



PUBLIC RELEASE MEMORANDUM

DATE: January 17, 2025

Subject: Non-Fatal Officer-Involved Shooting

Involved Officers: Deputy Jason Aria
San Bernardino County Sheriff's Department

Deputy Mark Reynoso
San Bernardino County Sheriff's Department

Deputy Zachary Ruge
San Bernardino County Sheriff's Department

Deputy Francisco Demara
San Bernardino County Sheriff's Department

Deputy Fernando Trujillo
San Bernardino County Sheriff's Department

Probation Officer Yosten
San Bernardino County Sheriff's Department

Involved Subject/DOB: Anthony Brown
04/29/1965

Subject's Residence: Apple Valley, CA

Incident Date and Time: July 17, 2019, 2:39 p.m.

Incident Location: XXXXX Seventh St., Victorville, CA 92395

Agency Report #: DR# 171906205/601900069

DA STAR #: 2021-00-26637

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 2

PREAMBLE

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

FACTUAL SUMMARY

On July 17, 2019, at approximately 1:30 p.m., Witness #1 noticed a black Chevrolet Suburban parked in a stall in the front parking lot of his work, located at XXXXX Seventh Street in the city of Victorville. An hour later, while working, Witness #1 walked past the black Suburban and noticed the driver, later identified as Anthony Brown, pull out a pink phone and appeared to be filming while talking to himself.

As Witness #1 approached Brown's vehicle, he noticed Brown looked scared, was wearing an eye patch, and pulled out a Glock style handgun from the left-side of his body. Brown proceeded to hold the handgun with both hands, slide the handgun, point the handgun towards his dashboard and began to make threats towards Witness #1. Initially, Brown stated he knew "Christina" was inside the business building and that he would shoot Witness #1 if he did not go inside. Immediately, Witness #1 retreated into the business and told both his son and daughter, who worked at the same location, about the threats made by Brown.

At about 2:39 p.m., Witness #2 called 9-1-1 and reported the incident to deputies. Dispatch advised deputies the call for service involved a man armed with a gun, who had pointed a gun at an employee and was parked outside of a business in a black SUV. Within three minutes, deputies arrived on scene and located a black Chevrolet Suburban stationed in the front parking lot of the business, facing south with a black male adult wearing an eye patch sitting in his car.

The business was located on the east side of 7th Street. The front door of the business faced west. On the west side of the property was one driveway, which allowed access to the business from 7th Street. The north and east sides of the property were enclosed by a tall block wall. To the south of the property there was a brick wall. Right across from the incident location, on the west side of 7th Street was an additional business and a Del Taco.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 3

The initial responding deputies parked along the west side of 7th Street, creating a contained perimeter to the west of the business. Upon arrival, deputies attempted to conduct a high-risk felony stop. Deputy Martinez gave Brown commands to step out of the vehicle, which were ignored. Next, deputies transitioned to public address (PA) announcements, where Deputy Martinez gave Brown loud and clear instructions to keep his hands up and exit the vehicle. Brown refused to follow any of the commands and continued to look down at his lap and move around his car.

Deputy Martinez was instructed to make a PA announcement that deputies believed Brown was armed and they did not want anyone to get hurt, Brown verbally replied, "Hell yeah I am!". Upon hearing Brown's response, Deputy Martinez aired on the radio to units that Brown confirmed he was armed.

After a standoff of over 45 minutes, Brown rolled up the windows to his SUV, which were tinted. At this point he continued to ignore commands and deputies had a hard time viewing Brown inside of the vehicle.

As deputies arrived, they began to position themselves north, west, east, and south of Brown's vehicle to contain Brown and his vehicle inside of the business parking lot. Employees at the location were escorted south of the building behind the Gridiron Pizza building. Pedestrians were escorted away from 7th Street and removed from the Del Taco positioned across the street from the incident location.

Deputy Reynoso arrived on scene with his trainee, Deputy Kazee. While on scene, he observed Brown ignoring commands for a peaceful surrender, angrily gesturing with his arms toward deputies, and faintly heard him yelling outside of his car. Other deputies advised Deputy Reynoso that Brown had confirmed he was armed.

Deputy Reynoso positioned himself by the three-foot southern wall of the building holding a Ruger Mini-14 rifle. From this vantage point he was approximately 25 yards away from Brown's vehicle and could see directly through the front windshield of the SUV. He remained at that location to provide lethal cover for other deputies who were closer to Brown on the west side of Brown's SUV. Meanwhile, Brown continued to ignore PA announcements and Deputy Reynoso observed Brown dropping his hands towards the center console area multiple times.

At approximately 4:10p.m., Brown put his vehicle in drive and proceeded south in the parking lot, towards a planter. Deputy Reynoso immediately began to move west along the southern wall towards the street, to avoid crossfire from deputies positioned along the street on the west side of the business.

Deputy Reynoso kept visual of Brown and saw him moving his vehicle towards the curb and other deputies holding the west perimeter of the business. In fear of Brown using his car or gun to attack deputies, Deputy Reynoso was the first to fire his rifle towards the driver side window of Brown's SUV. He deployed approximately five to six consecutive

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 4

shots at approximately 10 yards away from Brown's car that was actively moving west towards 7th street. After firing his weapon, Deputy Reynoso took cover under the three-foot wall in order to avoid injury in any crossfire.

Probation Officer Yosten was also armed with a Ruger Mini-14 rifle and positioned on the southern three-foot wall with Deputy Reynoso. As he observed the SUV driving up to the planter inside of the parking lot, he saw Brown making a right hand turn towards the curb where deputies were in position on the west perimeter of the business. Next, he saw Brown's right hand disappear from the steering wheel, heard gunshots, and saw Brown's front driver's side window shatter. Immediately, he believed Brown was actively shooting at his direction and in response released a volley of approximately five to six shots in rapid succession towards Brown's silhouette in the driver's seat.

Officer Yosten stopped firing when he observed Deputy Reynoso take cover. After a few seconds of contact with Deputy Reynoso, he repositioned himself to remain parallel with the SUV. He continued to hear gunshots, and believed Brown was still firing at his direction. At this point, Officer Yosten fired a second volley of six shots in rapid succession to stop the threat of violence from Brown.

As Deputy Reynoso and Officer Yosten fired shots from the south wall, deputies were still holding position on the west side of the business. Deputy Arias, Deputy Rugege, Deputy Demara and Deputy Trujillo were all holding lethal coverage on the westside perimeter of the incident location. As all deputies observed Brown driving through the parking lot, they all decided to reposition themselves to keep Brown and the SUV in sight.

Deputy Arias repositioned himself, behind his patrol unit. While at the second location, he observed Brown drive through the barricade of patrol units on 7th Street. He saw Brown's passenger window roll down, and heard shots fired. It was at this point that Deputy Arias fired one round towards Brown's SUV in fear for the imminent danger to deputies and the surrounding community.

Immediately after firing his weapon, Deputy Arias felt pain to the left side of his face, lost vision for a few seconds and then saw blood pouring down his face, as he yelled for help.

Deputy Demara repositioned himself approximately 30 feet away from Brown's SUV. After observing Brown's SUV advance towards the line of Deputies and after hearing shots fired, Deputy Demara began to fire his rifle aiming at the front passenger door towards Brown's driver seat. There was nothing obstructing his sight and the backdrop was the south brick wall of the business. He fired twenty rounds with rapid succession until the rifle stopped and he did not reload.

Deputy Trujillo repositioned himself to the north of the business. He observed Brown's vehicle by the planter and aimed through Brown's passenger side window, directly towards Brown in the driver's seat. He shot approximately two to three rounds but continued to see Brown's vehicle driving across the planter and onto Seventh Street.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 5

Next, he moved behind two patrol cars, in middle of 7th Street and fired another set of two to three rounds towards Brown in the driver seat as he continued to drive the SUV across 7th Street.

Deputy Rugge moved away from his car to the middle of the street, in fear of being pinned in between cars if Brown drove through the deputies' vehicles. When he looked towards Brown's direction he saw the car go over the curb and observed approximately 15 pedestrians across the street. Deputy Rugge immediately took a shooting platform in the middle of 7th Street and fired six rounds through Brown's front passenger door.

Once Brown's vehicle started to slow down across 7th Street both Deputy Rugge and Deputy Demara started to approach the SUV with their rifles out. As they approached they noticed Specialized Enforcement Division (SED) began to take over the scene and remove Brown out of the vehicle so aid could be rendered to him.

Deputy Trujillo stayed back to assist Deputy Arias, who was air lifted to the hospital for medical treatment. Deputy Arias suffered a gunshot wound near his left eye. The wound was approximately a half inch laceration, where a piece of metal shrapnel was removed. He was treated and released same day.

Brown was also transported to the hospital for medical treatment. He was treated for eight gunshot wounds. He suffered a gunshot entrance wound in the right triceps and exit wound to the right bicep. Gunshot wounds were also treated in the interior portion of his left forearm, exterior portion of the left forearm, exterior portion of the right thigh, and interior portion of the left thigh. Lastly, he suffered a gunshot wound to the exterior portion of his left thigh.

STATEMENTS BY POLICE OFFICERS¹

On Wednesday, July 25, 2019, at approximately 7:00 a.m., **Deputy Jason Arias** was interviewed by Detective James Tebbetts and Detective Gerad Laing of the San Bernardino County Sheriff's Department.

Deputy Jason Arias was hired by the San Bernardino County Sheriff's Department on June 2016. He was assigned to patrol in Victorville on October 2017. Deputy Aria's duty weapon was a Glock 17 which he kept loaded with 17 rounds in the magazine and one in the chamber.

On July 17, 2019, Deputy Arias was on duty, driving a Sheriff's patrol car with decals on the side, equipped with emergency lights and sirens. Deputy Arias was at the Sheriff's station when he heard the Dispatcher broadcast a call for service regarding a male pointing a gun at people. He immediately responded to the scene and was the fourth deputy on scene.

¹ Herein is a summary only. All reports submitted were reviewed, but not all are referenced here. All witness deputies' statements were generally consistent.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 6

Deputy Arias positioned his patrol vehicle at the northern point of the Fix Auto business located on 15063 7th Street in Victorville. Several other patrol cars were stationed south of Deputy Arias' vehicle. By the time he arrived at the location PA announcements were being made over a patrol car intercom for Brown to exit the vehicle and cooperate.

Brown was observed by Deputy Arias sitting in the driver's seat of a dark colored Suburban parked in the parking lot of the Fix Auto business. Brown's car was parked facing south and Deputy Arias, along with the other deputies, were outside of their cars facing east towards Brown.

