. Sergeant Ahmed immediately opened the passenger door when Officer Yeun placed the vehicle in park and yelled "Police" twice. He also requested the dispatch to give them a 10-3 (emergency traffic) and broadcast they were out with an armed suspect at the location. Officer Yeun shouted "Police" as he exited the vehicle. Adams turned and started running toward the corner of the building between the cars, which had no avenue of escape. Sergeant Ahmed believed if Adams were trying to escape, he would have run toward the alleyway and not between the vehicles. There was no other place to go except for concealment or cover from the vehicle. Sergeant Ahmed believed he and Officer Yeun were going to be ambushed.

Sergeant Ahmed believed Adams knew he and Officer Yeun were police officers since they had shouted "Police" and were wearing identical SMASH uniforms. Officer Yeun fanned out to the left and Sergeant Ahmed went to the right so they could clearly and accurately identify a threat. Witness #1 displayed his hands and did not have a weapon. Adams positioned his body in a way that Sergeant Ahmed could no longer observe the pistol or his right hand while Adams ran toward the cover of the vehicles. Sergeant Ahmed saw Adams turn his body so he could look and focus on Officer Yeun. This action concerned Sergeant Ahmed because he believed Adams would try to shoot Officer Yeun. Since Adams did not flee in the direction where he could escape, Sergeant Ahmed feared Adams was going to ambush him and Officer Yeun. As Adams ran between the vehicles, Sergeant Ahmed lost visual of the pistol Adams was holding. Sergeant Ahmed heard gunfire as Adams turned toward Officer Yeun. Sergeant Ahmed knew Officer Yuen had fired his service pistol but was unsure if Adams had also fired his pistol. Sergeant Ahmed was unsure of how many shots he heard because he was focusing on Witness #1. He ordered Witness #1 to come out from between the vehicles, but Witness #1 refused. Witness #1 began shouting they were going to shoot him. Sergeant Ahmed noticed Officer Yeun was still standing and pointing his service pistol at Adams who was on the

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ground at this point. Sergeant Ahmed stated during the initial gunshots he observed a dark object in the air extending to the roof of the building while Adams stood nearby. He initially did not know what the object was, but believed it was the pistol Adams had been holding since he did not observe a handgun on the ground where Adams had collapsed.

Sergeant Ahmed observed Officer Yeun was not injured. Officer Yeun moved up to Adams while Sergeant Ahmed continued to focus his attention on Witness #1 who was still between the vehicles. Witness #1 refused Sergeant Ahmed's orders to come out. Sergeant Ahmed informed Witness #1 that he could not help Adams until Witness #1 came out to him. Witness #1 stood, walked out from between the cars, and laid on the ground. While Sergeant Ahmed detained Witness #1 in handcuffs, Witness #1 began shouting repeatedly, "You shot my cousin, you shot Juju." Sergeant Ahmed noticed the metal door to the net café opened and observed an individual who appeared to be an African-American male holding the front of his waistband standing in the threshold. The individual looked outside and then immediately shut the door to the café. Sergeant Ahmed believed this individual might be armed based on the way he was grabbing the front of his waistband.

Sergeant Ahmed moved over to Officer Yeun's position and informed Officer Yeun that he was watching the door to the café. No one exited or entered the café before or after the shooting. Officer Yeun informed Sergeant Ahmed he was going to render medical aid to Adams. Sergeant Ahmed requested medical aid to respond to their location and attempted to coordinate other officers' response to the shooting scene. When other units began to arrive at their location, Sergeant Ahmed turned Witness #1 over to them and instructed the officers to place him inside a patrol unit. Sergeant Ahmed then went to Officer Yeun's location and helped him render medical aid to Adams. Officer Yeun had already placed a tourniquet on Adams and a chest patch over one of the wounds. Sergeant Ahmed applied a tourniquet on Adams' arm. Medical aid appeared on scene but refused to approach Adams. Sergeant Ahmed, with the assistance of Officer Galarza, placed his arms under Adams' arms and carried the suspect 30 yards to where the San Bernardino County Fire Department were staging in the alleyway west of the shooting scene. After placing Adams on the ground, the paramedics took over medical aid.

Sergeant Ahmed informed a patrol supervisor about the individual he observed retreating into the café who may have been armed and there was a possible firearm on the roof of the building near where Adams had been shot. He assumed Adams had heard him identify himself as a police officer and had observed he and Officer Yeun were in uniform based upon the fact Adams retreated for cover as if he was going to ambush them. Sergeant Ahmed confirmed he observed the firearm in Adams' waistband but did not observe the firearm in Adams' hand when he was running away because of the way Adams had positioned his body. Adams' arm was positioned at chest level and Sergeant Ahmed believed Adams was holding the pistol in his right hand as he ran toward the vehicles.

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**Officer Michael Yeun**

On July 19, 2022, at approximately 9:44 in the morning, **Officer Michael Yeun** was interviewed by Detective William Flesher at the San Bernardino Police Department. Officer Yeun wore an authorized "SMASH" law enforcement uniform at the time of the shooting and was driving an unmarked undercover vehicle. Officer Yeun was currently assigned to the San Bernardino Police Department's Multiple Enforcement (MET) and the Special Weapons and Tactics (SWAT) teams. MET duties include proactive enforcement related to gang members, gang neighborhoods, and violent crimes, including follow-up investigations related to violent crimes. As a SWAT member, Officer Yeun is an instructor that coordinates training with the SWAT team. Officer Yeun is also a department firearm and defensive tactics instructor and coordinates training for sworn personnel. Officer Yeun's schedule is Wednesday through Saturday from 12:00 p.m. until 10:00 p.m.

On July 16, 2022, Officer Yeun drove an undercover vehicle with Sergeant Ahmed seated in the front-passenger seat. He wore a SMASH patrol uniform with an SBPD SWAT cap on his head. He also wore a duty belt which included a flashlight, two "Sig Sauer" 20-round capacity pistol magazines, pepper spray, a handgun, an RCB baton, a radio pouch, handcuffs, a folding knife, and a tourniquet. In addition, he was wearing a body-worn camera that he activated near the time of the encounter with Adams.<sup>4</sup> He began his shift by completing paperwork. Sergeant Ahmed received a call from Sergeant Bonshire regarding a kidnapping investigation taking place at that time. Sergeant Bonshire wanted to make sure the victim was safe and coordinate a secure location for the victim drop-off. The patrol officers requested MET's assistance in the investigation in an undercover capacity. Because of limited time, Officer Yeun and Sergeant Ahmed could not load the undercover vehicle with their typical gear. Their goal was to get to the predetermined location, see if the victim was there, and obtain intelligence to communicate with patrol investigators. After assisting the investigation for a few hours, they ultimately determined the suspect was at a different location and agreed to return to the station. On the way back, they recalled a separate investigation with a suspect who often frequented an illegal gambling facility near Highland and D Street. Officer Yeun recalled meeting MET Officer Luna regarding an African American male with the moniker "Juju" who had dreadlocks and tattoos on his face.<sup>5</sup> Juju was known to be armed and often displayed and intimidated patrons with a firearm at the internet café. Juju was heavily invested in the illegal-gambling facility and was possibly in charge of running this gambling operation. Officer Yeun knew officers had made several arrests for illegal weapons and, more specifically, he knew gang members frequented this location. The MET team had planned to serve a search warrant at the net café in the upcoming weeks based upon the intelligence officers had developed about the location. Sergeant Ahmed and Officer Yeun decided to drive to the back of the establishment to gather more intelligence for the search warrant.<sup>6</sup> Officer

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<sup>4</sup> Officer Yeun indicated he had reviewed his body worn camera footage prior to the interview.

<sup>5</sup> Juju was later identified as Rob Adams, the decedent.

