



PUBLIC RELEASE MEMORANDUM

Date: September 2, 2025

Subject: Fatal Officer-Involved Shooting

Involved Officers: Officer Ismael Gonzalez
Colton Police Department

Sergeant Jason Hanna
Colton Police Department

Corporal Eric Wickman
Colton Police Department

Corporal Rich Randolph
Colton Police Department

Officer Anthony Elisarraraz
Colton Police Department

Deputy Nicholas Yates
San Bernardino County Sheriff's Department

Involved Subject/DOB: Mike L. Smith
10/13/1973

Subject's Residence: San Bernardino

Incident Date/Time: June 2, 2022, 4:16 p.m.

Incident Location: 5th Street and D Street, San Bernardino

Case Agent/Agency: Detective Owenn Domon
San Bernardino Sheriff's Department

Agency Report Number: DR# 602200068, H# 2022-064

DA STAR Number: 2024-25497

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PREAMBLE

This was a fatal officer-involved shooting by officers from the Colton Police Department and a deputy from the San Bernardino County Sheriff's Department. The San Bernardino County Sheriff's Department investigated the shooting. 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 the afternoon of Thursday, June 2, 2022, Mike Smith entered the Chase Bank at the 2000 block of East Washington Street in Colton carrying an AR-style rifle. Smith ordered everyone inside the bank to "get down," and announced it was a robbery. At approximately 3:39 p.m., Colton Police Department (CPD) officers were dispatched to the armed robbery in progress after multiple witnesses reported seeing Smith¹ running into the bank with the rifle.



Still image captured from Chase Bank's surveillance video, showing Smith inside the bank carrying garbage bags, later found inside Smith's car. The bags contained more than \$500,000.00 in cash.

Just two minutes before the bank robbery call, deputies from the San Bernardino County Sheriff's Department were dispatched to investigate a suspected burglary that triggered an alarm at a Bank of America on Barton Road in Grand Terrace, a little more than two miles away from the Chase Bank in Colton. The Bank of America was not open at the time of the break-in. Upon their arrival, deputies discovered a shattered glass door. No

¹ No witness was aware of or mentioned Mike Smith's name until the investigation brought it to light; all references to him by name are provided here for clarity.

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suspect was present, but a white male, matching Smith's description, was recorded on video surveillance as he entered the Bank of America with a rifle. San Bernardino County Sheriff's (SBSD) Deputy Nicholas Yates was at the Central Sheriff's station in San Bernardino when he heard the broadcast regarding the Bank of America burglary call. Deputy Yates monitored the burglary call as he booked evidence on an unrelated case at the station.

While Deputy Yates monitored the Bank of America burglary call, officers with the Colton Police Department quickly responded to the armed robbery call at the Chase Bank in Colton. CPD Officers Ismael Gonzalez, Anthony Elisarraraz, Corporals Eric Wickman, and Rich Randolph headed to the Chase Bank in their marked patrol units with their lights and sirens activated. As officers drove to the bank, CPD dispatch relayed witness reports of Smith being inside the bank vault with two bank employees.

At about 3:42 p.m., Officers Gonzalez and Alvarez arrived at the Chase Bank. A witness flagged down Officer Gonzalez in the bank parking lot and reported that Smith was driving a black sedan toward the Washington Street exit. Officer Gonzalez aired this information over the radio and drove through the parking lot toward Washington Street. A second witness flagged down Officer Gonzalez and pointed at a newer model black Honda Insight four-door sedan. The witness told Officer Gonzalez that the "man with the gun" was in the black Honda. Officer Gonzalez saw Smith turn left onto Washington Street and head east. Officer Gonzalez headed to Washington Street, where he got behind Smith's car. At 3:44 p.m., Officer Gonzalez initiated a traffic stop, but Smith failed to yield, and a high-speed pursuit began.² As the pursuit progressed, multiple CPD officers, including Officer Elisarraraz and Corporals Wickman and Randolph, joined. The SBSB aviation unit, 40-King-3, was called in to assist. As Smith reached Loma Linda, 40-King-3, joined the high-speed pursuit overhead. The tactical flight officer in 40-King-3 called out details of the pursuit, including Smith's direction of travel, his speeds, and his manner of driving to assist CPD units on the ground.

Deputy Yates, still at the Central Sheriff's station, heard the broadcast regarding the CPD pursuit when an alert came out for all officers to be on the lookout for an armed robbery suspect out of Colton. Deputy Yates listened to the broadcast and learned that CPD officers were in pursuit of an armed bank robbery suspect (Smith). Deputy Yates began monitoring the radio traffic for both the Grand Terrace burglary call and the CPD pursuit of Smith. CPD Sergeant Jason Hanna, who had just finished Special Weapons and Tactics (SWAT) training in San Bernardino, also monitored the CPD pursuit over his hand-held police radio.