Upon arrival Deputy Arias had a clear line view of Brown inside the SUV. His patrol car was 25 yards away from Brown's SUV. The front passenger window of the SUV was rolled down and he could see Brown holding his hands up but refusing to get out of the car. After approximately 15 minutes, Brown rolled up the tinted front passenger window only allowing a two-inch opening. From that point on, Deputy Arias was unable to see much of the inside of the SUV. At times, Deputy Arias was only able to see Brown raise and drop his hands while inside of the car.

After 20 minutes on scene, Detective Shane Anderson instructed Deputy Arias to move a patrol vehicle towards the driveway apron of the Fix Auto business. This allowed law enforcement to block the business exit onto 7th Street by having patrol units all along the east side of 7th Street. Brown appeared to be barricaded at the location.

Deputy Arias returned to his parked car and 10 minutes later left to help with crowd containment. He evacuated bystanders that were in the line of fire behind his patrol car and located inside of the Del Taco on 7th Street. After five minutes of evacuating bystanders, Deputy Arias returned to his position at the north end of the Fix Auto business.

While waiting for Brown to exit the SUV, Deputy Arias received confirmation from other deputies that Brown was armed. Brown was overheard by other deputies confirming that he was armed after inquiries were made over PA announcements. Once Deputy Arias finished containing the crowd, he continued to hear PA announcements pleading with Brown to step out of the SUV and cooperate. In response, he would notice Brown in the vehicle making numerous hand gestures and yelling things out of the vehicle.

Deputy Arias remained armed and in lethal coverage by his vehicle. It was his understanding there were two other forms of less-lethal coverage set up against Brown. Approximately 20 minutes later, he noticed SWAT personnel positioned themselves on the roof of the business and heard Brown's engine start. Initially the SUV moved a few feet south of the parking spot and stopped. Then the SUV reversed, stopped, and immediately continued to move southwest towards the line of deputies and patrol units positioned on the east side of 7th Street.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 7

As the SUV moved southbound, Deputy Arias lost sight of Brown. He repositioned himself towards the back of his patrol car and ultimately moved towards two patrol cars south of his location in order not to lose sight of Brown. While at the second location, Deputy Arias saw Brown drive the SUV through the barricade of patrol units, proceeding across a landscape and towards 7th Street.

Once the SUV began to cross the barricade area Deputy Arias saw the passenger window roll halfway down and heard gun fire coming from the SUV's direction. He immediately believed Brown was shooting towards him and other deputies. It was at this point that Deputy Arias fired his first round towards Brown's SUV.

Based on the totality of circumstances, Deputy Arias believed there was a danger to the public and the possibility Brown was attempting to run over other deputies. Hence, his intention when firing his weapon was to stop the threat from escalating. Deputy Arias had nothing obstructing his view of Brown's vehicle when he moved and fired directly at the front passenger window. He was only able to see a figure in the driver's seat but everything else appeared dark. Deputy Arias only recalls shooting one round towards Brown and saw it hit the front passenger window.

Immediately after firing his weapon, Deputy Arias felt pain to the left side of his face and lost his vision for 15 seconds. When his vision returned he saw blood pouring down his face. He was air lifted to Loma Linda University Hospital where he was treated for a gunshot wound near his left eye. Hospital staff located a metal shrapnel inside his wound.

On July 24, 2019, at approximately 10:13 a.m., **Probation Officer Cory Yosten** was interviewed by Detectives James Tebbetts and Simon DeMuri of the San Bernardino County Sheriff's Department.

On the date of incident, Officer Yosten served as a probation officer in the Victorville Gang Team and is part of the Multiple Enforcement Team (MET). Officer Yosten's duty weapon was a Glock 17 which he kept loaded with 17 rounds in the magazine and one in the chamber. During the lethal force encounter Officer Yosten used a Ruger Mini-14 rifle, that was rendered safe at the end of the encounter, loaded with 9 rounds of .223 caliber cartridges.²

On July 17, 2019, Probation Officer Yosten was on duty for a 12 p.m. to 10 p.m. shift. While at the station he received a call for service of a "man with a gun on Seventh Street." He quickly changed at the station into blue jeans, a gray t-shirt with a probation field vest that had PROBATION written across the back in gold and his last name on the front with a probation badge. The vest came equipped with an earpiece that was connected to dispatch and radio. He was not equipped with a body worn camera but had a belt recorder which he activated during the encounter.

² The rifle's magazine holds up to 20 .223 caliber cartridges.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 8

While in route, Officer Yosten was partnered with Deputy Adam Highland and drove an unmarked probation vehicle with law enforcement white flashers. When he arrived on scene he parked across the street of Fix Auto business, next to the Del Taco on the west side of 7th Street. While at the location, he received a description of the suspect's car and saw the SUV parked at the aforementioned business location.

Within minutes of arriving on scene Officer Yosten noticed the front passenger and driver windows of the SUV were down and Brown confirmed he was in possession of a firearm. Officer Yosten specifically remembered Brown exclaiming, "Hell yes I'm armed!" and after confirming possession of the firearm, Brown rolled up the front passenger and driver windows to his SUV. However, Officer Yosten was still able to see Brown moving his hands within the vehicle.

Initially Officer Yosten approached an unmarked gang unit vehicle parked in the middle of the road. He was asked to look for a less-lethal weapon and was unsuccessful. However, as he approached the rear-end of a vehicle parked on the east side of 7th Street he was handed a Ruger Mini-14 by Deputy Vogel who then popped the trunk of his patrol vehicle and grabbed a less-lethal weapon. Deputy Vogel positioned himself behind the passenger open car door. Meanwhile, Officer Yosten took a rested position on top of the door frame with the window down.

As a probation officer, Officer Yosten was never issued a Ruger Mini-14. However, in March of 2015 he attended the probation core academy where he received a firearms introduction course for familiarization of weapons. After attending the academy, he continued to receive training regarding the history of weapon nomenclatures and how to load, fire, and render weapons safe. Since March of 2015 he became a firearms instructor for his department and had completed approximately six training sessions for other probation officers.

After ten minutes at the passenger car window, Detective Anderson relocated Officer Yosten to the southeast corner of the business, to cover any eastward escape by Brown. While at the southeast corner, Officer Yosten received confirmation from Deputy Highland that they had a defensive positioning inside the building. Officer Yosten was then relocated to a three-foot wall on the southwest portion of the building.

From the southwest position, Officer Yosten had a clear view into the front windshield of Brown's SUV. Initially, he was joined by six other deputies including Deputy Reynoso. After a few minutes at this location, Sergeant Roper relocated all other deputies, except for Deputy Reynoso and Officer Yosten, to block the parking lot and sidewalk with their vehicles.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 9

There was still daylight as the sun was directly above both officers. From Officer Yosten's point of view, he saw Brown moving his arms within the SUV but never saw a firearm. Every few seconds, Officer Yosten remembered hearing PA announcements were made by Deputy Roth addressing Brown. He remembered hearing statements such as, "you're making us nervous I need to see your hands, put your hands back up to where I can see them, I can't see your right hand" or "you need to put your hands up, we wanna try and end this peacefully." Announcements were being made in attempts to de-escalate the situation with Brown, but he refused to follow any of the commands.

Approximately 25 minutes passed from when Officer Yosten observed Brown roll up the windows to his SUV and saw Brown moving the vehicle out of the parking stall. The SUV slowly moved southward towards Officer Yosten's position and quickly made a right turn over a planter section in the parking lot. Officer Yosten was able to relocate and move west towards 7th Street to remain within twelve feet of Brown's SUV. As the SUV drove up to the planter, Officer Yosten observed Brown's hands on the steering wheel and when the vehicle came to a stop on the planter he saw the right hand disappear. Within three seconds of seeing Brown's right hand disappear, Officer Yosten heard gunshots and saw the front driver's side window shatter. Immediately, he believed Brown was shooting at him and Deputy Reynoso.

In response, Officer Yosten stood up from his low and ready position and attempted to fire, but the safety was not removed. He repositioned himself, turned off the safety, and while looking down the sights on his target pulled the trigger and released a volley of approximately six shots in rapid succession towards Brown's silhouette inside the SUV. After the initial volley of shots, Officer Yosten stopped firing as he noticed Deputy Reynoso was on the ground and worried he had been shot. After a few seconds of contact with Deputy Reynoso, Officer Yosten returned to his target and noticed Brown had advanced the SUV slightly forward towards the sidewalk.

Once again, Officer Yosten repositioned himself and remained parallel to the driver side door of Brown's SUV. As he continued to hear gunshots, he remained under the impression that Brown was firing at their direction. Officer Yosten's target remained on Brown's silhouette inside of the SUV as he fired a second volley of six shots in rapid succession to stop the threat of violence from Brown. However, the SUV quickly sped forward across the street and Officer Yosten ceased fire. He grabbed Deputy Reynoso and checked on his well-being.

Officer Yosten noticed that Brown's vehicle made it across 7th Street and became lodged between a large bush and small tree on the west side of 7th Street. At that point, he remembered seeing less-lethal rounds being deployed against Brown and ultimately saw Brown being removed from the vehicle and receive medical aid.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 10

During the end of the encounter, Officer Yosten was assigned to clearing the streets and shifting pedestrians away from the line of fire. Officer Yosten began to work on containing the scene as he continued to hear that Brown was moving within the vehicle before he was removed from the SUV.

On July 25, 2019, at approximately 1:40 p.m., **Deputy Mark Reynoso** was interviewed by Detectives James Tebbetts and Gerad Laing of the San Bernardino County Sheriff's Department.

Deputy Reynoso was employed by the San Bernardino County Sheriff's Department on December 2011. During the date of incident, Deputy Reynoso served as an acting detective for the Victorville Station. Deputy Reynoso's duty weapon was a Glock 21 which he kept loaded with 13 rounds in the magazine and one in the chamber. During the lethal force encounter Deputy Reynoso used a Ruger Mini-14 rifle, that was rendered safe at the end of the encounter, with a .223 caliber cartridge in the firing chamber and 14 rounds of .223 caliber cartridges found in the magazine.³

On July 17, 2019, Deputy Reynoso was assigned as an acting detective for the Victorville Station and his shift was from 7:00 a.m. to 5 p.m. He was assigned a trainee partner, Deputy Kazee, and was operating an unmarked Ford Fusion patrol vehicle. Deputy Reynoso was wearing a t-shirt, jeans, work boots and a ballistic vest. On the ballistic vest he had magazines attached, a recorder, handcuffs, radio, and notepad. He was unable to successfully turn on the record for the beginning of the encounter but has a partial recording, after the use of lethal force.⁴

While at the station, Deputy Reynoso received a call for service. He took Deputy Kazee in his patrol vehicle and headed to the incident location. Once at the location, Deputy Reynoso positioned himself on the passenger's side of the vehicle by Deputy Oliveros. He withdrew a shotgun out of his patrol unit and held his position. Next, he moved to the southside of the building, where several other deputies were positioned behind a three-foot wall. During that process he traded his shotgun for a Ruger Mini-14.