<sup>6</sup> Officer Yeun later explained a scout is a commonly used investigative method to gather intelligence for locations before the service of a search warrant. The MET and SWAT teams scout locations in an

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Yeun's knowledge and experience with the area heightened his sense of officer safety. Prior investigations into internet cafés had found persons who frequent these places are often in possession of illegal drugs and firearms.

Officer Yeun drove north on D Street and entered the property through an east/west alley. The alley led to an open parking lot on the north side of the business, north of Highland Avenue and west of D Street. At the time, Officer Yeun wore a black cover over his uniform to conceal his identity as a police officer to maintain his undercover capacity. After clearing the first corner of the business, he gained a visual of the entire parking lot, including where Adams was standing at the time. Officer Yeun observed two African American male adults in the parking lot, Adams stood southwest of the first subject. Adams lifted his shirt and displayed a handgun handle in his waistband. Officer Yeun removed the black cover over his uniform and based upon his prior knowledge of Adams and the illegal gambling facility, he fixated on the gun and was worried Adams would try to intimidate or use the handgun against him and his partner. Officer Yeun slowed the vehicle and told Sergeant Ahmed about the firearm. Sergeant Ahmed confirmed he saw the firearm as well. Officer Yeun continued driving and observing Adams. Officer Yeun noticed Adams looked over and said something to the other male, however Officer Yeun could not hear what was said since his window was up. The other man walked behind the cars in the parking lot, and Officer Yuen believed he was either hiding or taking cover behind the cars. As Adams was walking through the parking lot, he turned to the side and Officer Yuen momentarily lost visual on the gun. As Officer Yuen watched Adams, he saw Adams using his left hand to manipulate something in his right hand. Officer Yuen believed Adams was pulling the slide back on the firearm and loading a round in the chamber. Almost simultaneously to this action, Adams turned toward Officer Yuen and Sergeant Ahmed's vehicle and began walking toward them as they were driving. Adams appeared comfortable, yet his demeanor appeared aggressive. Officer Yuen noticed that Adams walked with the gun in the "low-ready position," which was indicative that Adams was ready to fire the weapon.<sup>7</sup>

At this point, Officer Yuen feared for his safety and believed he and his partner would be shot at because: 1) Adams had a firearm; 2) had access to the firearm; 3) displayed behavior consistent with loading the firearm; and 4) began walking toward the unmarked vehicle when he could have walked away. Adams appeared to be challenging the vehicle. Officer Yuen believed a shooting was imminent. Officer Yuen recalled a prior incident debriefing where Sergeant Ahmed, while working undercover, was shot at in his vehicle. He also recalled two other incidents involving law enforcement officers being ambushed in their vehicles.

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undercover capacity before every search warrant. Scouts provide up-to-date information about persons and places. While performing scouts, enforcement action is usually not taken unless there is an imminent threat to life or personal safety.

<sup>7</sup> The low-ready position is when someone is prepared to fire, and the firearm is positioned in a manner where it can be punched out and bullets can be fired from it.



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Officer Yeun focused on the firearm and believed the gun was down by Adams' right side. Sergeant Ahmed said something like, "we need to get out of the car." Officer Yuen heard the stress in Sergeant Ahmed's voice and believed Sergeant Ahmed also thought Adams was going to ambush their vehicle. Officer Yeun believed he needed to exit the vehicle because: 1) he was in an open business strip with various businesses and vehicles accessible to the public; 2) there was an additional subject with Adams; 3) he did not know the relationship of this subject to Adams; and 4) there were various residences and schools nearby.

Officer Yeun drew his firearm before he opened the car door and had it ready because he knew Adams had the advantage of already being armed. Officer Yeun initially had trouble getting the door open primarily because he feared he would be caught inside the vehicle when the shooting started. He managed to open the door and exit the vehicle. Officer Yeun gave Adams a verbal command like, "Police. Stop. Drop it." At this point, Officer Yeun's uniform was clearly visible and made him readily identifiable as a police officer. Officer Yeun immediately pointed his firearm at Adams and made eye contact with him. He activated the tactical light on his duty weapon to ensure the gun he saw was in fact a firearm. Based upon his training and experience, armed subjects typically immediately flee or surrender when an officer draws a firearm at him or her. However, Adams paused and looked at Officer Yeun, behavior which was atypical to Officer Yeun in these situations.

As Adams turned and began to run, Officer Yeun saw the firearm in his right hand, but lost sight of it as Adams' hand raised near the waistband area. Officer Yeun began to chase after Adams, but realized he was chasing after an armed subject in an open parking lot without cover or concealment. He also noticed Adams was running toward a brick wall where multiple vehicles were parked. This seemed unusual to Officer Yeun since there was an open alley Adams could have escaped through or he could have surrendered to the police. Adams was running into a corner where there was no escape from the alley. This concerned Officer Yeun who believed Adams was running to this location to reposition for a better tactical advantage. Officer Yeun continued to chase Adams to close the distance and prevent Adams from having a tactical advantage over him and Sergeant Ahmed. Adams turned the left side of his body and looked back toward Officer Yeun as if he were tracking Officer Yeun's position or preparing to shoot at Officer Yeun or Sergeant Ahmed. Through his peripheral vision, Officer Yeun observed Sergeant Ahmed had contacted the other male subject in the parking lot. However, Officer Yeun had no way of knowing what Sergeant Ahmed could see. In the event of a gun battle, Officer Yeun was concerned stray bullets could strike the businesses, adjacent residences, passing motorists, and pedestrians at a nearby school. With all this in mind, Officer Yeun feared for his safety and life because he believed Adams would turn around and shoot him. He was also concerned the public would be put at undue risk in the event of a shooting. Officer Yeun stated he was experiencing a lot of stress and fear at this time because he knew Adams had a firearm and he last saw it in Adams' right hand. Officer Yeun saw Adams' right elbow come up while Adams was looking at him, and Officer Yeun believed

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Adams was turning to shoot him. The threat of death or bodily harm to him and Sergeant Ahmed was imminent since they were exposed and did not have a place to take cover.

At that moment, Officer Yeun fired his weapon at Adams. The first round missed and went left of Adams. Officer Yeun repositioned, refocused, and fired the subsequent rounds at Adams' center of mass. Officer Yeun continued shooting until Adams reached the brick wall and he could see Adams' hands again. Officer Yeun indicated he shot his firearm when he believed there was a threat of being shot at, and he stopped shooting when he did not see the gun and had a clear visual of Adams' hands.<sup>8</sup> After the shooting, Adams was on his back with his hands up. Officer Yeun observed the firearm that had been in Adams' right hand was not in his hands nor his waistband. Officer Yeun searched the surrounding area but did not locate a firearm. Officer Yeun then conducted a pat down search of Adams, removed a wad of cash from Adams' left front pocket and placed it on the ground. After determining Adams was no longer a threat, he ensured Sergeant Ahmed and the other subject were unharmed. Sergeant Ahmed was communicating with radio traffic and advised an officer involved shooting had occurred. Officer Yeun advised Sergeant Ahmed that Adams needed a medic about two or three times following the shooting. Officer Yeun did not focus on the radio traffic, but instead rendered medical aid to Adams by assessing areas on Adams' body on which he could use a tourniquet.

As Officer Yeun aided Adams, the door to the internet café opened, and an African-American male stood in the doorway holding his waistband. Officer Yeun did not know if the man was holding a gun because the lighting was poor. Because of the unknown threat, Officer Yeun had to stop rendering medical attention to Adams and focus on the man in the doorway since he was a potential threat. The man returned inside the business and shut the door. Officer Yeun told Sergeant Ahmed what he had observed, and Sergeant Ahmed confirmed he saw the man in the doorway as well. Sergeant Ahmed got into position to cover the doorway. When Sergeant Ahmed was in place, Officer Yeun continued to render medical aid to Adams and noticed Adams had blood stains on his shorts near his thigh. After checking both thighs, Officer Yeun determined the injury on the right thigh appeared to be a graze wound while the one of left side appeared to be a more serious injury. Officer Yeun applied a tourniquet to Adams' left thigh and then began to assess Adams' injuries on his torso. Officer Yeun used his pocketknife to cut Adams' shirt and observed a gunshot wound to the left clavicle area. He then requested the next unit responding to the scene bring a trauma kit to provide additional medical attention to Adams.