During the nearly half-hour-long pursuit, Smith drove at high rates of speed, with extreme disregard for public safety. Smith led officers through multiple cities, traveling on city streets and freeways, from Colton to Loma Linda to Redlands and Grand Terrace, and

² Details regarding the pursuit are from the interviews given by civilian and law enforcement witnesses, body-worn camera footage, and video from the San Bernardino County Sheriff's aviation unit, 40-King-3.

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then back to Colton, before ultimately reaching the city of San Bernardino. Smith recklessly drove into oncoming traffic, onto the curb and sidewalk, and failed to stop at multiple red lights on city streets. While on the freeways, Smith drove on the shoulder, kicking up debris, and sped across all lanes of traffic. Motorists were forced to take action to avoid collisions. Smith slammed on his Honda's brakes several times, causing CPD officers to brake suddenly to avoid a collision. CPD Officer Gabriel Martinez could not prevent a collision when Smith braked suddenly on the I-215 freeway overpass. Officer Martinez's patrol vehicle struck the rear of Smith's car with such force that the police unit's airbags deployed. This disabled the unit and forced Officer Martinez to abandon the pursuit.

At one point during the pursuit, Smith sped wildly through an apartment complex in Grand Terrace. When CPD officers tried to block Smith's exit from the complex, Smith crashed into Corporal Wickman's patrol unit, breaking the containment, and continued fleeing from officers. Though his patrol unit was damaged, it was not disabled, and Corporal Wickman was able to continue the pursuit. Corporal Wickman directed pursuing units to back off from Smith's car in the hopes that Smith would slow down and drive less dangerously. The officers disengaged, but Smith continued his reckless, high-speed driving.

Shortly thereafter, Smith headed northbound on Waterman Avenue. Sergeant Hanna was in his personal vehicle at the intersection of Waterman Avenue and Vanderbilt Way when 40-King-3 advised that the pursuit was northbound on Waterman Avenue, passing Hospitality Lane. Upon hearing 40-King-3's broadcast, Sergeant Hanna knew the pursuit, was only two-tenths of a mile away and was headed in his direction. Sergeant Hanna looked south toward Hospitality Lane and saw Smith's vehicle traveling northbound on Waterman Avenue. Sergeant Hanna saw multiple CPD units with emergency lights and sirens activated behind Smith. When Smith reached the intersection of Waterman Avenue and Vanderbilt Way, Sergeant Hanna saw Smith's car veer into the southbound lanes of Waterman Avenue and continue northbound on the wrong side of the road. After a brief pause, Sergeant Hanna trailed the pursuing CPD units from a distance, but the pursuit quickly disappeared from his view. Sergeant Hanna continued trailing, relying on radio updates.

Due to Smith's extreme recklessness and the danger he presented to the public as he drove northbound in the southbound lanes into heavy oncoming traffic, Corporal Wickman again directed CPD units to disengage from Smith's car and permit 40-King-3 to maintain pursuit. Corporal Wickman hoped this would de-escalate the situation. However, despite their efforts, Smith continued to drive recklessly on the wrong side of the road on Waterman Avenue.

Meanwhile, Deputy Yates had left the station in his marked patrol unit and was headed toward Grand Terrace to assist the deputy who had been dispatched to the burglary call. Deputy Yates monitored the broadcasts regarding the burglary call on his handheld radio and the broadcasts regarding the CPD pursuit on his patrol unit radio. As Deputy Yates

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drove south on Waterman Avenue, he heard that the CPD pursuit was headed northbound in the southbound lanes of Waterman Avenue at 100 miles per hour. Deputy Yates saw there was heavy southbound traffic behind him. To keep Smith from crashing head-on into southbound traffic, Deputy Yates turned on his overhead emergency lights and sirens and stopped traffic at Waterman Avenue and Mill Street. As Smith approached Deputy Yates' location, Smith quickly drove back into the northbound lanes of traffic, jumping the curb and nearly hitting a fire hydrant. Smith continued northbound at a high rate of speed on Waterman Avenue while officers followed him with their lights and sirens activated.