Initially, Deputy Reynoso positioned himself by the southern wall in order to be next to his trainee, Deputy Kazee. From his vantage point on the wall, he could see Brown directly through the front windshield of his car. He remained at that location to provide lethal cover for other deputies who were closer to Brown.

³ The rifle's magazine holds up to 20 .223 caliber cartridges.

⁴ Deputy Reynoso attempted to start his audio recorder while on his way to the call for service. Once he arrived, he realized the recorder was not working. He decided to use an application on his phone to record, and place the phone back into his pocket, in belief the recording had started. After the use of lethal force, Deputy Reynoso looked back at his phone and realized that it was not recording. Only 2 seconds were captured at the very beginning. It was at this point that Deputy Reynoso was able to manipulate his audio recorder and get it to successfully turn on and work. The partial recording began after he was removed from the southside of the building after the lethal force encounter.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 11

Positioned at the southern wall, Deputy Reynoso was too far away from Brown to successfully use less-lethal instruments, such as a taser. Based on his recollection, other units were assigned to use less-lethal shotguns and a pepper ball gun. Additionally, the call of service stated Brown exhibited a gun to an employee and Brown informed deputies on scene that he was armed. Hence, Deputy Reynoso armed himself with a Ruger Mini-14 rifle in order to combat the handgun Brown had in his possession.

Through his vantage point, Deputy Reynoso kept visual of Brown inside of his vehicle. Brown's vehicle was parked directly across from his position, by the northern wall, approximately 25 yards away. Deputy Reynoso described seeing Brown wave his hands towards deputies and drop his hands towards the center console area, despite being given several commands not to do so. When Brown's hands were dropped towards the center console area, Deputy Reynoso was unable to see what Brown was touching or doing.

PA announcements were being made to Brown by Deputy Roth while Deputy Reynoso maintained the perimeter. He remembered the tone being professional and multiple attempts were made by Deputy Roth to de-escalate the situation. The goal was to gain cooperation from Brown in order to diffuse the standoff. To have Brown exit the vehicle unarmed and peacefully go towards officers to be handcuffed without incident, investigate the initial call for service regarding the criminal threats and assault with a deadly weapon. Unfortunately, Brown continued to remain inside of his vehicle and bring his hands down where deputies were unable to see.

Brown eventually put his vehicle in drive and proceeded south in the parking lot.⁵ However, the only way out of the parking lot would be towards the street, by Brown going west and ramming into the patrol vehicles holding the perimeter on the west side of the location. Deputy Reynoso immediately began to move west along the southern wall, heading west towards the street, to avoid crossfire from deputies positioned along the street on the west side.

As Brown's vehicle moved south in the parking lot, he suddenly turned westbound towards the west curb that led to the street. Deputy Reynoso was able to see Brown through the driver side window of his car. The window to the driver's side door was tinted but there was enough light for Deputy Reynoso to see Brown moving inside. He could see Brown's hands moving up and down on the steering wheel. But once Brown's car approached the curb, he saw Brown's left hand remain on the steering wheel and his right-hand drop towards the center console.

⁵ Deputy Reynoso estimated Brown's vehicle initially moving at a speed of 5 to 10 mph in the parking lot.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 12

Based on Deputy Reynoso's training and experience, he knew how quickly a gun could be brought out and fired. He knew Brown was armed due to his own statements on scene and the description of the call for service, and knew Brown was capable of shooting towards himself, other deputies, or any pedestrians outside of the perimeter. Additionally, he saw Brown move his vehicle towards other deputies and feared he would run over his colleagues or pedestrians on the street. Hence, he made the decision to follow Brown's car by moving west from the wall and firing his rifle first.

Deputy Reynoso was still in ready position as he shuffled westward on the southern wall and fired five to six consecutive shots directly into the driver-side window where Brown was seated. By the time he fired his rifle he was within 10 yards of Brown's vehicle. He stopped shooting because he immediately recognized there was a possible crossfire situation. Deputy Reynoso was still positioned by the southern wall, Brown's car was approaching the curb exiting onto the street where several other deputies were stationed. If Deputy Reynoso continued to fire, he was afraid he could injure his own colleagues by shooting towards the street or if other deputies fired towards Brown's vehicle he could be caught in the crossfire.

After firing his rifle, Deputy Reynoso quickly ducked down near the southern wall. Shortly after he began to hear other gunfire but was unsure where the gunfire was coming from. After ten seconds, he was able to look up and reassess the situation. He found Brown's vehicle had made it to the center of the main street before accelerating and crashing into a tree across the street.

Shortly thereafter, Deputy Roth told Deputy Reynoso he had to go back to the Victorville station. Deputy Reynoso immediately left the scene of the incident.

On July 25, 2019, at approximately 3:18 p.m., **Deputy Zachary Rugge** was interviewed by Detectives James Tebbetts and Gerad Laing of the San Bernardino County Sheriff's Department.

Deputy Rugge was employed by the San Bernardino County Sheriff's Department on February 2017. Deputy Rugge is assigned to the Victorville City Gang Team. Deputy Rugge's duty weapon was a Glock 17 which he kept loaded with 17 rounds in the magazine and one in the chamber. During the lethal force encounter Deputy Rugge used his Glock 17, that was rendered safe at the end of the encounter, loaded with 9 cartridges in the magazine and one in the chamber.

On July 17, 2019, Deputy Rugge started his shift at 12 p.m. at the Victorville Station as a clerical administrative day to complete warrants, paperwork and submit evidence. While at the station he received a call out for service regarding a black male waving a gun and threatening employees at an automotive shop. Deputy Rugge, along with the entire gang team at the station got up and ran to their units. That afternoon Deputy Rugge partnered up with Deputy Roth and drove to the incident location together.⁶ When they arrived there

⁶ While en route, Deputy Rugge activated his belt recorder.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 13

were approximately eight to nine other marked Victorville patrol units lined up around the business on Seventh Street.

Deputy Rugge parked his marked patrol vehicle in the middle turning lane of Seventh Street, facing southbound. He immediately got out of his vehicle and positioned behind a passenger door of a patrol vehicle that was 15 yards away from Brown's vehicle. Deputy Rugge had a direct, perpendicular view of Brown inside of his car. The sun was still out, it was an extremely hot and humid day with enough light to see inside of Brown's tinted front windows.

Immediately, Deputy Rugge noticed Brown was wearing army camouflage clothing. Based on his previous military service, he was familiar with the different clothing worn by the different branches in the military.⁷ He was only able to see from Brown's chest line and upwards. Deputy Rugge never saw Brown in possession of a firearm but based on the description given by the call for service, he was aware Brown was armed. Additionally, Deputy Rugge personally heard Brown exclaim, "Hell yeah I'm armed"⁸ and flail his arms towards deputies when a public announcement stated, "We believe you are armed."

Upon hearing Brown say that he was armed and witnessing his lack of cooperation with the commands made over the public announcements, Deputy Rugge began to grow fearful of the situation. Brown continued to drop his right hand inside of the car, away from Deputy Rugge's view. He tried to assess if any other deputies could see inside of the vehicle. He reached out to the Sheriff's helicopter, 40 King, but they were unable to see inside of Brown's vehicle while flying overhead. Deputy Rugge similarly asked the deputies holding the southbound perimeter for their view of Brown's right hand, but they were also unable to see from their point of view.

During the initial 20-minute standoff with Brown, Deputy Rugge saw him disregard the commands made by deputies over the public announcements. Brown was asked to keep both hands up where deputies could see them, and he continued to drop his right hand down. Deputies were also asking Brown to open the car door from the outside with his left hand, and he continued to ignore the commands. It was evident to Deputy Rugge that Brown was able to hear the public announcements since Deputy Rugge was able to clearly hear them over 40 King flying overhead, and the radio in his ear. Also, when Brown responded with "hell yeah I'm armed" it was in response to a specific PA announcement.

Deputy Rugge moved positions after the initial 20 minutes of being on scene. Two deputies were removed next to him and placed in different positions. Deputy Rugge moved to the driver's side door of the vehicle next to him. Still remaining within 15 yards of Brown's vehicle. Within 20 minutes of being in the new position, Deputy Rugge saw

⁷ Deputy Rugge previously served in the Marine Corp.

⁸ Initially, Brown's front windows were down. This allowed Deputy Rugge to hear Brown make this statement. Later on Brown rolled up his windows against the commands made by deputies.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 14

Brown roll up the two front windows, making it harder to see exactly what he was doing within the vehicle.

Over the radio, Deputy Rugge learned that Brown suffered from PTSD from being previously shot. Based on this information and the clothing Brown was wearing, Deputy Rugge was under the impression Brown had military training and experience⁹ with weapons. While the windows were rolled up, Deputy Rugge's ability to see Brown was blocked but the vehicle began to shake and an outline of his right hand was seen moving around inside of the car. Deputy Rugge's fear that Brown would shoot him, other deputies, or pedestrians across the street grew. Brown became a huge threat to the public.

Thirty minutes after Brown rolled up his windows, he began to move the vehicle southbound in the parking lot. As Brown is moved his vehicle, Deputy Rugge was in fear of Brown ramming deputies with his car and pinning himself or other deputies in between patrol cars. Deputy Rugge began to move away from his position and moved towards the middle of the street. As he moved, he saw Deputy Roth running from behind his unit and ducking for cover. At the same time, Deputy Rugge heard glass breaking and shots being fired. Deputy Rugge was under the impression Brown was shooting at Deputy Roth.

Deputy Rugge immediately looked towards Brown's direction and saw Brown's car going over the west curb and onto Seventh Street. He also observed approximately 15 pedestrians across the street, directly in line with Brown's pathway. This caused Deputy Rugge to fear for both deputy and pedestrian casualties. Deputy Rugge made the decision to run towards the middle of Seventh Street for a shooting platform. He already had his Glock 17 out and began to hear Brown's car engine roar and move across Seventh Street. Deputy Rugge immediately fired six rounds directed through Brown's front passenger door aiming at Brown who was still seated in the driver's seat. It was his intention to stop the driver from going towards the pedestrian crowd across the street.

Brown's vehicle began to slow down. Deputy Rugge lowered his firearm to low-ready position He did not hear the engine roar any longer and witnessed Brown's car go straight into the building across Seventh Street.