Almost immediately, another unit arrived on the scene and handed Officer Yeun an occlusive dressing (chest seal). He successfully attached the seal on Adams' chest wound. Officer Yeun continued to assess injuries on Adams' body and identified a

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<sup>8</sup> Officer Yeun reiterated later in the interview he did not immediately begin firing at Adams once he stepped out of the vehicle but allowed Adams to drop the gun and surrender himself. He only fired his weapon when he perceived a threat and stopped when he saw Adams no longer had a gun in his hands. In addition, he considered the fact Adams did not attempt to escape the alleyway nor did he drop the firearm and surrender.

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gunshot wound to Adams' right forearm. Sergeant Ahmed approached Officer Yeun and informed him medical aid had arrived on scene and they would have to carry Adams to the ambulance.<sup>9</sup> Officer Yeun asked someone to put a tourniquet on Adams' arm. He did not have time to check for additional injuries because he focused on carrying Adams to the waiting ambulance for further medical assistance. Officer Yeun grabbed Adams' left shoulder and assisted Sergeant Ahmed and other officers carry Adams approximately 50 yards to the fire engine. After placing Adams near the fire engine, Officer Yeun continued reassessing and giving medical attention to Adams by adjusting the chest seal on Adams' clavicle. Medical personnel eventually relieved Officer Yeun. He was pulled away from the scene and waited until he was transported to the San Bernardino Police Department station. Officer Yeun stated he was afraid he would be shot and would not be able to go home and see his children again. He believed if he did not discharge his weapon, Adams would have shot him and/or Sergeant Ahmed.

### **Officer Freddie Luna**

On July 19, 2022, at approximately 3:05 in the morning, **Officer Freddie Luna** was interviewed by Detective Tiffany Montez at the San Bernardino Police Department station. He has been at the San Bernardino Police Department for 4 years and is currently assigned to the Multiple Enforcement Team. Approximately a month before the incident, he received information from a citizen informant regarding two illegal gambling facilities. One facility was in the 1500 block of N. Pershing Street and the second was located at Highland Avenue and D Street.

Officers conducted surveillance on the Pershing Street location and found the information from the informant to be accurate. A search warrant had been served on this location and discovered evidence confirming the citizen informant's information. Approximately one week prior to the shooting incident, officers conducted surveillance on the Highland Avenue and D Street internet café. They were not certain of the actual location of the café but were advised it was managed by an African American male by the name of "Juju." The informant told the police Juju had recently been released from prison or jail and was on parole or probation. The informant also stated Juju is known to be armed and hangs out to the rear of the business as "security." Juju managed the money at the café and was also the "muscle" for the business. Juju had dreadlocks, light skin, and tattoos on his face. The informant revealed Juju frequently brandished a firearm at customers as they were entering the property, however, the informant could not provide a description of the firearm.

Prior to authorizing search warrants for the internet cafés, officers would "scout" to gather a layout of where the illegal gambling facility is located and any type of fortifications. Prior to serving the warrant at the Pershing Street location, officers conducted about two hours of surveillance. On the day of the shooting, Sergeant Ahmed and Officer Yeun were "scouting" the location to gather information for the

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<sup>9</sup> Medical personnel could not respond to Adams' location because of the unknown threat with the net café and the unknown man holding his waistband.

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search warrant. Officer Luna was at the police station when he heard there was an officer involved shooting at the location. When he arrived on scene, he observed Sergeant Ahmed and Officer Yeun providing medical treatment to the decedent. Officer Luna assisted with scene security. He recalled someone yelling, "You shot Juju, you shot Juju." Officer Luna transported the second involved subject, Danifu James Witness #1, Jr., to the police station. Witness #1 informed Officer Luna during the transport that his cousin had been shot by police.

**STATEMENTS BY CIVILIAN WITNESSES<sup>10</sup>**

**Witness #1**

On July 17, 2022, at approximately 12:50 a.m., **Witness #1** was interviewed by Detective William Flesher at the San Bernardino Police Department Detective Bureau. His true name was later revealed to be Witness #1.

Prior to starting the interview, Witness #1 inquired if his cousin was okay. Witness #1 was told that information was not available at the time, but the police would let him know Adams' medical status once it was available. Witness #1 initially identified himself as Witness #1 with a date of birth of \*\*/\*\*/\*\*\*\*. Witness #1 confirmed Juju was his cousin with a true name of Rob Adams. Witness #1' mother and Adams' mother were best friends and he and Adams grew up together. Witness #1 admitted he and Adams were best friends and business partners. They bred and sold old English bulldogs and high-priced pit bulls known as "Micro Bullies." They owned a kennel business in the Ontario area called "Greedy Thurrd (sic) Kennel Club" and sold their dogs through an Instagram account online.

Witness #1 said Adams lived out in the San Bernardino area but was homeless because he just got out of jail. The jail was not in San Bernardino County. Witness #1 stated he had called Adams earlier in the day to inform him he had bought a new car. They decided to meet at a friend's apartment later so Adams could see the vehicle and help Witness #1 celebrate. However, Witness #1 ended up meeting Adams in the parking lot north of Highland Avenue between D Street and E Street. He said they (Witness #1 and Adams) usually hang out at a friend's apartment nearby, but their friend was not around, and they were waiting in the parking lot for him to show up. Witness #1 admitted he arrived in the parking lot about 10 to 15 minutes before the police showed up. When asked if Witness #1 had Adams' cell phone number, Witness #1 said he had it in his cell phone, but the police had confiscated it.

Witness #1 claimed during the interview Adams was not armed with any type of firearm or dangerous weapon. Witness #1 said he had known Adams almost his entire life and he had never seen Adams in possession of a firearm the entire time he had known him.

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<sup>10</sup> All civilian witness statements regarding the shooting at the internet café parking lot were reviewed. Not all those statements will be included in the summary of statements by civilian witnesses.

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When asked if Adams was associated with or a member of a street gang, Witness #1 replied he was not sure. When pressed by the detective as to how Witness #1 would not know Adams was a gang banger, especially considering they grew up together, Witness #1 answered, "I can't lie, my cousin gang bangs." When asked which gang, Witness #1 replied, "With Colton City Crips," and Adams used the moniker "JB."<sup>11</sup> Witness #1 denied associating with and belonging to a criminal street gang.

Witness #1 said he and Adams were standing near their vehicles that were parked in a westerly direction in the parking lot behind the illegal internet café. Witness #1 was standing on the driver's side of his BMW 525 and Adams was standing to the front of Witness #1' BMW. Both Witness #1' and Adams' vehicles were parked in a westerly direction and backed in near the west exterior wall of the Golden Valley Medical building at 424 West Highland Avenue. Adams' vehicle was parked closest to the north entry door of the net café. There was another vehicle parked between Witness #1' and Adams' vehicles with approximately 2 feet between the rear of the vehicles and the exterior wall of Golden Valley Medical.