Deputy Yates continued southbound on Waterman Avenue and still planned to drive to the Grand Terrace burglary call, when he heard that SBSD Sergeant Mason was preparing to deploy spike strips to disable Smith's Honda. As Sergeant Mason was on foot setting up the spike strips on Waterman Avenue near 3rd Street, Smith turned his car toward Sergeant Mason and nearly crashed into him and Deputy Michael Andrade, who had stopped to assist. Sergeant Mason and Deputy Andrade ran to avoid being hit by Smith's car. Sergeant Mason briefly lost his footing and was injured but was able to avoid the collision. Sergeant Mason heard air hissing from Smith's vehicle tires when Smith drove over the spike strips. 40-King-3 broadcasted that Smith almost hit the deputy who deployed the spike strips. When Deputy Yates heard this, he turned around and headed to Sergeant Mason's location to assist.

Despite the piercing spike strips, Smith defiantly pressed on, attempting to outrun the police. Smith turned west on 3rd Street and then north on D Street. Smith reached speeds between 80 to 100 miles per hour when he neared the intersection of D Street and 5th Street. At 4:12 p.m., Smith sped through the intersection against a red light and crashed into a San Bernardino County Ford F-350 work truck travelling east on 5th Street through the intersection. The force of the collision caused the heavy-duty truck to flip onto its side and spin. The truck slid northeast across the intersection and then landed back on all four tires before rolling up onto the sidewalk and into a large wall directly in front of a post office. Smith's car careened forward on all four wheels in a northeast direction and crashed into a heavy-duty air vent pipe for an underground utility vault, which abruptly stopped the car's forward momentum. Both vehicles, severely damaged and with the airbags deployed, came to rest beside each other at the intersection's northeast corner, directly in front of a busy post office. Upon hearing the collision, several postal patrons emerged from inside the post office to see what had occurred.

40-King-3 was overhead when the collision occurred. 40-King-3 broadcasted the collision and requested medical aid to respond to the scene. Seconds later, pursuing officers, including Officers Gonzalez and Elisarraraz and CPD Corporals Randolph and Wickman, stopped their marked patrol units in a half circle, several feet behind Smith's vehicle, setting up a felony traffic stop. Knowing Smith was reportedly armed with a rifle and based on Smith's repeated attempts to injure several officers during the pursuit, the officers got out of their vehicles, took cover behind their open vehicle doors, and pointed their firearms

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at Smith's car. Corporal Wickman gave multiple commands over his patrol unit's public address (PA) system for Smith to step out of his vehicle with his hands up. CPD Officer Alvarez yelled to Smith, "Come out with your hands up. We don't want to hurt you, bud! Come out with your hands up!"



Image taken from 40-King-3 video showing vehicle positions after the collision.

As the postal patrons came outside to see what had occurred, the officers yelled for them to run back inside and warned them that Smith had a gun. The officers also yelled at the occupants of the county work truck, telling them to run because Smith had a gun. The driver of the county truck got out and ran eastward away from the scene; however, the passenger was unable to exit the truck due to injuries he sustained in the crash.

When the crash occurred, Deputy Yates had just reached Sergeant Mason's location on Waterman Avenue and 3rd Street. Upon hearing 40-King-3 broadcast the collision and knowing that Smith was reportedly armed with an AR-style rifle, Deputy Yates, Sergeant Mason, and Deputy Andrade drove to the scene to assist the CPD officers. Sergeant Hanna also headed to the crash scene to assist. As Sergeant Hanna neared the scene, he used his radio to notify dispatch and his partners that he was there. Sergeant Hanna radioed an officer with the SWAT team and directed him to respond to the scene with an armored rescue vehicle.

Upon reaching the scene, Deputy Yates parked his patrol unit, got out with his handgun drawn, and headed to the back of Corporal Wickman's patrol unit, which was parked several yards behind and faced the passenger side of Smith's Honda. Sergeant Hanna parked his truck across the street, retrieved his rifle, and also ran to the back of Corporal Wickman's patrol unit. CPD officers told Deputy Yates and Sergeant Hanna that Smith

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was still inside the Honda and advised that a county employee was still in the passenger seat of the work truck.

Over the next four minutes, the officers attempted to gain Smith's compliance, ordering him to step out of the vehicle with his hands up. Knowing that Smith was likely injured in the collision, the officers gave Smith time to cooperate and surrender peacefully. SWAT was on the way with an armored rescue vehicle. The officers planned for the SWAT team to use the armored rescue vehicle to rescue the passenger from the county work truck. Once the passenger was brought to safety, the officers planned to continue their efforts to gain Smith's compliance so they could safely arrest him.