Soon after, Deputy Rugge heard "I'm hit, I'm hit" screamed behind him. He looked back and saw Deputy Arias jumping and screaming. Deputy Arias was bleeding from the face. He ran over to Deputy Arias to help and quickly determined it was a superficial injury, which allowed him to run back to Brown's vehicle.

Deputy Rugge approached Brown's vehicle with his firearm out, next to Deputy Demara who had his rifle out and pointed towards Brown's car. As they approached, Deputy Rugge noticed Brown was not moving, his head was laying on the driver side window and there was a lot of blood. Deputy Rugge retreated and began to help other deputies with clearing the area and checking for pedestrian casualties.

⁹ Mother confirmed with deputies over the phone that Brown had served time in the U.S. Army.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 15

As SED was cleared the scene, Deputy Rugge saw Brown be taken away by ambulance. Shortly after, Deputy Rugge left the scene and went back to the Victorville Station with Deputy Hylin and Probation Officer Yosten.

On July 25, 2019, at approximately 3:42 p.m., **Deputy Francisco Demara** was interviewed by Detectives Simon DeMuri and Nicholas Clark of the San Bernardino County Sheriff's Department.

Deputy Francisco Demara was employed by the San Bernardino County Sheriff's Department on October 2014. He was assigned to Gang Enforcement Team. Deputy Francisco Demara used a Ruger Mini-14 rifle during the lethal encounter that was rendered safe at the end of the encounter, loaded with 19 cartridges in the magazine and one in the chamber.¹⁰

On July 17, 2019, Deputy Demara was at the Victorville Police Station when he was dispatched to the incident location in regard to a male sitting outside of an automotive business pointing a gun at employees. Deputy Demara partnered up with Deputy Trujillo and responded to the location.

Immediately, Deputy Demara began to contain the scene from pedestrians by stopping southbound and northbound traffic on Seventh Street. Next, he walked to establishments next to the incident location in order to clear the surrounding area for safety. Deputy Demara found a number of different people in the Del Taco across the street, and in the auto shop adjacent north to the parking lot where Brown was parked.

While on scene, Deputy Demara gathered additional information regarding the stand-off with Brown. He spoke directly with the initial victim that Brown brandished his firearm towards that afternoon. Deputy Demara received details as to the firearm used by Brown which led him to believe Brown was in fact armed and a threat. Hence, all the deputies along the westside curb of the business location had lethal coverage. That said, Deputy Demara did notice less-lethal weapons were already covered by other deputies. He remembered Deputy Vogel had beanbag rounds and there was a request made for pepper ball guns.

SWAT arrived due to the length of the stand-off with Brown. Deputy Demara heard a command post being set up that included a captain and media near the incident location.

Deputy Demara observed Brown continuously disobeying the PA announcements. He heard announcements being made in both English and in Spanish in case there was a language barrier. Additionally, Deputy Demara learned deputies were able to get a hold of Brown's mother and confirmed there were no physical or mental disabilities with Brown. With the on-going stand-off and non-stop PA announcements, Deputy Demara's thoughts

¹⁰ Deputy Demara had two magazine that were loaded with 20 rounds of .223 caliber cartridges. When he rendered his rifle safe at the end of the encounter, he was left with one fully loaded magazine as described above. This was consistent with his firing of 20 full rounds during the use of lethal force.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 16

kept racing. There were several instances while Brown remained parked in the parking lot that Deputy Demara contemplated using lethal force. Every single time Brown would ignore commands and drop his right hand out of sight for all officers, Deputy Demara was fearful Brown would pull the firearm out and shoot him or other deputies. But he did not use lethal force against Brown at that time because he had high hopes Brown would begin to comply with the on-going commands and the stand-off would end peacefully.

Deputy Demara maintained lethal coverage outside of Deputy Aria's patrol vehicle located at the north end of the incident location. Initially he pulled out his on-duty Glock handgun but switched to a Ruger Mini-14 rifle found inside of Deputy Aria's patrol car. Deputy Demara positioned himself standing outside of the passenger side door of Deputy Aria's car. He had a clear visual of Brown in the driver's seat.

Over an hour stand-off with Brown had transpired when Deputy Demara saw Brown move his SUV southbound in the parking lot. Once Brown's vehicle reached the island planter next to the sidewalk, he saw an accelerated movement of the car over the planter. As Brown's vehicle began to move, Deputy Demara re-positioned himself in order not to lose visual of Brown and to have a clear shot. Deputy Demara moved westward into the first northbound lane on Seventh Street.

Now at this new position, approximately 30 feet away from Brown's car, Deputy Demara began to fire his rifle aiming at the front passenger door towards Brown seated in the driver's seat. There was nothing obstructing his sight and the backdrop was a brick wall from the automotive shop. He fired twenty rounds until the rifle stopped. Once Brown's vehicle continued to move across Seventh Street, he did not continue to fire because Deputy Demara was unsure of the background in that area. By initially firing his rifle it was Deputy Demara's intention was to stop Brown from ramming into deputies that were holding the perimeter and hitting pedestrians on the other side of Seventh Street.

Deputy Demara and Deputy Ruge began to approach Brown's vehicle across the street, but backed off when he observed SED taking over the scene.

On July 25th, 2019, at approximately 2:04 p.m., **Deputy Fernando Trujillo** was interviewed by Detectives Simon DeMuri and Nicholas Clark of the San Bernardino County Sheriff's Department.

Deputy Trujillo was employed by the San Bernardino County Sheriff's Department on January 2013. He was assigned to Victorville Gang Enforcement Team. Deputy Trujillo used a Ruger Mini-14 rifle during the lethal encounter that was rendered safe at the end of the stand-off.¹¹

On July 17, 2019, Deputy Trujillo was at the Victorville Police Station when he heard the call for service regarding Brown. He immediately left the station, partnered with Deputy

¹¹ Originally his Ruger Mini-14 had a magazine with 20 rounds of .223 caliber cartridges. At the end of the encounter he had a total of 12 rounds left.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 17

Demara. He was seated in the passenger seat as Deputy Demara drove to the incident location.

Once at the location, Deputy Trujillo was assigned by Detective Anderson to move Deputy Demara's patrol vehicle to the middle of Seventh Street to shield pedestrians on the westside from any crossfire. Upon moving the vehicle, Deputy Trujillo grabbed the Ruger Mini-14 rifle in the patrol car, walked over to the line of deputies by the incident location, and positioned himself next to Deputy Demara. Both deputies were located outside of the passenger side door of the patrol car located at the very north end of the incident location.

Deputy Trujillo discussed the topic of less-lethal options with Deputy Roth and Deputy Demara. However, Deputy Trujillo believed the deputies should not do anything to cause a confrontation with Brown. He knew Specialized Enforcement Detail (SED) and SWAT were enroute to their location, and they had the time to contain Brown and wait for the added resources to arrive. By deploying pepper spray or using less-lethal weapons, he feared Brown would grow agitated and become more confrontational.

While holding the perimeter, Deputy Trujillo kept a visual on the positioning of the tires on Brown's car. He was made aware by 40 King that the only exit point for Brown was heading west in the parking lot. If the tires turned towards west, Deputy Trujillo knew there was a chance Brown could run him and other deputies over or pin them in between the patrol vehicles.

When Brown's vehicle started to move, Deputy Trujillo noticed when Brown's car tires began to turn west, towards the deputies and still continued to move forward. It was at this point that Deputy Trujillo decided to move for a better angle and fired his rifle for the first time. While positioned on the north side of the business, Deputy Trujillo observed Brown's vehicle by the planter and aimed through Brown's passenger side window, directly towards Brown in the driver's seat. He shot approximately two to three rounds. At that moment, Deputy Trujillo feared for the safety of other deputies holding the perimeter on the west side of the location. He believed Brown would run over the deputies or pull out his firearm and shoot directly at deputies.

After shooting the first set of rounds, Deputy Trujillo continued to see Brown's vehicle driving across the planter and onto Seventh Street. He moved behind two patrol cars, towards the middle of Seventh Street and fired another set of two to three rounds towards Brown seated in the driver seat as he continued to drive across the street. Brown's vehicle ultimately continued until it struck a tree across the street.

Deputy Trujillo noticed the SWAT team took over the scene and he began to retreat and assist Deputy Arias.

On July 17, 2019, at approximately 2:04 p.m., **Sergeant Luke Gaytan** was interviewed by Detectives Michael Cleary of the San Bernardino County Sheriff's Department. Sergeant Gaytan is with the San Bernardino County Sheriff's Department Specialized

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 18

Enforcement Division (SED). On the day on incident, he was the sergeant in charge of SED Team One that included Detective Greg Abernathy, Deputy Kenneth Bubler, Deputy Cory McCarty, Detective Scott Bibeau, Deputy Jonathan Walsh, Deputy Andrew Pollick and Deputy Jeffrey Henry.

At approximately 3:01 p.m., he received a phone call from Sergeant Steve Allen from the Victorville City Station asking for assistance on a barricaded suspect. At that time, he deployed his team to start gathering information on scene.

Initially the plan was for his team to load up in the armored rescue vehicle and position it in front of Brown's vehicle to block it in place and prevent Brown from leaving the parking lot. As Sergeant Gaytan was loading the armored truck with his deputies, they received notice that Brown was moving his vehicle inside of the parking lot. He heard several gunshots but did not observe any of the lethal force encounter.

Sergeant Gaytan and several SED operators ran towards Brown's location across the street where he had crashed the SUV. The armored rescue vehicle was requested for armored protection and contact. The armored vehicle was positioned on the driver's side of Brown's vehicle and PA announcements were made for Brown to put his arms up. Sergeant Gaytan wanted to get Brown medical attention but needed to clear the scene of weapons for officer safety.

Brown's hands were in his lap and the collision caused the airbag to deploy, blocking the view of his hands. There were some physical movements by Brown and unintelligible verbal responses.

SED deputies held lethal coverage on Brown until the BearCat arrived. The BearCat allowed for a better view, but his hands were still covered. In an attempt to get a physical response from Brown, Deputy Henry deployed a 40-millimeter blunt impact projectile less-lethal round at Brown. The first round fired did not hit Brown. A second round was deployed and hit Brown, causing a physical and verbal response, but his hands remained covered.

There was a CHP K-9 on scene. He was deployed into the vehicle but did not engage with Brown. Next, SED operators were able to open Brown's door and were able to pull both of Brown's hands out and clear him for removal. Brown was removed from the passenger side of his SUV and medical triage was immediately initiated on Brown at the scene.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 19

STATEMENTS BY CIVILIAN WITNESSES¹²

On Wednesday, July 17, 2019, at approximately 7:22 p.m., **Witness #1** was interviewed by Detective Gerad Laing of the San Bernardino County Sheriff's Department.