Witness #1 stated he was getting ready to leave and was talking to Adams over the vehicle that separated their vehicles when he observed a Nissan traveling slowly through the parking lot in a westerly direction. Witness #1 stated he was not paying attention and Adams had his back to the Nissan. The Nissan stopped and Witness #1 observed, "two dudes jump out wearing green and guns." Witness #1 stated he did not know they were the police at first and Adams had his back to the vehicle. The two men shouted, "Freeze" and Adams turned to look at them. Witness #1 said Adams, "saw they had guns raised at him" and Adams, "did not know what was going on, so he took a step, and they started shooting at him." Witness #1 said he dropped to the ground when the shooting started and remained there. Witness #1 stated Adams did not take a step toward the officers but instead, "...his back was turned towards them, and he took a step forward." Witness #1 further claimed, "they never identified themselves as police officers." Witness #1 reiterated the vehicle was a Nissan and the two men were wearing a green shirt with "SMASH" patches displayed on it.<sup>12</sup>

Witness #1 denied Adams worked or patronized the internet café. Witness #1 also denied he had a firearm on his person or in his vehicle. When asked if Adams had a gun on him, he replied, "I'm not sure." However, he denied Adams carried a gun on his person and in his vehicle. Witness #1 also claimed and confirmed with Detective Flesher he had never seen Adams with a firearm in the past.<sup>13</sup> Witness #1 also reiterated he heard the officers

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<sup>11</sup> Later in the interview, Witness #1 revealed Adams was also called "Juju," a nickname his family members and close friends used when they referred to him.

<sup>12</sup> According to Witness #1, Sergeant Ahmed and Officer Yeun were not wearing the usual police uniform. However, Witness #1 confirmed they were wearing green polo shirts with the "SMASH" emblem on them.

<sup>13</sup> Data retrieved from Witness #1' cell phone show photos and videos with Witness #1 and Adams where Adams is holding a black firearm much like the one retrieved at the crime scene. These photos and videos contradict Witness #1' statements.

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say, "Freeze," and they never identified themselves police officers.<sup>14</sup> He also stated he was visiting a friend who lived nearby and parked in the parking lot to avoid blocking the driveway at this friend's apartment.

Witness #1 explained Adams carried a lot of cash on him because he and Adams breed and sell dogs worth \$3500 to \$5000 each. Witness #1 claimed he and Adams did not know the officers were there until they looked back at the Nissan and saw the officers pointing guns at them. Witness #1 confirmed Adams looked back at the officers and started running. Witness #1 claimed he never said anything to Adams while this was happening but had an earlier conversation with Adams about his new car. Witness #1 restated he dropped to the ground when the shooting started and remained there. He said the officers fired rapidly at them, about six to eight times. When asked if both officers fired their weapons, Witness #1 replied, "No, only the Asian one fired; the taller Caucasian one did not fire."

The interview concluded and Detective Flesher informed Witness #1 his cell phone was going to be seized as evidence. Witness #1 refused to consent to the police looking through the cell phone, thus requiring a search warrant for the phone and the data.

After the witness was transported and interviewed at the San Bernardino Police Department, it was later learned Witness #1 provided a false name and false date of birth. Witness #1' real name and DOB was Witness #1, December 2, 1999. Witness #1 was contacted by inmate John Doe on July 18, 2022, at 5:55 p.m. The conversation was recorded. Witness #1 made the comment to John Doe, "The police killed Juju right in front of me, bro, right here in front of the shop, bro." Witness #1 told Robinson that Adams had, "Pulled the bar out, but he put it back." "Bar" is gang slang for a firearm. He stated the police got out of their vehicle and almost immediately began shooting. Witness #1 admitted he had provided detectives with a false name during his interview and was released.<sup>15</sup>

**Witness #2**

On July 17, 2022, at approximately 12:53 a.m., **Witness #2** was interviewed by Detective Tiffany Montez at the San Bernardino Police Department.

On the night of the incident, Witness #2 was seated in the front passenger seat of a Nissan Versa, which belonged to his girlfriend, Witness #3. She was seated in the driver's seat. No one else was in the vehicle, which was facing westbound in the parking lot. Witness #2 could not remember in front of which business the car was parked. Witness #2 observed a gray car pull up and stop for a few moments (about 1-2 minutes). The gray

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<sup>14</sup> This contradicts Witness #1' statements in a June 22, 2022, TV interview where he claimed the officers said nothing when they got out of the car and just started firing.

<sup>15</sup> Witness #1 was contacted by detectives and confirmed he knew Witness #1 but did not give him permission to use his name or identity. He was not aware Witness #1 was using his name and personal information. Thomas did not know Adams.

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car stopped a few feet away from Witness #2's vehicle, also facing in a westbound direction. The doors of the grey car opened, and two men exited who Witness #2 immediately identified as law enforcement since they wore green shirts with "Police" on the back. Witness #2 heard them shout, "Freeze, freeze" and then he heard gunshots. Witness #2 believed the officers shouted and fired their weapons at the same time. He said the officers, "pretty much jumped out the car and started shooting."

Witness #2 did not see who the officers were shooting at. After the shooting, he saw the person who had been shot and recognized him as an individual with braids he saw earlier in the evening. He also heard a second person shouting about the officers shooting the other male. Witness #2 did not see the person who was shouting, nor did he see any weapons. Witness #2 wanted to leave but his girlfriend told him not to pull out because she did not want the police to think they were involved with the other individuals at the location. Witness #2 and his girlfriend waited in the vehicle until officers arrived and escorted them to the other side of the parking lot. They were then transported to the police department for interviews.

**Witness #3**

On July 17, 2022, at approximately 1:30 a.m., **Witness #3** was interviewed by Detective Tiffany Montez at the San Bernardino Police Department.

On the night of the incident, Witness #3 was seated in the driver's seat of her vehicle, facing in a westbound direction near some trash cans. Her friend, Witness #2, was seated in the vehicle with her. No one else was in the car with them. They were waiting for a phone call regarding a dog. Witness #3 had only been in the parking lot for a few minutes after visiting a liquor store nearby. She then observed a gray or silver colored vehicle pull into the middle of the driveway and said, "they hopped out with their guns drawn." She stated everything happened so fast and she could not recall any warning from the men who got out of the vehicle. Witness #3 heard gunshots and did not recall any warnings from the men.

Witness #3 described the men as officers wearing a green shirt and they looked like they were wearing "plain clothes." She recognized them as police officers when she saw the back of their shirts which said either "Police" or "Sheriff." Witness #3 stated when she heard the gunshots, she stayed where she was because she feared they would start shooting at her if she attempted to drive away. Witness #3 saw the subjects the officers were shooting at behind her vehicle near the wall. The two male subjects were not there long, and she did not know if they were together. She said the person who had been shot had dreadlocks. Witness #3 did not notice this person until the police drove up. When she heard the shooting begin, she looked in the rearview mirror and observed the man facing the wall. She then looked over her shoulder and observed the same man on the ground. The police then detained the second subject.

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Witness #3 observed one of the officers doing chest compressions on the subject who had been shot, while the other officer was detaining the second subject. She stated there were only two officers on the scene during the shooting and the other officers arrived later. She did not observe any of the subjects with a firearm. The person who had been shot had "brown skin," dreadlocks, a beige colored shirt, dark pants, and tattoos on his face. The second subject was wearing a black shirt and black basketball shorts.

### INCIDENT VIDEO

#### Surveillance Cameras at \*\*\* West Highland Avenue (Internet Café)

**Camera One:** Interior of the Internet Café, hallway leading to the back entrance which exits to the back parking lot: Displays several individuals entering the internet café from the back parking lot. This camera does not capture the OIS in the rear parking lot.

**Camera Two:** Exterior of the Internet Café facing the street and sidewalk on Highland Avenue. This camera does not capture the OIS in the rear parking lot.

**Camera Three:** Interior of the Internet Café, displaying the various video gambling machines on the gaming floor. There are several individuals playing around these tables. This camera does not capture the OIS in the rear parking lot.