The officers remained behind their patrol units, watching Smith's car while they waited for the SWAT team to arrive. Just minutes before the SWAT team got to the scene, Smith, still in the driver's seat of his car, retrieved his rifle. Upon seeing Smith retrieve the rifle, multiple officers ordered him to drop the gun. Smith leaned over the Honda's center console to the passenger side and rolled down the front passenger window. As the officers continued ordering Smith to drop the gun, Smith pointed the rifle out of the window at the officers. Officer Gonzalez, Sergeant Hanna, Corporal Wickman, Corporal Randolph, Officer Elisarraraz, and Deputy Yates fired their guns at Smith just as Smith fired his rifle at the officers.

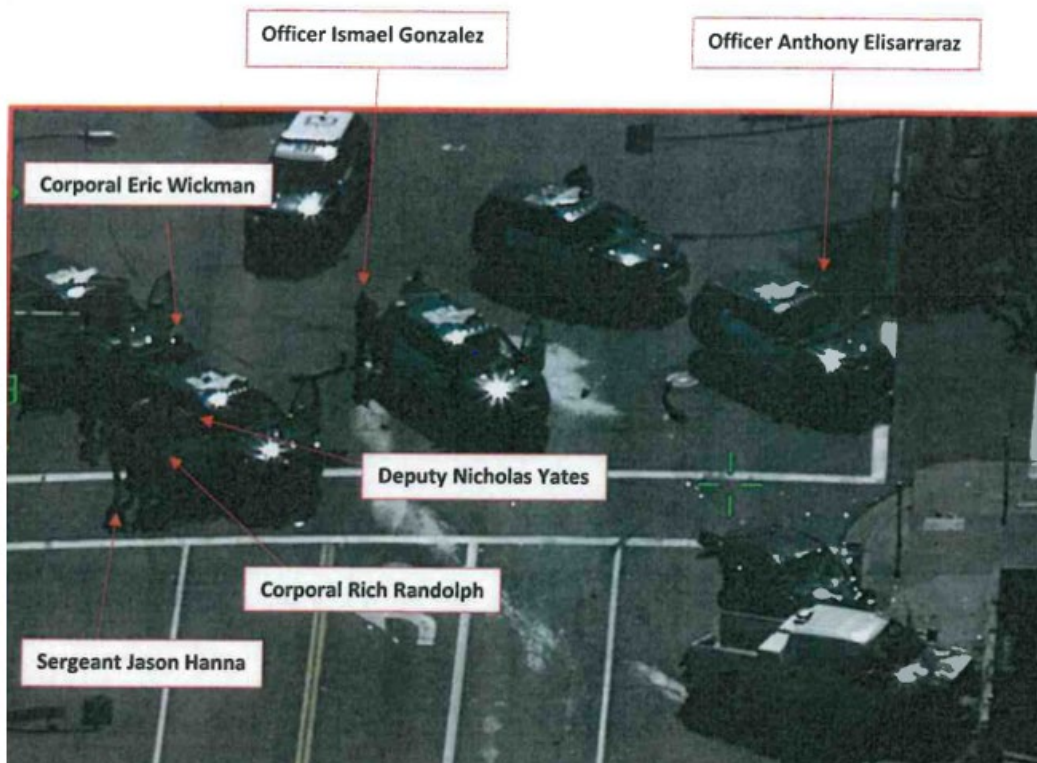


Image taken from video recorded by 40-King-3 with markers showing the positioning of the shooting officers as determined by investigators.

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At 4:16 p.m., 40-King-3 broadcasted "shots fired." During the gun battle, Smith's rifle dropped to the ground just outside the front passenger window of his car. None of the officers saw the gun fall to the ground. The officers stopped firing to reassess the danger. 40-King-3 broadcasted that the passenger in the truck was getting out of the truck on the passenger side and told the officers to hold their fire. The passenger exited the truck, and the officers told him to run to safety. Though the passenger was injured in the collision, he was not struck by gunfire.

The officers remained behind their units, with their firearms pointed at Smith's car. At about 4:18 p.m., SWAT team officers arrived on scene with an armored rescue vehicle. Additional armored rescue vehicles arrived shortly thereafter. The officers surrounded Smith's car with multiple armored vehicles to create a safety barrier around him.³ After surrounding Smith's vehicle, members of the SWAT team carefully approached Smith's vehicle and discovered Smith deceased inside. Smith was pronounced deceased 4:45 p.m.