Witness #1 worked at Fix Auto located at XXXXX Seventh Street in the City of Victorville. On Wednesday, July 17, 2019, he arrived to work at approximately 10:00 a.m. Around 1:30 p.m. he noticed a black Chevrolet Suburban backed into a stall in the front parking lot of the Fix Auto building.

An hour later, at approximately 2:30 p.m., Witness #1 and his son, Witness #3 prepared to take two tires to a local business. Witness #1 parked his car east of the black Suburban and noticed Brown had his car window rolled down, he was wearing an eye patch on his left eye and recording with a large pink phone.

As Witness #1 approached the driver side door of Brown's car, Brown told him to stay back. Brown exclaimed that he knew Christina was inside. However, Witness #1 did not know a Christina and no one by that name worked at the Fix Auto location.

Witness #1 noticed Brown pulled out a Glock styled handgun, black and silver, held it with two hands and manipulated the slide of the handgun. Brown told Witness #1, "You better go inside, or I'm going to shoot your ass."

Believing Brown would shoot him, Witness #1 retreated to the inside of the business and told his son and daughter what occurred. His daughter, Witness #2, immediately called 911. Within five minutes, Witness #1 saw deputies arrive to the front of the business and park along east side of 7th Street.

Initially, Witness #1 saw deputies draw weapons and give commands to Brown. He was unable to see the remainder of the incident. He remained inside of the business and then deputies escorted him to the parking lot of Gridiron Pizza.

For an hour, Witness #1 continued to hear commands made by deputies using a Public Address (PA) system. Towards the end of that hour, Witness #1 heard a lot of gunfire but did not witness the shooting.

On Wednesday, July 17, 2019, at approximately 7:22 p.m., **Witness #3**, was interviewed by Detective Floyd Stone of the San Bernardino County Sheriff's Department.

Witness #3 worked at Fix Auto located at 15063 Seventh Street in the City of Victorville with his father, Witness #1, and sister, Witness #2. At approximately 2 p.m., he noticed Brown was parked in a black Chevy Suburban facing the business and behaving erratically while alone in the vehicle. Brown remained inside of the vehicle for approximately 40 to 50 minutes.

¹² All reports of civilian statements made were reviewed, though not all are summarized here.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 20

Around 2:50 p.m., Witness #3 saw his father approach the driver side of Brown's vehicle to see if he could help him. While standing 10 feet away from his father and Brown's car, Witness #3 could not hear what was being said between the parties. However, Witness #3 noticed his father step away from the Suburban with his hands up and head towards the business. His father stated Brown threatened to shoot him if he did not step away from the car.

Witness #3 and his father entered the business building and locked the front door. He told his sister about the incident and 911 was called. Deputies arrived shortly after they called for help. Witness #3 and other employees were escorted by deputies behind the business. While behind the business, Witness #3 could see and hear some of the events that transpired between the deputies and Brown.

He was able to see deputies surrounding Brown's SUV and make a minimum of 20 commands for Brown to show his hands and slowly exit the vehicle. Brown refused to exit the vehicle. After an extended amount of time, Witness #3 heard Brown rev his engine and heard tires spinning. He saw Brown drive towards two deputies and swerved away from them. Both deputies had to back up and both were armed with weapons. One officer had a shotgun while the other had a handgun. As Brown drove past them, both deputies fired their weapons towards Brown.

Brown drove over a curb in between two deputy vehicles, accelerated across 7th Street and collided into a tree near a business on the west side of 7th Street. The deputies continued to fire at Brown as he crossed the street.

An armored Special Weapons and Tactics (SWAT) vehicle approached Brown's Suburban and made additional commands over the PA system. SWAT officers fired a large tube into Brown's vehicle and California Highway Patrol (CHP) dog was deployed into the Suburban. Brown was eventually removed from the car and taken away on a stretcher.

INCIDENT AUDIO AND VIDEO

911 CALLS

Call from Witness #2

The recording¹³ begins with Witness #2 calling 9-1-1 to report a "guy in a suburban" sitting outside of her office building, "pulling a gun out on all the employees." Elizabeth gave a description of a "black suburban" and described the gun as a handgun. When asked for a description of the individual, she described a black male in his 50's with a patch over his eye, who was threatening to shoot an employee. The call ends when she confirms officers arrived on scene.

¹³ The duration of the call was four minutes, 5 seconds.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 21

Sheriff's dispatch calls back the reporting party, Witness #2, to get a better description of the gun that was seen by her father, Witness #1. Elizabeth described the gun as a short black Glock. She confirmed not knowing Brown and that he was parked at their business location for over an hour at the time of the 9-1-1 call. She described Brown waving the gun, pointing the gun at the employee, and making threats of killing an employee.

Call from Brown's Mother

The recording¹⁴ begins with CHP dispatch transferring a call to Sheriff's Dispatch. CHP dispatch indicated they had a call from Anthony Brown's mother. She is told by Sheriff's dispatch to wait for a deputy to call her back with more information. She calls dispatch a second time approximately 30 minutes later stating she had not heard from deputies.

DISPATCH RECORDING/CALL HISTORY

All radio transmissions made by Sheriff's Dispatch, Sheriff's deputies, Sheriff's Aviation, and California Highway Patrol Aviation officers responding to the scene were recorded. The dispatch recording generally conveyed the development of the lethal situation that gave rise to the multi-agency response. In conjunction with the dispatch recording, the call history was also reviewed. The following is a summary of the general timeline of events.

- 2:39 p.m. Call created in response to first 911 call. Man with a gun sitting outside of business in a SUV, pointing gun at employees.
- 2:41 p.m. First deputy dispatched to the scene. Additional deputies assigned to assist.
- 2:41 p.m. Additional information obtained by dispatch regarding description of suspect.
- 2:42 p.m. 40King5 on scene.
- 2:43 p.m. Less-lethal units dispatched.
- 2:44 p.m. Additional deputies dispatched to the scene.
- 2:46 p.m. Suspect with hands up and not responding to commands.
- 2:49 p.m. Suspect not complying.
- 2:53 p.m. Second contact with initial reporting party to obtain more information regarding suspect and gun.
- 2:58 p.m. Suspect refusing to exit vehicle with PA announcements being made loud and clear.
- 3:01 p.m. Suspect refusing commands and looking down at his lap.
- 3:07 p.m. Suspect stated, "Hell yeah I'm armed!"
- 3:10 p.m. 40King5 cannot see inside of suspect's car, only can see left hand out of window.
- 3:13 p.m. Suspect still not obeying commands.
- 3:14 p.m. Brown identified as possible suspect.
- 3:15 p.m. Dispatch confirms Brown has registered guns.

¹⁴ The duration of the call was 37 minutes, 31 seconds.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 22

3:17 p.m. Subject rolls up windows to car. Extremely tinted windows.
3:18 p.m. Suspect's right hand is up and no longer able to see left hand.
3:26 p.m. Brown's mother is contacted. She confirms having firearms in her home, unaware if Brown has any weapons. She reports son having PTSD from being previously shot in the eye.
3:30 p.m. Additional deputies on scene.
3:34 p.m. Attempted to call Brown two times. No answer both times.
3:38 p.m. Brown making a lot of movements with left hand.
3:42 p.m. Unable to see both of Brown's hands and he is moving around a lot in driver's seat.
3:44 p.m. Unknown if Brown's SUV is turned on. Headlights and right blinker are on.
3:45 p.m. Tires to SUV are turned towards the business.
3:55 p.m. Brown's hand outside of driver side window.
4:07 p.m. Deputies deploy onto roof.
4:10 p.m. Brown is moving inside of the car. Attempts to leave the parking lot. Shots fired.
4:11 p.m. Deputy hit.
4:14 p.m. Brown still moving in car and hands cannot be seen.
4:16 p.m. Brown appears to be wearing body armor.
4:27 p.m. Brown still moving inside of car and hands cannot be seen.
4:41 p.m. Brown spit out of his car window.
4:48 p.m. Deployed less lethal and Brown is heard yelling.
5:05 p.m. Deployed another less-lethal force towards Brown.
5:06 p.m. Deputies still unable to see Brown's hands.
5:10 p.m. K9 is deployed.
5:14 p.m. Brown is pulled out of vehicle. Searched for weapons.
5:15 p.m. Loaded firearm found in front left jacket pocket on Brown.
5:20 p.m. Tourniquet applied on Brown.
5:22 p.m. Second gun found on Brown. Barretta pistol.
5:36 p.m. Brown en route to ARMC.
5:37 p.m. to 7:57 p.m. Scene processed and Brown was booked into custody.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 23

BELT RECORDINGS

Deputies with the San Bernardino County Sheriff's Department were equipped with belt recorders. Multiple hours of belt recordings from multiple law enforcement officers were received and reviewed, though not all are summarized herein. The timestamps referenced below indicate the minutes and seconds seen on the media player bar.

Deputy Mark Reynoso¹⁵

Deputy Reynoso activated his belt successfully after the lethal force encounter occurred.

Probation Officer Corey Yosten¹⁶

Timestamp 19:21- Officer Yosten said, "I can still see left hand, but I can't see right hand anymore."

Timestamp 22:20 - Officer Yosten said, "He's driving, he's moving, he's moving, he's moving." Wind can be heard blowing on the belt recording. In the background you can hear the PA announcement loud and clear the entire time. As Brown is moving the vehicle, PA announcement is saying "Please stop the vehicle" followed by, "There is no way out." You also hear Officer Yosten say "I got you par."

Timestamp 22:33 – First gunshots were heard. Approximately nine shots were heard in the recording, followed by Officer Yosten saying, "cease fire!" Shots continue to be heard in recording. Approximately 15 shots were heard and in the midst of the shooting Officer Yosten said, "I got you covered" followed by "you're good, you're good." Multiple car alarms can be heard in the background.

Timestamp 23:20 – Officer Yosten said, "Hands, hands, show us your hands!" followed by "back, back, back" and "down, down, down." You can hear Officer Yosten checking on someone, making sure they were "all good?" After receiving confirmation, he is heard moving and yelling "BearCat! BearCat!"

Timestamp 25:00 – Someone is heard telling Officer Yosten to "move them to the other side of the wall." Immediately after this command, Officer Yosten is heard yelling "move back! Move back!" and "everyone has to move behind the wall" and "get off the street" as he was expressing concern for civilians around the proximate area.

¹⁵ Deputy Reynoso attempted to start his audio recorder while on his way to the call for service. Once he arrived, he realized the recorder was not working. He decided to use an application on his phone to record, and place the phone back into his pocket, in belief the recording had started. After the use of lethal force, Deputy Reynoso looked back at his phone and realized that it was not recording. Only 2 seconds were captured at the very beginning. It was at this point that Deputy Reynoso was able to manipulate his audio recorder and get it to successfully turn on and work. The partial recording began after he was removed from the southside of the building after the lethal force encounter.