**Camera Four:** Exterior of the Internet Café, displaying the parking lot where the OIS took place. The camera appears to be attached to the top of the rear wall of the café. The video begins at 7:49 where there is a single black car parked near the entrance to the café (against the wall of the Golden Valley Medical building). Adams, wearing a white T-shirt with dreadlocks, is pacing in the parking lot. At 7:51 p.m. a dark vehicle parks near a dumpster and a male and female get out. They enter the internet café. At 7:52 p.m. the female exits the internet café and speaks to Adams. Adams appears to make change for her. At 7:53 p.m., she reenters the café. At 7:54 p.m. a female drives her car into the parking lot and backs into a parking spot, parking next to Adams' vehicle. At 7:56 p.m. a male exits the internet café and Witness #1 drives his BMW into the parking lot, backing it up and parking next to the female's car. At 7:57 p.m. Adams and Witness #1 begin talking in the parking lot; Witness #1 is wearing a black tank top and Adams is wearing a white T-shirt with elongated sleeves. The female who parked earlier exits the café and makes change with Adams. She then reenters the internet café. At 8:00 p.m. Witness #1 goes into the trunk of the vehicle, opens the driver's door, then pops the hood so Adams can look at the engine. At 8:01 p.m., Adams pops the hood of his car, looks inside, and then closes the hood. Adams then returns to Witness #1's vehicle. At the same time, a grey vehicle enters at the western end of the parking lot and drives slowly toward Adams and Witness #1. Adams watches the vehicle. An individual gets out from the passenger seat and speaks briefly with Adams and Witness #1 before entering the internet café. At 8:04 p.m. the grey Nissan appears onscreen, heading in a western direction. Adams walks toward the Nissan, but then turns his back, lifts his shirt to expose his abdomen, and appears to say something to Witness #1, who is standing near the hood of his vehicle.



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At this point, the gun in his waistband is difficult to see, but he is clearly adjusting something in his waistband. Adams removes a handgun from his waistband and holds it in his right hand down by his waist. He then begins walking toward the Nissan. While Adams is about fifteen feet from the vehicle with the gun in his hand, the driver's side door opens. Officer Yuen points his firearm at Adams, who immediately turns and runs toward the three vehicles parked in back. Adams turns his head and appears to look in Officer Yuen's direction. Sergeant Ahmed is out of the vehicle and flanking toward the north while Officer Yuen is south of his position. Adams looks up at the roof of the medical offices and tosses the firearm in the air. Officer Yuen then fires his first shot while Witness #1 stands next to his BMW. Officer Yuen keeps firing until Adams falls against the rear wall of the medical building and collapses behind his vehicle. Adams then removes what looks like a cell phone from his pocket and places it on the ground next to him. Officer Yuen approaches him with his gun drawn while Sergeant Ahmed points his firearm at Witness #1, who is on the ground at this point.

**Camera Five:** Interior of the Internet Café, displaying the various gambling machines on the gaming floor. The camera appears to be mounted opposite Camera Three. There are several individuals playing around these tables. This camera does not capture the OIS in the rear parking lot.

**Camera Six:** Interior of the Internet Café, displaying the various gambling machines on the gaming floor. The camera appears to be mounted above the doorway leading to the rear door and records footage at the far western end of the parking lot. This camera does not capture the OIS in the rear parking lot.

**Camera Seven:** Exterior of the Internet Café, displaying the parking lot where the OIS took place at a different angle than Camera Four. However, it does not capture any footage of the OIS in the rear parking lot.

**Camera Eight:** Interior of the Internet Café, displaying the interior of the office near the rear door. The camera appears to be mounted on the south wall to the right of the entry door to the office. This camera does not capture the OIS in the rear parking lot.

**Camera Nine:** Interior of the Internet Café, displaying the interior of the office near the rear door. This camera appears to be mounted on the north wall to the left of the entry door to the office. This camera does not capture the OIS in the rear parking lot.

**Camera Ten:** There is no footage for camera ten or evidence there is a camera ten.

**Camera Eleven:** Interior of the Internet Café, displaying the various gambling machines on the gaming floor. The camera appears to be mounted in the southwest corner of the establishment, recording the rear hallway leading to the rear entrance. This camera does not capture the OIS in the rear parking lot.

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**Camera Twelve:** Interior of the Internet Café, displaying a close up of the rear doors leading to the rear parking lot. The camera appears to be mounted on the opposite wall from the rear doors. There are several patrons who come in and out of the establishment. This camera does not capture the OIS in the rear parking lot.

**Camera Thirteen:** Exterior of the Internet Café, displaying Highland Avenue and pointing in a western direction. The camera appears to be mounted on the roof. This camera does not capture the OIS in the rear parking lot.

**Camera Fourteen:** Exterior of the Internet Café, displaying the entrance to the parking lot from D Street. The camera appears to be mounted on the roof. At 8:04 p.m. the grey Nissan driven by Officer Yeun with Sergeant Ahmed slowly turns into the parking lot and proceeds to head westbound. The Nissan eventually goes off camera as it proceeds west. This camera does not capture the OIS in the rear parking lot.

**Camera Fifteen:** Exterior of the Internet Café, displaying the rear parking lot. The camera appears to be mounted on the roof above the rear entry doors. At 7:49 p.m. Adams is standing alone in the middle of the parking lot, checking his cell phone. A black car is parked, facing forward, against the Golden Valley Medical building. At 7:50 p.m. Adams walks to the vehicle and grabs what appears to be a cigarette pack off the windshield and then walks back to the center of the empty parking lot. At 7:51 p.m. another car drives up and parks behind the café. Two patrons get out of the vehicle and enter the café. Adams does not interact with these people. At 7:52 p.m. a female patron exits the café and appears to make change with Adams. She briefly goes to the car she arrived in, gets something out from inside, and heads back into the café. Adams moves to the far end of the parking lot and appears to be looking down the roadway. At 7:53 p.m., another dark colored vehicle arrives and parks next to the first vehicle, backing into the spot. A female gets out of the car and converses with Adams before heading inside the café. At 7:56 p.m., Witness #1 arrives in a black BMW, backs up, and parks against the Golden Valley Medical building wall. At 7:57 p.m., Witness #1 gets out of the vehicle and speaks with Adams. A female patron exits the café and appears to make change with Adams. The patron then returns to the café. At 8:00 p.m., Witness #1 returns to his vehicle and opens the front hood so Adams can look at the engine. Adams goes to his vehicle (the first car in the parking lot) and pops open the hood. At 8:01 p.m., Adams closes the hood of his vehicle and returns to Witness #1's vehicle where they continue conversing. At 8:02 p.m. a grey vehicle drives in an eastern direction and turns down the far alley. A patron gets out and heads into the internet café carrying what appears to be bottles of beer. Two patrons leave the café, get into their vehicle, and drive away. At 8:03 p.m. Witness #1 and Adams retrieve something from the trunk of Adams' vehicle. Adams moves items around in the trunk before shutting it. At 8:04 p.m., a grey Nissan driven by Officer Yeun enters the parking lot from the east and heads slowly westbound. Adams watches the vehicle drive past and appears to speak to Witness #1. The Nissan stops about twenty feet away from Adams. Adams lifts the front of his shirt and shows Witness #1 something. He then turns and faces the Nissan. Adams lifts the front of his shirt and pulls a handgun from his waistband, holding it in his right hand. Adams slowly walks toward the Nissan

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with the gun still in his hand. The Nissan's doors open, and Officer Yeun gets out, his gun already drawn. Sergeant Ahmed appears from the passenger side of the vehicle, also with his gun drawn. Adams turns and runs back toward his vehicle, heading between two parked cars. Adams turns his head and looks back in Officer Yeun's direction. As he reaches the rear wall of the medical clinic, Adams lifts his right arm and throws the gun on the roof of the medical clinic. Officer Yeun is about fifteen feet behind him and begins firing his handgun. Sergeant Ahmed approaches Witness #1 who goes to the ground next to his BMW. Adams hits the medical clinic's wall and collapses behind his vehicle. The car blocks Adams on the ground from the camera. The video ends at 8:42:44 p.m. with Officer Yeun approaching Adams behind the vehicle.