STATEMENTS BY POLICE OFFICERS⁴

The involved officers were employed by the Colton Police Department and the San Bernardino County Sheriff's Department. Each officer drove distinctively marked patrol units and wore uniforms identifying them as police officers. The officers' body-worn cameras were activated during the incident under review and each officer was given the opportunity to review video of the incident prior to their interviews.⁵ The department issued firearms used by each officer during the officer-involved shooting and the estimated⁶ number of shots fired by each is as follows:

Officer Ismael Gonzalez	Glock 17, 9 mm handgun	2 shots
Sergeant Jason Hanna	Geissele AR-15 Super Duty Rifle	12 -16 shots
Officer Eric Wickman	Colt AR-15 rifle	2 shots
Corporal Rich Randolph	Colt AR-15 rifle	2 shots
Officer Anthony Elisarraraz	Colt AR-15 rifle	5-10 shots
Deputy Nicholas Yates	Glock 21, .45 caliber handgun	17-18 shots

The officers provided comprehensive information about the vehicle pursuit, detailing Smith's actions throughout the chase based on their own observations and the broadcasts from other officers over the radio. The summaries of the officers' interviews presented here do not cover every aspect of the vehicle pursuit; rather, they concentrate on specific actions taken by Smith and how these actions influenced the officers' perceptions of Smith's state of mind and intent.

³ To allow room for the armored rescue vehicles, some of the patrol units, including Officer Elisarraraz's and Officer Gonzalez's were moved after the officer-involved shooting.

⁴ Herein is a summary only. All reports submitted were reviewed, but not all are referenced here.

⁵ Officer Anthony Elisarraraz's body-worn camera was not activated during the incident. Sergeant Hanna and Deputy Yates did not have body-worn cameras during the incident.

⁶ During their interviews, each officer provided estimates of the number of shots he fired.

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On June 16, 2022, **Officer Ismael Gonzalez** was interviewed by Detectives Owenn Domon and Bryan Sprague of the San Bernardino County Sheriff's Department.

Officer Gonzalez was employed by the Colton Police Department (CPD) and had been a police officer for approximately seven months. On June 2, 2022, Officer Gonzalez was on duty, assigned to patrol. Officer Gonzalez was writing a citation at a traffic stop at Mount Vernon and Santo Antonio Drive when dispatch aired a call regarding a Hispanic male adult with an assault rifle at the Chase Bank on Washington Street in Colton. Upon hearing the call, Officer Gonzalez immediately left the traffic stop, about a mile and a half from the Chase Bank and headed for the bank with his lights and sirens activated.

Dispatch provided updates regarding the call as Officer Gonzalez drove toward the bank. According to dispatch, the man with a gun (later identified as Mike Smith) was inside the bank's vault with two of the bank's managers. Officer Gonzalez and CPD Officer Robert Alvarez communicated over the radio about setting up a perimeter at the bank to keep Smith contained so they could apprehend him. Officer Gonzalez turned off his lights and sirens before arriving at the bank. Officer Gonzalez pulled into the bank parking lot and saw Officer Alvarez had also arrived. People were walking out of the bank, and others were standing outside, but no one seemed to be in obvious distress. A female driver flagged down Officer Gonzalez in the parking lot and told him that the man with a gun had left the bank in a black car, possibly a Honda or Toyota and that she had last seen him driving toward the parking lot exit on Washington Street. Officer Gonzalez aired this information over the radio and drove through the parking lot toward Washington Street.

Officer Gonzalez was flagged down by a second witness in a vehicle. This witness pointed to a newer model black Honda and advised that it was driven by the man with a gun from the bank. Officer Gonzalez verified with the witness that he had the correct vehicle and continued driving through the parking lot to get behind it. Officer Gonzalez initially thought the Honda may not have been the suspect vehicle because the driver (later identified as Smith) drove with the flow of traffic and did not appear to be in a hurry to get away. The Honda's windows were tinted, but Officer Gonzalez saw that the driver was the vehicle's sole occupant.

Smith made a left turn onto Washington Street and drove eastbound. Smith stopped at the red light at Reche Canyon and Washington Street. Officer Gonzalez advised over the radio that he was behind the suspect vehicle. Officer Gonzalez activated his unit's lights and sirens to initiate a traffic stop. Smith yielded to the right. Officer Gonzalez again thought that the Honda was not the suspect vehicle because he was cooperating; however, instead of stopping, Smith drove through the intersection, failing to yield to the traffic stop, and a pursuit ensued. Officer Gonzalez activated his body-worn camera when the pursuit began. During the pursuit, Officer Gonzalez was concerned because Smith was reportedly armed with an assault rifle. When Officer Gonzalez drove behind Smith's car on Washington Street, Smith "brake-checked" him, and Officer Gonzalez "slightly

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rear-ended him.” Officer Gonzalez feared Smith was trying to disable his patrol unit so that Smith could shoot him with his assault rifle.