¹⁶ For the sake of brevity, the summary of Probation Officer Yosten's belt recording will only cover what was recorded in the moments leading up to, during, and immediately after the incident under review.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 24

Deputy Jason Arias¹⁷

Timestamp 5:00 - Commands are heard being delivered in Spanish and English loud and clearly over the PA announcements.

Timestamp 20:40 – PA announcement is heard saying, “We believe you are armed.” Shortly after Deputy Arias asked another deputy “What did he say?” and the deputy confirms Brown stated, “Hell yeah, he’s armed.”

Timestamp 55:45 – Deputy Arias said, “Bro I can’t see shit dude, I can’t see any of his arms” followed by “I cannot make his arms anymore.”

Timestamp 1:23:46 – Deputy Arias yelled, “Hey! Both hands are down!” and in the background you hear the PA announcement say, “Put the car back in park, Anthony stop the car.” Next you hear Deputy Arias say, “Where is he going?” and a deputy responds, “He’s coming at us! He’s coming at us!”

Timestamp 1:24:03 - The first set of gunshots were heard, approximately 20 shots in succession. Right after the first set of shots, Deputy Arias yelled, “I’m hit! I’m hit! I’m hit!” Deputies were immediately heard around Deputy Arias checking on him. A deputy was heard saying “a deputy is bleeding.” Next, Deputy Arias said, “I’m hit in the face but I will be okay and I feel good.”

Timestamp 1:26:00 – Deputy Arias was checked out by medical personnel. Someone said, “It’s just a graze wound” and described the injury being an inch away from his eye.

Deputy Francisco Demara¹⁸

Timestamp 13:00 – PA announcement asked Brown to exit the vehicle and let the item on his lap fall.

Timestamp 17:22 – Deputy Demara asked, “What did he say?” as he is referring to Brown. A deputy is heard replying “Hell yeah, he’s armed.”

Timestamp 22:25 – PA announcement is heard saying, “We do not want anyone to get hurt” and asking him to “Please exit the vehicle.”

Timestamp 25:25 – PA announcement is heard saying, “We know you are armed.”

¹⁷ Similarly, for the sake of brevity, the summary of Deputy Arias’ belt recording will only cover what was recorded in the moments leading up to, during, and immediately after the incident under review.

¹⁸ Deputy Demara, Deputy Rugge, and Deputy Trujillo were in close proximity to each other in the barricade. As such, each of their voices could be heard on the belt recording and their audios were similar and consistent. Summarized only one of the deputies.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 25

Timestamp 28:03 – Brown is asked to roll his windows back down in order for the deputies to know what Brown was doing inside of the vehicle. Deputy Demara said, “His windows are up, it’s hard to see him!” PA announcement continued to tell Brown that his actions were scaring the deputies and asked him to resolve the stand-off.

Timestamp 40:42 – Deputies are still asking Brown to roll his windows down. Brown continued to ignore commands.

Timestamp 49:30 – PA asking Brown to roll his windows down. Deputy Demara is heard saying, “C’m on Anthony.”

Timestamp 1:01:15 – Deputy Demara is heard saying, “Hey dude, I’m not letting him point at us.” Next, you heard the PA announcement asking Brown to lower his windows so they could talk and ensure he is not armed.

Timestamp 1:20:33 – Deputies are heard asking “what is he doing?” and the PA announcement saying, “Anthony put the car back in park. Anthony stop the car.” Next you heard Deputy Demara say, “Where is he going? He is coming at us! He is coming at us!”

Timestamp 1:20:51 – Initially, a few shots are heard in the distance and then you hear loud shots in the recording. Approximately 20 shots were heard fired in total. Followed by guns being reloaded. Deputy Demara yelled, “Hey, you guys take him, get him!” with other deputies heard in the background who say, “I’m with you. Right behind you.” More guns are heard being reloaded. Also, in the distance you heard deputies yelling, “Get away! Get over!”

Timestamp 1:21:26 – Deputies are heard walking against the wind. Next, Deputies were heard yelling “Hands! Hands! Show me your hands!” and “I can’t see his hands!”

Timestamp 1:22:05 – Multiple Deputies were yelling and identifying the BearCat on scene.

Timestamp 1:22:19 – Deputy Demara yelled, “Where are we at with our deputy?” and a deputy responds, “He’s at medical.” Deputy Demara confirmed Deputy Arias was stable.

Timestamp 1:23:25 – Deputy Demara yelled, “Move back! He still has a gun!” and told people to go behind a wall. Pedestrians are heard in the distance.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 26

ONLINE VIDEOS SUMMARY¹⁹

Multiple videos were found online by deputies that captured the scene of events. After reviewing each video, the file labeled “y2mate – police_involved_shooting²⁰” captured the lethal force encounter between deputies and Brown.²¹ The video is just over six minutes long. Below are timestamps indicating the minutes and seconds where the lethal force was scene on the video.

Timestamp 1:43 – Probation Officer Yosten and Deputy Reynoso were stationed at the three-foot brick wall located on the south of the business. They were armed with rifles and had them pointed towards the driver side of Brown’s SUV.

Timestamp 1:50 – Brown’s SUV vehicle was moving southbound in the parking lot.

Timestamp 1:54 – Brown was moving the steering wheel westward and the SUV was moving towards the line of deputies’ vehicles.

Timestamp 2:04 – Brown’s SUV starts to go over the planter inside of the parking lot, towards the line of patrol cars. Deputy Reynoso and Officer Yosten were holding their rifles up and pointed towards Brown’s driver’s side.

Timestamp 2:09 – As Brown’s SUV drove over the planter, both Deputy Reynoso and Officer Yosten moved westward and kept their rifles pointed at Brown’s driver’s side. Brown’s SUV got closer to deputies positioned on 7th Street.

Timestamp 2:20 – The front two tires of Brown’s vehicle were on the sidewalk and a fired cartridge casing was seen dispelled from Deputy Reynoso’s rifle.

Timestamp 2:22 – A second fired cartridge casing was dispelled from Deputy Reynoso’s rifle.

Timestamp 2:24 – A third fired cartridge casing was dispelled from Deputy Reynoso’s rifle.

Timestamp 2:26 – Three additional fired cartridge casings were dispelled from Deputy Reynoso’s rifle.

¹⁹ 40King5 was on scene on the date of incident. However, based on the officer’s recordings and dispatch it was apparent that 40King5 was unable to see inside of Brown’s SUV and assist deputies. The Faro images showed the layout of the scene. However, the best footage captured was by someone who posted a video online. It was reviewed by Deputy Clark as part of discovery.

²⁰ The full name of the video is, y2mate.com – police_involved_shooting_victorville_California_off_of_7th_street_qZcqVSY2Xlw_1080p

²¹ There was only footage and no audio of the events. It was a video created with a Tupac song playing in the background.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 27

Timestamp 2:27 – There is a bullet hole in Brown’s driver side window, as his car enters 7th Street past the line of deputies and their vehicles.

Timestamp 2:28 – Two fired cartridge casings are dispelled from Officer Yosten’s rifle.

Timestamp 2:28 – There appears to be two gunshot holes in the driver side of the vehicle and two on the back passenger side behind the driver’s seat. The SUV was still moving west onto 7th Street.

Timestamp 2:33 – Brown’s SUV continued west across 7th Street.

Timestamp 2:35 – A bullet struck the driver’s side window of Brown’s SUV.

Timestamp 2:37 – Brown continued driving west across 7th Street, passing the line of deputy vehicles and deputies.

Timestamp 2:40 – Deputy Arias jumped out from in between two patrol vehicles and began to jump up and down after being struck by metal shrapnel.²²

Timestamp 2:45 – Five fired cartridge casings are seen expelled from Deputy Rugge’s handgun that was pointed towards Brown’s SUV that was no longer in view of the camera, but still on 7th Street.

Timestamp 3:08 – Deputies are seen advancing across 7th Street with weapons drawn pointed westward.

Timestamp 3:35 – Dozens of pedestrians are seen outside on the surrounding sidewalk and street watching the lethal force encounter.

DEFENDANT CONTACT

Shira Mathis, Crime Scene Specialist (CSS) and **Detective Josh Guerry** with the San Bernardino County Sheriff’s Department arrived at the Arrowhead Regional Medical Center (ARMC) to process Anthony Brown on July 17, 2019, at approximately 6:44 p.m. Brown was found lying on a hospital bed with the following external injuries:

Gunshot Wound #1

Entrance: in the right triceps.

Exit: right bicep.

²² You are able to see blood pouring from the left side of his face.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 28

Gunshot Wound #2

Entrance: interior portion of the left forearm.

Exit: exterior portion of the left forearm.

Gunshot Wound #3

Entrance: exterior portion of the right thigh.

Exit: interior portion of the left thigh.

Gunshot Wound #4

Entrance: exterior portion of the left thigh.

On Friday, July 19, 2019, at approximately 4:16 p.m., **Detective James Tebbetts** and **Detective Josh Guerry** spoke with Brown at ARMC in room 2406. After introducing themselves and reading Brown his Miranda Rights, Brown stated he understood his rights and asked for an attorney. An interview of Brown was not completed, based on his responses.

Prior to leaving, Brown asked Detective Guerry what charges he was going to be booked under. Detective Guerry stated two charges, criminal threats and possession of a firearm while being under the influence.

Before leaving, Detective Guerry asked Brown if he had any questions. Brown spontaneously stated he was trying to put firearms in his bag but did not want to move his hands. Additionally, Brown claimed he was trying to tell officers his intentions because he did not want to get shot, and wanted officers to move their cars so he could move his car and put the guns away.

Detective Guerry let Brown get some rest and let him know if he changed his mind about speaking with officers, they could talk with him. Brown stated to re-contact him in 8 hours.

On Sunday, July 21, 2019, Detective Laing and Detective Clark contacted Brown in ARMC room 2406. Once again, the defendant ultimately asked to speak with a lawyer after detectives read him his Miranda Rights. Brown was not interviewed.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 29

TOXICOLOGY

A blood sample was collected from Brown at the hospital. Drug screen results were as follows: positive for amphetamine and benzodiazepines.²³

CRIMINAL HISTORY

Anthony Brown has a criminal history that includes the following convictions:

2013, 21810 of the Penal Code, Possession of Metal Knuckles, San Bernardino County case number MVI1201022, a misdemeanor.