**Camera Sixteen:** Exterior of the Internet Café, displaying the rear parking lot. The camera appears to be mounted on the roof to the right of the entry doors. At 7:49 p.m., Adams is standing alone in the middle of the parking lot. A black car is parked, facing forward, against the Golden Valley Medical building. At 7:50 p.m., Adams walks out of the camera's range and then returns in the camera's range as a vehicle approaches and parks. Two patrons get out of the vehicle and head into the casino. At 7:52 p.m., a female patron exits the café and appears to make change with Adams, who is standing in the middle of the parking lot. She eventually heads back into the café. At 7:53 p.m., another dark colored vehicle arrives and parks next to the first vehicle, backing into the spot. A female gets out of the car and converses with Adams before heading inside the café. At 7:56 p.m., Witness #1 arrives in a black BMW and backs up, parking against the Golden Valley Medical Clinic wall. At 7:57 p.m., Witness #1 gets out of the vehicle and speaks with Adams. A female patron exits the café and appears to make change with Adams. The patron then returns to the café. At 8:00 p.m., Witness #1 returns to his vehicle and opens the front hood so Adams can look at the engine. Adams goes to his vehicle (the first car in the parking lot) and pops open the hood. At 8:01 p.m., Adams closes the hood of his vehicle and returns to Witness #1's vehicle where they continue conversing. At 8:02 p.m. a patron heads into the internet café carrying what appears to be beer bottles. Two patrons leave the café, get into their vehicle, and drive away. At 8:03 p.m., Witness #1 and Adams are both offscreen (from Camera 15 footage Adams is going through the trunk of his vehicle). At 8:04 p.m., Adams and Witness #1 reappear onscreen. Adams watches the grey Nissan driven by Officer Yeun drive by. The vehicle stops out of range of the camera. Adams lifts his shirt and shows something to Witness #1. Adams turns, faces the Nissan, and briefly lifts his shirt, exposing his waistband. Adams then pulls a firearm from his waistband and holds it in his right hand. He walks slowly toward the Nissan (which is out of range of the camera), pauses, and immediately turns and runs toward the back wall of the clinic. The firearm is still in his right hand. Adams looks at the officer behind him and throws the firearm up on the roof. Officer Yeun comes into camera range, pointing his pistol at Adams, and begins firing. Adams is out of range of the camera at this point. Officer Yeun fires at Adams and then stops. Sergeant Ahmed appears on screen, pointing his firearm at Witness #1 (who is on the ground). Officer Yeun re-holsters his firearm and walks toward Adams.

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**Body Worn Camera (BWC) Footage: Officer Yeun**

The video begins with Officer Yeun behind the wheel in the grey Nissan. The vehicle is stopped, and Officer Yeun's handgun comes into view of his BWC. There is no sound on the video at this point. The driver's door opens, and Adams is standing about 15 to 20 feet away with his left side to Officer Yeun. Adams immediately begins running toward the parked vehicles with the gun still in his hand. Witness #1 is standing next to his vehicle. Officer Yeun raises his handgun and points it at Adams. Witness #1 appears to be looking at Sergeant Ahmed. Officer Yeun begins firing as the firearm Adams was holding is seen flying and lands on the roof of Golden Valley Medical. Yeun activates his BWC and Sergeant Ahmed is heard shouting at Witness #1 to get on the ground. Adams is on the ground behind his vehicle. Witness #1 is heard shouting in the background, "Why did you shoot my cousin?" Officer Yeun orders Adams to show his hands while Witness #1 keeps shouting. Officer Yeun asks for medical aid. Adams is lying on his back behind his vehicle, bleeding from various gunshot wounds in his arm and torso. Officer Yeun orders Adams to show his hands. In the background, the door to the café opens briefly and then closes. It is too dark inside to see who opened the door. Officer Yeun tells Adams he is going to be okay. Witness #1 continues to shout in the background that they shot his cousin. A cell phone is visible right next to Adams. Officer Yeun tells Adams to stay with him and briefly moves Adams' arm away from his face. Officer Yeun looks at the café's doors and then tell Adams he is good and to stay with him. Officer Yeun lifts Adams' shirt to look at his torso. There are no bullet wounds in Adams' torso. Officer Yeun keeps pointing his firearm at the café's doors and tells Sergeant Ahmed to stay on Witness #1 because he must start medical aid on Adams. Witness #1 is shouting unintelligibly in the background. Officer Yeun looks down at Adams and briefly checks his waist area. Sergeant Ahmed comes into view and Officer Yeun tells him Adams has been hit in the leg. Officer Yeun holsters his firearm and opens a tourniquet. He says Adams has a bullet wound in his high pelvis area and will try to apply the tourniquet. Witness #1 shouts at Adams to wake up, calling him "Juju." Officer Yeun straightens Adams' legs and then pulls down the front of Adams' sweatpants, revealing a bullet wound in his upper right thigh. Officer Yeun attempts to apply the tourniquet to Adams' upper thigh. There is a roll of cash next to Adams. Officer Yeun applies the tourniquet and asks for a trauma kit. Adams is no longer moving. Officer Yeun tells Adams he is good. Officer Yeun straightens Adams' body and proceeds to cut Adams' shirt off with his knife. Adams is looking upward and does not move. Officer Yeun asks for a chest seal after he sees a bullet wound in Adams' upper left shoulder. Sergeant Ahmed and Officer Yeun confirm they are not injured. Officer Yeun keeps asking for a chest seal and a trauma kit. Officer Yeun applies the chest seal to Adams' shoulder and asks for another tourniquet. Sergeant Ahmed applies the tourniquet to Adams' left arm. Officer Yeun informs Sergeant Ahmed there was a "BMA" inside the café who had opened the door. Sergeant Ahmed and another deputy lift Adams and begin to carry him toward E Street where the ambulance and fire department were waiting. They place Adams on the ground where the EMTs begin working on him. Officer Yeun asks to use Officer Galarza's phone so he can call his wife and let her know he is okay. A stretcher appears at the west end of the alley and Adams is loaded on to it. Sergeant Ahmed tells Officer Yeun to stay put. Officer Yeun tells

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Officer Galarza that his rifle is also in the vehicle. The ambulance and fire department leave the area with Adams. Over a loudspeaker, officers order the remaining patrons to exit the café. Officer Yeun asks permission from an unknown sergeant to retrieve his personal phone from the Nissan. Officer Yeun returns to the Nissan and retrieves two cell phones from the dashboard. Officer Yeun turns off the speaker as he calls his wife. Officer Galarza asks Officer Yeun to head down the alley toward E Street. The video ends at 28:47 minutes.

**Body Worn Camera (BWC) Footage: Sergeant Ahmed**

The video begins with Sergeant Ahmed exiting the passenger side of the Nissan. There is no sound at this point. He is holding a Motorola handheld radio in his left hand. Officer Yeun is on his left side. The radio blocks most of the footage, but Sergeant Ahmed is pointing his pistol at Witness #1 who is on his knees with his hands up. The sound activates while Witness #1 is in front of Sergeant Ahmed. Witness #1 states he has nothing on him and asks why they shot his cousin. Sergeant Ahmed broadcasts they have two suspects grabbing their waistbands, one subject on the ground with a firearm and the second subject is held at gunpoint. Sergeant Ahmed orders Witness #1 to turn around and get on his back. Witness #1 is then ordered to stand up, but Witness #1 refuses, saying they are not going to shoot him. Witness #1 keeps repeating he does not want to get up. He eventually comes out and gets on his stomach on the ground in front of the vehicles. Witness #1 is shouting, "Juju! Get up! Breathe, bro!" Sergeant Ahmed handcuffs Witness #1 who keeps shouting for his cousin to "get up." Sergeant Ahmed quickly pats down Witness #1. Witness #1 states, "You just shot my cousin for nothing." He then asks for Highland to be shut down from Arrowhead. Sergeant Ahmed asks Officer Yeun if he is okay. He also continues to watch the rear door of the café. He then asks the next responding unit to bring a trauma kit. Another unit appears and Sergeant Ahmed orders the unknown officer to put Witness #1 in the rear of the vehicle. Other officers appear and are asked to bring a trauma kit and provide medical aid. Sergeant Ahmed orders officers to hold the door to the café open so they can provide medical aid to Adams. He then advises officers they need to carry Adams out to the ambulance and fire truck. Sergeant Ahmed applies a tourniquet to Adams' left arm and then lifts Adams up by his shoulders. Another officer is carrying Adams' feet. They carry Adams about 50 yards to the ambulance and fire trucks. They briefly place Adams down so Sergeant Ahmed can get a better grip. They then continue carrying Adams to the west end of the alley. The video ends at 5:59 minutes.