Smith continued driving eastbound on Washington Street and then northbound on Waterman Avenue. Smith drove recklessly; he failed to stop at red lights and cut off other vehicles, nearly crashing into them. Heavy traffic prevented Officer Gonzalez from keeping up with Smith’s vehicle, and CPD Officer Gabriel Martinez took the lead position in the pursuit. Additional CPD officers also joined the pursuit. Smith eventually got onto the northbound I-215 freeway and then merged onto the eastbound I-10 freeway. About five minutes after the initiation of the pursuit, the San Bernardino County Sheriff’s Department helicopter, 40-King-3, arrived to assist. 40-King-3 flew overhead and called out the pursuit over the radio. While on the freeway, Smith drove well above the speed limit and in a “reckless” manner. On several occasions, Smith drove toward the shoulder and made his way in and out of traffic, cutting off multiple vehicles. At times, Smith drove toward freeway exits as if to exit the highway, but at the last minute, would instead drive recklessly across all lanes of traffic toward the number one lane. Other drivers on the freeway were forced to take evasive actions and brake suddenly to avoid Smith. Officer Gonzalez believed Smith would crash into other vehicles because he drove so dangerously.

While pursuing Smith on the I-215 freeway, Officer Gabriel Martinez announced over the radio that Smith had collided into his patrol vehicle. Officer Gonzalez did not see the collision but believed Smith intentionally tried to crash into Officer Martinez’s patrol unit. Officer Gonzalez feared that Smith wanted to disable their patrol units to ambush the officers and shoot them. Officer Martinez advised that his unit was not disabled, and he was still driving southbound on the I-215.

Smith continued driving recklessly on multiple freeways and city streets. At one point, Smith abruptly exited the I-215 freeway at Barton Road at the last minute. Patrol units, unable to exit in time, were forced to drive on the side of the roadway to get to Barton Road to continue the pursuit. While on city streets, Smith drove through several intersections against red traffic lights, repeatedly drove on the wrong side of the road, and drove onto curbs and sidewalks. During the pursuit, Smith drove into the parking lot of an apartment complex, endangering pedestrians there. Officer Gonzalez feared that Smith planned to take a hostage and barricade himself inside one of the apartments. Over the radio, Officer Gonzalez heard that a patrol unit took up position at the parking lot exit to block Smith, so he could not exit. Still, Smith maneuvered around the unit, crashed into it. The collision did not disable Smith’s vehicle, and Smith continued driving recklessly, trying to flee the officers.

When Smith came to a railroad crossing at an unknown street in San Bernardino, he drove beneath the lowered train guard arms, striking them and crossing the tracks illegally. Patrol units were forced to wait to cross the tracks for fear of an oncoming train. When this occurred, Officer Gonzalez was in the number two position in the pursuit. He

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could not recall which officer was in the number one position in the pursuit at this time. There were two additional patrol units behind Officer Gonzalez. 40-King-3 broadcasted Smith's direction of travel, advising that Smith headed northbound on Waterman Avenue.

Officer Gonzalez and his partners caught up to Smith as he drove northbound on Waterman Avenue, sometimes on the wrong side of the roadway and onto the curbs through heavy traffic. Officer Gonzalez saw a pedestrian standing at a stop sign at a bus stop on Waterman Avenue and believed that Smith might have hit the pedestrian with his vehicle. At this point in the pursuit, San Bernardino County Sheriff's deputies advised over the radio that they had a spike strip ready. Officer Gonzalez was still in the number two position of the pursuit when the spike strip was deployed. Officer Gonzalez heard 40-King-3 advise that Smith attempted to hit one of the deputies as they deployed the spike strip.

The pursuit continued in downtown San Bernardino, on an unknown street, past the San Bernardino Courthouse. Smith drove through red lights at every single intersection, and Officer Gonzalez believed that Smith would crash into another motorist. Officer Gonzalez estimated the pursuit had lasted about 20 to 30 minutes thus far. Officer Gonzalez then saw Smith drive north on D Street, through the intersection of North D Street and West 5th Street⁷ against the red light. A white truck was driving through the intersection, eastbound on West 5th Street at the same time. The white truck crashed into the front driver's side of Smith's Honda. The force of the collision caused the white truck to stand up on its front end and then "turn."⁸ Both vehicles came to a rest beside each other on the northeast corner of the intersection, in front of the U.S. Post Office. Both vehicles faced the northeast. Smith's vehicle was west of the truck.