2015, 11377(a) of the Health & Safety Code, Possession of a Controlled Substance, San Bernardino County case number MVI1404410, a misdemeanor.

2018, 664/530.5(e) of the Penal Code, Attempted Mail Theft, San Bernardino County case number MVI18001459, a misdemeanor.

Crimes Upon Peace Officers

Attempted Murder of a Peace Officer

California Penal Code section 664/187

Every person who attempts to commit any crime, but fails, or is prevented or intercepted in its perpetration, shall be punished where no provision is made by law for the punishment of those attempts, as follows:

(e) [...] if attempted murder is committed upon a peace officer or firefighter, [...], and the person who commits the offense knows or reasonably should know that the victim is a peace officer [...] engaged in the performance of his or her duties, the person guilty of the attempt shall be punished by imprisonment in the state prison for life with the possibility of parole.

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

²³ The toxicology report did not indicate amounts. I also did not see a GSR report completed on the GSR Kit obtained of the Defendant.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 30

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

Assault With a Deadly Weapon

California Penal Code section 245 (d)

- (1) Any person who commits an assault with a firearm upon the person of a peace officer, and who knows or reasonably should know that the victim is a peace officer or engaged in the performance of his or her duties, when the peace officer is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for four, six, or eight years.
- (2) Any person who commits an assault upon the person of a peace officer with a semiautomatic firearm and who knows or reasonably should know that the victim is a peace officer engaged in the performance of his or her duties, when the peace officer is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for five, seven, or nine years. (Penal Code 245, summarized in pertinent part.)

APPLICABLE LEGAL PRINCIPLES

A peace officer may use reasonable force to effect an arrest if he believes that the person to be arrested has committed a public offense. (Calif. Penal C. §835a)²⁴ Should the arresting officer encounter resistance, actual or threatened, he need not retreat from his effort and maintains his right to self-defense or to use reasonable force to effect that arrest. (*Id.*) An arrestee has a duty to refrain from using force or any weapon to resist lawful arrest, if he knows or should know that he is being arrested. (Penal C. §834a.)

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

²⁴ All references to code sections here pertain to the California Penal Code, as they existed at the time of the incident. Significant modifications were made to sections 196 and 835a pursuant to Assembly Bill 392. (Assem. Bill No. 392 (2018-2019 Reg. Sess.) as Chaptered August 19, 2019.) However, those modifications do not apply retroactively. Even if they did, the conclusion of the analysis would be the same.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 31

PENAL CODE SECTION 196. Police officers may use deadly force in the course of their duties under circumstances not available to members of the general public. Penal Code §196 states that use of deadly force by a public officer is justifiable when necessarily used in arresting persons who are charged with a felony and who are fleeing from justice or resisting said arrest. Application of the section is broader than on its face; formal written charges are not required. (*People v. Kilvington* (1894) 104 Cal. 86, 92.) 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.)

The relevant criminal jury instruction, as written by the Judicial Council of California, is set forth in CALCRIM 507 (“Justifiable Homicide: By Public Officer”). As it may be relevant in this case, a justifiable homicide by a peace officer requires finding a that the police officer acted as follows:

- (1) while arresting a person charged with a felony who was resisting arrest; while overcoming actual resistance to some legal process; or while performing any legal duty, and
- (2) the officer had probable cause to believe that the decedent posed a threat of death or great bodily injury either to the defendant or to others.

(CALCRIM 507)

No variation of the word “reasonable” appears in Penal Code §196, but the principle as applied necessarily requires that an officer’s conduct be reasonable. A homicide is justifiable under Penal Code §196 when the circumstances reasonably created a fear of death or serious bodily harm to the officer or to another. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 349.) This standard under Penal Code § 196 is consistent with the Supreme Court standard for reasonable force as stated in *Garner, supra*, 471 U.S. at 11-12. Whether police actions are reasonable under Penal Code section 196 depends on the facts and circumstances known to the peace officer at the time of the arrest. This rule applies even if subsequent investigation reveals the suspect was not guilty of the suspected felony. (*Kilvington, supra*, 104 Cal. at 93.) Similarly, when a police officer reasonably believes a suspect may be armed, it does not change the analysis even if subsequent investigation reveals the suspect was unarmed. (*Reese v. Anderson* (5th Cir. 1991) 926 F.2d 494, 501; *Anderson v. Russell* (4th Cir. 2001) 247 F.3d 125, 129, 131.) California courts have held that when a police officer’s actions are reasonable under the Fourth Amendment, the requirements of Penal Code § 196 are satisfied. (*Martinez v. County of Los Angeles, supra*, at 349; *Brown v. Grinder* (E.D. Cal., Jan. 22, 2019) 2019 WL 280296, at *25.)

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

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 32

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

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

(CALCRIM 505.)

“Imminence is a critical component of both prongs of self-defense.” (*People v. Humphrey* (1996) 13 Cal.4th 1073, 1094.) A person may resort to the use of deadly force in self-defense, or in defense of another, where there is a reasonable need to protect oneself or someone else from an apparent, imminent threat of death or great bodily injury. “An imminent peril is one that, from appearances, must be instantly dealt with.” (*In re Christian S.* (1994) 7 Cal.4th 768, 783.) The primary inquiry is whether action was instantly required to avoid death or great bodily injury. (*Humphrey, supra*, 13 Cal.4th at 1088.) What a person knows and his actual awareness of the risks posed against him are relevant to determine if a reasonable person would believe in the need to defend. (*Id.* at 1083.) In this regard, there is no duty to wait until an injury has been inflicted to be sure that deadly force is indeed appropriate. (*Scott v. Henrich* (9th Cir. 1994) 39 F. 3d 912, 915.)

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

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

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

REASONABLENESS. Self-defense requires both subjective honesty and objective reasonableness. (*People v. Aris* (1989) 215 Cal.App.3d 1178, 1186.) The United States Supreme Court has held that an officer’s right to use force in the course of an arrest, stop or seizure, deadly or otherwise, must be analyzed under the Fourth Amendment’s “reasonableness” standard. (*Graham v. Conner* (1989) 490 U.S. 386, 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

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 33

often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.

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

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

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

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

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

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

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 34

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

(*Martinez v. County of Los Angeles*, *supra*, 47 Cal.App.4th at 343, citing *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.) Specifically, when a police officer reasonably believes a suspect may be armed or arming himself, it does not change the analysis even if subsequent investigation reveals the suspect was unarmed. (*Reese v. Anderson* (5th Cir. 1991) 926 F.2d 494, 501; *Anderson v. Russell* (4th Cir. 2001) 247 F.3d 125, 129, 131.)

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

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

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

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

Use of a taser or a shotgun-fired bean bag has been categorized as intermediate non-lethal force. (*Bryan v. MacPherson*, *supra*, 630 F.3d at 825[taser]; *Deorle v. Rutherford*, *supra*, 272 F.3d at 1279-80 [bean bag].) This designation exists despite the fact that such force is *capable* of being used in a manner causing death. (*Id.*) To be deemed "lethal force" the instrumentality must be force that "creates a substantial risk of death or serious bodily injury." (*Smith v. City of Hemet* (9th Cir. 2005) 394 F.3d 689, 693.); use of a taser

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 35

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.)

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

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

ANALYSIS

The determination as to whether there was justification for an officer's use of deadly force is factually driven and requires an analysis of the facts and circumstances leading up to the use of force. On July 17, 2019, at approximately 2:30 p.m. Brown was sitting inside of his SUV, stationed inside of a business parking lot, when an employee noticed Brown was behaving erratically and speaking to himself. When the employee approached the vehicle, Brown pulled out a Glock style handgun, pointed towards the employee and threatened to kill him. The assault by Brown prompted a 9-1-1 call, deputies responded to the scene where they were immediately met with met with an armed and uncooperative subject immediately leading to a stand-off.

When deputies arrived, they attempted to conduct a high-risk felony stop, but they were ignored by Brown. Next, deputies set up a perimeter around the business to contain Brown inside of the parking lot. Deputies' cars were lined on the west perimeter of the building, shielding the parking lot exit from 7th Street. The north, south, and east perimeters were blocked by walls surrounding the business. Employees were evacuated from the building and pedestrians were removed from the surrounding area.

Over the course of two hours, law enforcement officers were faced with a stand-off as Brown continued to ignore commands for a peaceful surrender. Instead, he barricaded himself inside the SUV, rolled up his car windows, continued to move his arms inside the SUV, and confirmed to deputies that he was armed. Multiple attempts at de-escalation failed. PA announcements were given, addressing Brown by name, imploring him to come out and to surrender peacefully. Phone calls to Brown went unanswered. Because of the danger presented by Brown confirming he was armed, his erratic movements in the car, and having his SUV tinted windows rolled up, deputies lined themselves on the west and south perimeter of the building with lethal force weapons drawn and pointed at Brown's

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 36

SUV. For approximately two hours, deputies continued to wait for Brown's peaceful surrender and calmly requested for Brown to step out of the vehicle.

Among the many law enforcement officers who responded to the scene that morning were Deputy Reynoso, Probation Officer Yosten, Deputy Arias, Deputy Demara, Deputy Trujillo, and Deputy Ruge. Deputy Reynoso and Officer Yosten took cover on the south perimeter of the building. Meanwhile, Deputy Arias, Deputy Demara, Deputy Trujillo, and Deputy Ruge were covering the west perimeter on 7th Street.

The two-hour stand-off came to an end when Brown began to move his vehicle southward in the parking lot. Brown's actions made it clear he did not intend to surrender peacefully. Instead, he turned his vehicle towards the west perimeter and rammed his SUV over a cement planter in the parking lot. As he continued to drive towards 7th Street, he began to advance his vehicle towards the deputies and their patrol cars that were positioned on the west perimeter.

A careful review of the deputies' belt recordings and video footage showed the escalation of violence by Brown. During the beginning of the deputies' belt recordings, PA announcements were heard loud and clear in a calm matter that were calling for a peaceful surrender. Deputies even contacted Brown's mother to learn how to better communicate with Brown, in case he suffered from a mental or physical impairment. As Brown ignored commands and drove his SUV you heard PA announcements and officers shouting for Brown to stop his vehicle, prior to any use of force. It was not until you heard Brown's car accelerate and climb over the cement planter and towards the line of deputies that you hear the first round of shots fired.

The videos showed officers were positioned in between their patrol cars and ran the risk of being trapped in between vehicles. There is footage of pedestrians located across the street and directly in front of Brown once he turned west. Additionally, even with the deputies' best efforts to remove people from the surrounding areas there were dozens of pedestrians north and south of the location watching the stand-off.