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**INCIDENT AUDIO**

There are no belt recordings for this incident.

**MEDIA CLIP**

June 22, 2022: CBS News Los Angeles – Video clip of Witness #1 stating to the news media along with Adams' mother that the police hopped out of their vehicle with their guns drawn and did not identify themselves when they arrived at the location.

**WEAPONS**

The weapon located on the rooftop of \*\*\* West Highland Avenue was a black Taurus model G3C, 9mm semiautomatic pistol (Serial# ACB547416). The magazine was loaded with 9 "PMC" 9mm Luger cartridges and a round was in the barrel of the handgun. The handgun appeared to function properly. A trace through the Department of Justice Bureau of Alcohol, Tobacco, Firearms, and Explosives revealed the Taurus was purchased by Wylie Colt Leibert from Gold Pan Dan's Guns and Gold in Parker, Arizona on April 23, 2021. There has been no contact with Leibert despite efforts by law enforcement.

Officer Yeun's service weapon was a Sig Sauer Model P226 semiautomatic service pistol, S/N 47E098152. The ammo magazine contained 9mm cartridges.

**DNA ANALYSIS AND RESULTS**

DNA swabs were submitted to the San Bernardino County Sheriff's Crime lab and analyzed by Criminalist II, Kristofer Munson, for a DNA profile. The results of the DNA analysis of the swabs from the Taurus Model G3C (the gun on the roof), semiautomatic pistol, S/N: ACB547416, ammo magazine, and ammunition showed there was a mixture of three individuals contained in the DNA profile, LIMS 22-06655-D-1. The DNA Profile provided strong support for the proposition that Adams was one of the contributors of the DNA from the Taurus 9mm semiautomatic pistol.

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**AUTOPSY**

Dr. Timothy Jong, Forensic Pathologist for the Coroner's Division of the San Bernardino County Sheriff's Department, conducted the autopsy of Rob Marquise Adams<sup>16</sup> on July 19, 2022. Dr. Jong determined the cause of death was a gunshot wound to the back. Death occurred within minutes, and it was ruled a homicide.

**Gunshot Wound of the Back<sup>17</sup>:**

A gunshot entrance wound was located on the left mid back, 22 1/4 inches below the top of the head and 4 1/2 inches left of the posterior midline. There was no exit wound. No soot or stippling was found around the wound. The path of the projectile was back to front, left to right, and upward.

**Gunshot Wound of the Left Arm:**

A gunshot entrance wound was located on the posterior left upper arm, centered 5 1/2 inches from the top of the shoulder and 1 1/4 inch right of the posterior midline. The exit wound was located on the left upper chest, 10 inches below the top of the head and 2 3/4 inches left of the anterior midline. No soot or stippling was found around the wound. The path of the projectile was back to front, left to right, and upward.

**Gunshot Wound of the Right Forearm:**

A gunshot entrance wound was located on the lateral right forearm, centered 17 inches from the top of the left shoulder and 1 inch right of the anterior midline. The exit wound was located on the dorsal right forearm, centered 17 inches from the top of the shoulder and 1/2 inch right of the anterior midline. No soot or stippling was found around the wound. The path of the projectile was front to back, right to left with no discernable upward or downward direction.

**Gunshot Wound of the Right Thigh:**

A gunshot entrance wound was located on the posteromedial right thigh, centered 27 inches from the top of the head and 1 inch left of the posterior midline. There was no exit wound. No soot or stippling was found around the wound. The path of the projectile was back to front, left to right, and upward.

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<sup>16</sup> A portable CAL-ID IBIS machine was utilized on July 17, 2022, and confirmed Adams' identity through digital fingerprints as Rob Marquise Adams (DOB: 6-1-99), CAL-ID No. 36148509 and SID No. 37159870.

<sup>17</sup> The order of the gunshot wounds is based on the coroner's report order and not meant to indicate the order in which the gunshot wounds occurred.

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**Gunshot Wound of the Left Thigh:**

A gunshot entrance wound was located on the anterolateral left thigh, centered 40 inches from the top of the head and 3 inches left of the anterior midline. The exit wound was located on the anteromedial left thigh, centered 38 1/4 inches from the top of the head, and 1 3/4 inch right of the anterior midline. No soot or stippling was found around the wound. The path of the projectile was back to front, left to right, and upward.

**Gunshot Wound of the Left Lower Leg:**

A gunshot entrance wound was located on the posterior left lower leg, centered 61 1/2 inches below the top of the head and 3/4 inch left of the posterior midline. The exit wound was located on the posterior left lower leg, centered 61 inches from the top of the head and 3/4 inch right of the posterior midline. No soot or stippling was found around the wound. The path of the projectile was slightly front to back, left to right, and upward.

**Toxicology Results:**

Blood and vitreous samples were collected from Adams during the autopsy.

Toxicology results for the **Blood** sample were listed as follows:

- Cannabinoids – Detected
  - 11-Carboxy-Delta-9-THC – 3.0 ng/L
  - Delta-9 Carboxy THC – 33 ng/L
  - Delta-9 THC – 170 ng/L

**Criminal History:**

2022, Penal Code §211, Second Degree Robbery. San Bernardino County case number FSB21003236, a felony.

2020, Penal Code §415(2), Disturbing the Peace with Loud Noise. San Bernardino County case number MSB20005410, a misdemeanor.

2019, Vehicle Code §4000(a)(1), No Vehicle Registration. San Bernardino County case number MSB19010629, an infraction.

2018, Penal Code §602(m), Trespassing. San Bernardino County case number MSB17017038, an infraction.

2015, Penal Code §245(a)(1), Assault with a Deadly Weapon. San Bernardino County juvenile case number 257958, a felony.



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**DE-ESCALATION**

The events of July 16, 2022, occurred at a rapid pace. Officer Yeun and Sergeant Ahmed entered the rear parking lot of the internet café located at \*\*\* West Highland Avenue. They immediately assessed Adams staring at their vehicle. Adams then lifted the front of his shirt to display a handgun in the waistband of his shorts. Officer Yeun stopped the Nissan approximately 15 to 20 feet from Adams who began approaching their vehicle while holding a firearm in his right hand. Officer Yeun and Sergeant Ahmed recognized the danger of being ambushed in their vehicle. They immediately exited the vehicle with their firearms drawn. At that moment, Adams turned and ran toward cover between two parked vehicles. He did not attempt to surrender or drop his weapon as instructed. Adams turned his head and lifted his arm to throw the gun on the roof. Officer Yeun, believing his life and Sergeant Ahmed's life was in imminent threat of death or serious bodily injury, fired his weapon six times. There was no feasible time to safely de-escalate the confrontation.

**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. (Penal Code §835a(b).)<sup>18</sup> Should an arresting officer encounter resistance, actual or threatened, he need not retreat from his effort and maintains his right to self-defense. (Penal Code §835a(d).) An officer may use objectively reasonable force to effect an arrest, prevent escape or overcome resistance. (Penal Code §835a(d).)

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

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

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<sup>18</sup> All references to code sections here pertain to the California Penal Code.