Officer Gonzalez stopped his patrol unit directly behind Smith's car, about 20 feet away. Two additional officers stopped their patrol units on either side of Officer Gonzalez, about 15 to 20 feet away from his unit, setting up a felony traffic stop. Officer Gonzalez believed CPD Corporal Eric Wickman's unit was to his right, and either CPD Officer Alvarez's or CPD Officer Elisarraraz's unit was to his left. Based on his training and experience, Officer Gonzalez knew their goal was to take Smith into custody by having him exit the car and walk toward the officers. Because Smith reportedly had an assault rifle, Officer Gonzalez quickly got out of his vehicle with his handgun drawn, took cover behind his open driver's door, and pointed his handgun at Smith's car. The driver of the white truck involved in the crash exited and ran westbound on the street toward the officers. Officer Gonzalez did not know there was another occupant in the white truck.

⁷ Officer Gonzalez could not recall the street names during his interview. However, witness interviews, video from 40-King-3, and evidence at the scene established that the collision occurred on 5th and D Streets as Smith drove northbound on D Street into the intersection against the red light.

⁸ SBSB Deputy J. Hernandez, the flight officer inside 40-King-3, witnessed the crash while about 500 feet overhead and estimated Smith's speed exceeded 80 miles per hour at the time of the collision.

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Officer Gonzalez could see into Smith's car through the vehicle's back window. Officer Gonzalez saw no movement inside, so he believed Smith was dead or seriously injured in the collision. Multiple officers gave Smith commands to exit the vehicle with his hands up and surrender. 40-King-3 hovered above the scene, and a deputy inside the helicopter gave commands over the public address system for Smith to exit the vehicle and surrender.⁹ There was no response from Smith.

People emerged from the post office, which was elevated several feet above the street level. One of the people who ran outside from the post office yelled, "My baby." Officer Gonzalez believed it was unrelated to the crash because the person came from inside the post office. Knowing that Smith was possibly armed with an assault rifle, the officers ordered them to go back inside for their safety. Because Smith's car came to a rest in front of the post office, civilians who came outside would be in the officers' backdrop if a gunfight were to ensue. Officer Gonzalez did not see Smith until Smith started to move about two minutes after the collision. Smith leaned into the backseat, and Officer Gonzalez believed Smith was reaching for his assault rifle. Officer Gonzalez heard Officer Alvarez yell that Smith was reaching into the backseat. Officer Gonzalez feared Smith would start shooting through his car's back window toward the officers.

Officer Gonzalez retreated to the back driver's side of his patrol unit, distancing himself from Smith in case Smith shot at him. However, his view into Smith's car was partially blocked from the back of his patrol unit. Officer Alvarez yelled at Officer Gonzalez to move to the passenger side of his unit. After moving to the rear passenger side, Officer Gonzalez could see inside Smith's vehicle through Smith's rear window. It was daylight and Officer Gonzalez had a clear, unobstructed view into Smith's car. Officer Gonzalez saw Smith "jump" over the center console of his car toward the passenger side.

Smith's head quickly and briefly came out of the passenger window. Simultaneously, Smith stuck the barrel of the assault rifle out of the passenger window. Officer Gonzalez immediately heard officers begin to yell, "Drop the gun! Drop the gun!" Smith began yelling, but Officer Gonzalez could not decipher his words. Smith pointed the rifle toward CPD Corporals Randolph and Wickman, and Sergeant Hanna, who were all to the right of Officer Gonzalez. While pointing the gun, Officer Gonzalez saw that Smith was "leveling it out to where he was ready to take a shot" at the officers.

Officer Gonzalez believed Smith was about to shoot his partners. Officer Gonzalez knew that Smith could quickly point the assault rifle toward him and shoot him as well. Officer Gonzalez heard gunfire that sounded like it came from all directions. Fearing for his life and his partners' lives, Officer Gonzalez fired his handgun at Smith. Smith was upright and looked out his passenger side window at Corporals Randolph and Wickman and Sergeant Hanna. Officer Gonzalez fired two rounds in rapid succession at Smith through the back window of Smith's car. Officer Gonzalez stopped shooting because he was no

⁹ Based on investigation, it was CPD Corporal Wickman who gave the commands to Smith over the public address system, not the deputy in 40-King-3.

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longer able to see inside Smith's vehicle. Debris flew as his partners, with their assault rifles, also fired at Smith. Officer Gonzalez kept his handgun pointed at Smith's car in case of any movement from Smith. Officer Gonzalez saw no movement inside the car.

Two to three minutes after the shooting, the Rialto Police Department's BearCat (armored vehicle) arrived and drove up to the passenger side of Smith's car, preventing the door from being opened by Smith. CPD Sergeant Hanna approached Smith's vehicle with his rifle. Someone yelled that there was a baby inside the car. Sergeant Smith broke the rear window of Smith's car so officers could see inside. Smith was the only person inside the car. Officer Gonzalez heard SWAT officers advise that Smith appeared to be deceased, so he holstered his handgun. Officer Gonzalez remained at the rear of his patrol unit until Officer Gonzalez was transported back to the CPD station.