In a very short time span, the ground covered by Brown was substantial and dangerous to officers and surrounding pedestrians. Within one minute, Brown drove his vehicle across the parking lot, accelerated over a cement planter, drove across a line of deputies, continued across 7th Street and crashed into a building directly west of the initial stand-off location.

When Brown was removed from the SUV, he still possessed three handguns, two loaded handguns on his person and one unloaded on the passenger seat. The deputies who approached Brown removed the guns to render him medical aid.

During the two hour-long standoff, multiple PA announcements were given to Brown, telling him to surrender and to come out with his hands up and to place his gun on the ground. Brown ignored these commands. Instead, Brown remained armed in his vehicle

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 37

and drove his car towards a line of deputies, and across a main street towards a pedestrian filled area. As Brown drove his SUV, Deputy Reynoso, Officer Yosten, Deputy Arias, Deputy Rugge, Deputy Demara and Deputy Trujillo each saw the danger presented to them, fellow deputies, and pedestrians in the area. Each deputy had a different vantage point, but all of them were faced with an armed suspect, the threat of a moving SUV and were unable to see Brown's movement inside of the car.

Deputy Reynoso's Use of Force

From his position just over 25 yards away on the south perimeter, Deputy Reynoso watched through his rifle's scope and saw Brown ignoring commands from deputies for well over an hour. He watched as Brown reached and moved within his vehicle multiple times, after confirming on scene he was armed.

Deputy Reynoso saw Brown accelerate his SUV toward his position and then veer the SUV towards other deputies on the west perimeter. Deputy Reynoso believed Brown's intent was clear: Brown was going to ram his vehicle into other deputies and potentially shoot towards himself or other lined deputies. Additionally, Deputy Reynoso observed the direction Brown was taking with his vehicle and became aware of the danger he might pose to bystanders. Deputy Reynoso knew he had to engage, or Brown was going to kill someone. Fearing for the lives of deputies and the pedestrians in the surrounding area, Deputy Reynoso fired the first rounds from his rifle, striking Brown's vehicle.

Deputy Reynoso's fear was objectively reasonable. Deputy Reynoso knew Brown was armed after a few minutes on scene. Brown had shown no signs of surrendering peacefully after watching him ignore commands for approximately two-hours, confirming he was armed, and acting erratically in his car. When Brown drove his SUV toward deputies and pedestrians across the street, it was clear he presented an imminent threat to anyone in his path.

Officer Yosten's Use of Force

Officer Yosten was positioned just feet away from Deputy Reynoso on the south perimeter, just over 25 yards away from Brown's vehicle. Similarly to Deputy Reynoso, he watched Brown through his rifle's scope and saw Brown reach and move within his car multiple times, after confirming on scene he was armed.

As Brown moved southward in his SUV and turned the car towards the west perimeter, he observed Brown's right hand disappear from the steering wheel and then heard gunshots. Immediately, he believed Brown was actively shooting at him and Deputy Reynoso. It was at this time that Officer Yosten fired his rifle for the first time, releasing a volley of approximately six shots towards Brown's silhouette inside the SUV.

After his initial fire, he checked on Deputy Reynoso and then noticed Brown's SUV continued to move towards the sidewalk and deputies. At the same time, he continued to

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 38

hear gunshots and was under the impression Brown was firing in their direction. Officer Yosten repositioned himself and fired a second volley of six shots in rapid succession towards Brown seated in the driver's seat. However, when Brown's car accelerated across 7th Street, he ceased fire to avoid injuring others in the background.

Each time Officer Yosten fired his rifle, he did so to protect his own life and the lives of his law enforcement partners. Officer Yosten's fear was objectively reasonable. Officer Yosten knew Brown was armed and he showed no signs of surrendering peacefully. After watching Brown drive his SUV toward deputies and immediately hearing gunshots, it was reasonable for him to believe his life and the life of other deputies were in danger.

Deputy Arias' Use of Force

Deputy Arias was armed and positioned on the west perimeter of the business, providing lethal coverage for the stand-off between deputies and Brown. While waiting for Brown to surrender peacefully, Deputy Arias learned Brown confirmed he was armed. Deputy Arias was armed with a Glock 17 and observed Brown from a patrol car door. He saw as Brown ignored commands, rolled up his windows, and moved inside of his SUV, not allowing him to see where both his hands were inside of the car.

As Brown drove his SUV southbound in the parking lot, he lost sight of Brown. He repositioned himself on 7th Street to keep a visual on Brown. While at his second location, he observed Brown drive the SUV through the barricade of patrol units. As the SUV crossed the barricade, he saw the SUV passenger window roll halfway down and heard gunfire coming from the SUV's direction. He immediately believed Brown was shooting towards him and other deputies. It was at this point Deputy Arias fired one round towards Brown's SUV.

After his initial fire, he felt immediate pain to the left side of his face and lost vision for 15 seconds. Deputy Arias was grazed on the left side of his face by metal shrapnel.

Deputy Arias' fear was objectively reasonable. Deputy Arias knew Brown was armed and he showed no signs of surrendering peacefully. When Brown drove his SUV toward deputies, he saw the SUV car window roll down, and heard fire. Deputy Arias was justifiably in fear for his life and the life of other deputies on scene. It was reasonable for him to believe their lives were in danger.

Deputy Demara's Use of Force

Deputy Demara, along with Deputy Ruggie and Deputy Trujillo were armed with lethal weapons and position on the west perimeter of the business. Deputy Demara was armed with a Ruger Mini-14 rifle. Similarly to other deputies, he observed Brown ignore commands for a peaceful surrender and received confirmation that Brown was armed. Every single time Brown would lower his arm while inside of his SUV he grew fearful that Brown would pull his firearm and shoot at deputies.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 39

Once Brown drove his vehicle southbound in the parking lot, Deputy Demara moved position along 7th Street in order to keep a visual on Brown. When he was approximately 30 feet away from Brown's SUV, he heard gunshots and began to fire his rifle aiming at the front passenger door towards Brown who was seated in the driver's seat. There was nothing obstructing his sight and the backdrop was a brick wall from the automotive shop. He fired twenty rounds until the rifle stopped and he did not immediately reload. Once Brown's vehicle continued to move across Seventh Street, he did not continue to reload and fire because Deputy Demara was unsure of the background in that area.

Deputy Demara fired his weapon toward Brown in order to stop Brown from ramming into deputies with his SUV or hitting pedestrians across the street. He knew Brown was armed and was using his vehicle as a weapon to drive away from the barricade. It was reasonable for Deputy Demara to be in fear for the lives of other deputies and bystanders.

Deputy Trujillo's Use of Force

Deputy Trujillo positioned himself, armed with a Ruger Mini-14 rifle, at the west perimeter of the business, next to Deputy Demara. Initially, he discussed using less-lethal force with other deputies, but a decision was made not to use less-lethal options, such as pepper balls, in fear of agitating Brown and making the stand-off more confrontational. Instead, he held the west perimeter with other deputies and watched Brown move inside of his SUV and ignore commands for approximately two hours.

When Brown's vehicle started to move across the parking lot, Deputy Trujillo noticed Brown's SUV tires turn westward towards the deputies holding the west perimeter. Deputy Trujillo repositioned himself on 7th Street and kept a visual of Brown as he drove towards deputies. As Deputy Trujillo repositioned himself, two shots were heard in the distance²⁵ prior to him firing his rifle for the first time. He shot approximately two to three rounds.

After shooting the first set of rounds, Deputy Trujillo continued to see Brown's vehicle driving across the planter and onto Seventh Street. He moved behind two patrol cars, towards the middle of Seventh Street and fired another set of two to three rounds towards Brown seated in the driver seat as he continued to drive across the street.

Deputy Trujillo fired his weapon toward Brown in fear of Brown injuring deputies with his SUV as he drove through the line of deputies holding the west perimeter coverage. Knowing Brown was armed and was willing to ram his car over a cement planter he reasonably feared Brown would run over deputies or pull out his firearm and shoot directly at deputies. It was reasonable for Deputy Trujillo to be in fear for the lives of other deputies and bystanders as Brown continued to drive across 7th Street.

²⁵ His belt recording was not highlighted above, because it was similar to the other deputies near him. But the audio was reviewed and shots were heard far away prior to his own rifle being heard in the audio recording.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 40

Deputy Rugge's Use of Force

Deputy Rugge was positioned at the west perimeter of the business, armed with a Glock 17. Initially, Deputy Rugge was able to see Brown seated in the driver's seat of his SUV wearing army camouflage clothing with his car windows rolled down. During the two-hour stand-off Deputy Rugge watched as Brown ignored commands for a peaceful surrender and saw him roll-up his tinted car windows, which made it extremely hard for him to see Brown's movement inside of the car. Not being able to see Brown's movement inside of the SUV and knowing that he was armed created a new level of fear for his own safety, the safety of other deputies and the public.

Additionally, Deputy Rugge learned that Brown suffered from PTSD from being previously shot. Based on this information and the clothing Brown was wearing, Deputy Rugge was under the impression Brown had military training and experience with weapons. Deputy Rugge's fear that Brown would shoot him, other deputies, or pedestrians across the street continued to grow.

When Brown's vehicle started to move across the parking lot, Deputy Rugge began to move away from his position and moved towards the middle of the street. As he moved, he saw Deputy Roth running from behind his unit and ducking for cover. At the same time, Deputy Rugge heard glass breaking and shots being fired. Deputy Rugge was under the impression Brown was shooting at Deputy Roth.

Deputy Rugge immediately looked towards Brown's direction and saw Brown's car going over the west curb and onto 7th Street. He also observed approximately 15 pedestrians across the street, directly in line with Brown's pathway. This caused Deputy Rugge to fear for the safety of deputies and pedestrians. Deputy Rugge made the decision to run towards the middle of Seventh Street for a shooting platform. Deputy Rugge immediately fired six rounds directed through Brown's front passenger door aiming at Brown who was still seated in the driver's seat. It was his intention to stop the driver from going towards the pedestrian crowd across the street.

Deputy Rugge fired his weapon toward Brown in order to stop Brown from shooting at Deputy Roth or hitting pedestrians across the street with his SUV. He knew Brown was armed and was using his vehicle as a weapon to drive away from the barricade. It was reasonable for Deputy Rugge to be in fear for the lives of other deputies and bystanders.

Given the facts and circumstances confronting the deputies, it was objectively reasonable for the deputies herein to believe Brown posed an immediate threat of serious bodily injury or death to the deputies and the nearby pedestrians.

PUBLIC RELEASE MEMORANDUM

Officer Involved Shooting

STAR No.

Page 41

CONCLUSION

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

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

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

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

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

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

Submitted By:
San Bernardino County District Attorney's Office
303 West Third Street
San Bernardino, CA 92415