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**PENAL CODE §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 Code §835a(c)(1).) Discharge of a firearm is “deadly force.” (Penal Code §835a(e)(1).) The “ [t]otality of the circumstances’ means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.” (Penal Code §835a(e)(3).) A peace officer need not retreat or desist from efforts to arrest a resistant arrestee. (Penal Code §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,<sup>19</sup> the courts have been defining the constitutional parameters of use of deadly force for many years. In 1985, the United States Supreme Court held that when a police officer has probable cause to believe that the suspect he is attempting to apprehend “has committed a crime involving the infliction or threatened infliction of serious physical harm” to the officer or others, using deadly force to prevent escape is not constitutionally unreasonable. (*Tennessee v. Garner* (1985) 471 U.S. 1, 11-12.) California courts have held that when a police officer’s actions are reasonable under the Fourth Amendment of our national Constitution, that the requirements of Penal Code §196 are also satisfied. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 349; *Brown v. Grinder* (E.D. Cal., Jan. 22, 2019) 2019 WL 280296, at \*25.) There is also a vast body of caselaw that has demonstrated *how* to undertake the analysis of what is a reasonable use of force under the totality of the circumstances. (See *Reasonableness* discussion, *infra.*) As such, our pre-2020 state caselaw, developed upon the former iteration of section 196, is still instructive.

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

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

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

- (1) that the use of force should be exercised judiciously and with respect for human rights and dignity; that every person has a right to be free from excessive uses of force;
- (2) that use of force should be used only when necessary to defend human life and peace officers shall use de-escalation techniques if it is reasonable, safe and feasible to do so;
- (3) that use of force incidents should be evaluated thoroughly with consideration of gravity and consequence, lawfulness and consistency with agency policies;<sup>20</sup>
- (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

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<sup>20</sup> Penal Code §835a (a)(3) conflates a demand for thorough evaluation of a use of force incident with a dictate that it be done “in order to ensure that officers use force consistent with law and agency policies.” On its face, the section is clumsily worded. Nothing included in AB-392 plainly requires that a use of force also be in compliance with agency policies. A provision in the companion bill to AB-392—Senate Bill No. 230 [(2019-2020 Reg. Sess.) approved by the Governor, September 12, 2019] (Hereinafter “SB-230”), does explicitly state that “[a law enforcement agency’s use of force policies and training] may be considered as a factor in the totality of circumstances in determining whether the officer acted reasonably, but shall not be considered as imposing a legal duty on the officer to act in accordance with such policies and training.” (Sen. Bill No. 230 (2019-2020 Reg. Sess.) §1.) It is noteworthy, however, that this portion of SB-230 is uncodified, unlike the aforementioned portion of Penal Code §835a (a)(3).

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- (5) that those with disabilities may be affected in their ability to understand and comply with peace officer commands, and suffer a greater instance of fatal encounters with law enforcement, therefore.

(Penal Code §835a(a).)

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

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

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

(CALCRIM 505.) 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:

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

(Penal Code §835a(e)(2).)

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

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

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

The “reasonableness” test requires an analysis of “whether the officers’ actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.” (*Id.* at 397, citations omitted.) What constitutes “reasonable” self-defense or defense of others is controlled by the circumstances. A person’s right of self-defense is the same whether the danger is real or merely apparent. (*People v. Jackson* (1965) 233 Cal.App.2d 639.) If the person’s beliefs were reasonable, the danger does not need to have actually existed. (CALCRIM 505.) Yet, a person may use no more force than is reasonably necessary to defend against the danger they face. (CALCRIM 505.)

When deciding whether a person’s beliefs were reasonable, a jury is instructed to consider the circumstances as they were known to and appeared to the person and considers what a reasonable person in a similar situation with similar knowledge would have believed. (CALCRIM 505.) It was previously held that in the context of an officer-involved incident, this standard does not morph into a “reasonable police officer” standard. (*People v. Mehserle* (2012) 206 Cal.App.4<sup>th</sup> 1125, 1147.)<sup>21</sup> To be clear, the

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<sup>21</sup> 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

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officer's conduct should be evaluated as "the conduct of a reasonable person functioning as a police officer in a stressful situation." (*Id.*)

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

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

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

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

under *Graham* we must avoid substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes 'reasonable' action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.

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

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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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The Supreme Court's definition of reasonableness is, therefore, "comparatively generous to the police in cases where potential danger, emergency conditions or other exigent circumstances are present." (*Martinez v. County of Los Angeles, supra*, 47 Cal.App.4<sup>th</sup> at 343-344, citing *Roy v. Inhabitants of City of Lewiston* (1st Cir. 1994) 42 F.3d 691, 695.) In close-cases therefore, the Supreme Court will surround the police with a fairly wide "zone of protection" when the aggrieved conduct pertains to on-the-spot choices made in dangerous situations. (*Id.* at 343-344.) One court explained that the deference given to police officers (versus a private citizen) as follows:

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

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

**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* (9<sup>th</sup> 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* (9<sup>th</sup> 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, supra*, 272 F.3d at 1279-80 [bean bag].) This designation exists even though 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* (9<sup>th</sup> 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.4<sup>th</sup> 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

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deemed “excessive” nor violate the Fourth Amendment. (*Sanders v. City of Fresno* (9<sup>th</sup> 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, Officer Yeun and Sergeant Ahmed each had an honest and objectively reasonable belief Adams posed an imminent risk of serious bodily injury or death. Both officers went to a location where an illegal internet café was located that was frequented by gang members who were usually armed with illegal weapons and possessed illegal narcotics. They knew the person who was the “muscle” behind the business was an individual named Juju who was known to threaten and expose a firearm to the patrons of the café. They knew Juju could usually be found in the rear parking lot of the establishment.

When Officer Yeun and Sergeant Ahmed arrived at the location, Adams stared at their vehicle and showed something to another individual at the location. Adams then turned to their vehicle, pulled up the front of his shirt, and displayed the firearm at his waistband. He then immediately pulled out the gun, held it at his side in his right hand, and approached their vehicle. Officer Yeun and Sergeant Ahmed were both wearing uniforms clearly identifying them as SMASH officers with the San Bernardino Police Department. Although they were driving an unmarked vehicle and wore covers over their uniforms, before they exited the vehicle, they removed the covers in order to display their uniforms. Once they exited the vehicle, they clearly identified themselves as law enforcement officers. Officer Yeun believed Adams approached their vehicle with the weapon in a “low ready” position, ready to fire upon them. Both Officer Yeun and Sergeant Ahmed believed they would be ambushed in their vehicle. They had no cover and were exposed if Adams began firing. Thus, they reasonably believed they were in danger and needed to immediately exit the vehicle in order to prevent death or bodily harm.

Officer Yeun and Sergeant Ahmed told Adams to freeze. Adams did not obey their commands. There was no indication Adams intended to comply with their commands to freeze. Adams turned and immediately began running toward a place where he could take cover and fire upon the officers, namely between two parked cars. At that moment, Adams had the opportunity to either drop the gun, freeze, or attempt to escape by running toward the open alley that led to D Street. Instead, Adams headed toward a place where he could take cover. He looked back in Officer Yeun’s direction and raised his arm to throw the weapon on the roof. At that moment, Officer Yeun interpreted Adams’ actions as raising the gun to fire at him and Sergeant Ahmed and forced him to act quickly to stop what was an imminent threat to their physical safety. Officer Yeun conveyed he was in fear for his life and safety, and believed he could be shot by Adams. Officer Yeun and Sergeant Ahmed had already observed Adams display aggressive behavior toward them by arming himself and walking toward their vehicle as if to engage them. Adams fled



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toward an area where he could take cover and attack, then raised his arm with the gun as if to fire. Therefore, the belief by Officer Yeun and Sergeant Ahmed that Adams intended to seriously injure or kill them was both honest and objectively reasonable. Given those circumstances, the decision by Officer Yeun to use deadly force was justified.

**CONCLUSION**

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

**Submitted By:**  
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