On June 16, 2022, **Sergeant Jason Hanna** was interviewed by Detectives Bryan Sprague and Ian Gossweiler of the San Bernardino County Sheriff's Department.

Sergeant Hanna was employed as a police officer sergeant and assigned to patrol by the Colton Police Department (CPD). Sergeant Hanna was also collaterally assigned to Inland Valley Special Weapons and Tactics (SWAT).

On June 2, 2022, Sergeant Hanna attended training for Inland Valley SWAT team members in San Bernardino. Sergeant Hanna wore his Inland Valley SWAT uniform, and his call sign was Sam 6. Sergeant Hanna drove his personal vehicle to training and had his department-issued equipment, including his police radio, handgun, and Geissele AR-15 Super Duty semi-automatic rifle. Sergeant Hanna used his Geissele rifle during the officer-involved shooting and estimated he fired between 12 to 16 rounds.

Sergeant Hanna finished training at about 3:30 or 3:45 p.m. and was headed to his truck when he walked by some of the SWAT commanders, including Lieutenant Brian Binks with the Fontana Police Department. The SWAT commanders were having a discussion. When Sergeant Hanna walked by, they told him that Colton Police Department officers were chasing a bank robber who was armed with a rifle. Because Sergeant Hanna was in training that day, Corporal Eric Wickman was covering his shift as the watch commander. Sergeant Hanna knew that many of the officers on duty for the day shift were younger, so he got into his truck, turned on his handheld police radio, and monitored the pursuit. Sergeant Hanna wanted to be available to assist the officers at the termination of the pursuit, wherever it occurred. While listening to updates, Sergeant Hanna heard that, in addition to the armed bank robbery in Colton, the suspect (later identified as Smith) had attempted to rob or break into a bank in the city of Grand Terrace.

Over his radio, Sergeant Hanna heard the Sheriff's helicopter, 40-King-3, say that the pursuit was on the I-10 eastbound, exiting California Street. Based on this, Sergeant Hanna knew that the pursuit was in Redlands. Still in San Bernardino, Sergeant Hanna considered heading to Redlands to be close by to assist officers if the pursuit terminated

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in Redlands; however, quickly thereafter, 40-King-3 announced that the pursuit was headed on the I-10 westbound, approaching Tippecanoe. Sergeant Hanna realized that the pursuit was near his location and was headed toward the city center of San Bernardino. Sergeant Hanna headed west on 3rd Street toward the city center, listening to additional updates from 40-King-3. It was close to 4:00 p.m., and Sergeant Hanna knew traffic was typically heavy at that time of day. Sergeant Hanna heard several times that the suspect vehicle drove erratically and changed lanes from number one to number four and then back to number one. Sergeant Hanna thought Smith had no regard for public safety.

Sergeant Hanna monitored radio traffic as he headed westbound on 3rd Street. 40-King-3 advised that Smith was southbound on the I-215 interchange. Sergeant Hanna knew the I-215 interchange was a tall two-lane bridge over the I-10 freeway. 40-King-3 announced that Smith intentionally slammed on his brakes, causing a patrol unit to crash into his vehicle. Upon hearing this, Sergeant Hanna thought Smith would do whatever it took, including endangering the public and the officers, to elude the police. 40-King-3 advised that Smith continued southbound on the I-215. Sergeant Hanna heard an update that the officer who had crashed into Smith's car was okay.

Unsure of where Smith would end up, Sergeant Hanna "hovered" in the area, and listened to 40-King-3's updates. Sergeant Hanna did not participate in the pursuit, but as the sergeant to the officers involved, his goal was to remain nearby to assist the officers should they need it. 40-King-3 provided updates regarding Smith's direction, speeds, reckless manner of travel, failure to stop at multiple red lights, driving into opposing lanes of traffic, and repeatedly hitting his brakes to try to cause officers to crash into his vehicle. Smith drove with extreme disregard for public safety. Sergeant Hanna feared that Smith would crash into a motorist or pedestrian and cause serious bodily injury or death to innocent civilians.

40-King-3 advised that the pursuit was northbound on Waterman Avenue. Sergeant Hanna was at the intersection of Waterman Avenue and Vanderbilt Way, facing west in the number one lane. 40-King-3 advised that Smith's vehicle passed Hospitality Lane. Sergeant Hanna looked south toward Hospitality Lane. Sergeant Hanna had not heard a description of Smith's vehicle, but when Sergeant Hanna looked south, he saw a black sedan heading northbound on Waterman Avenue with its hazard lights on and its rear bumper hanging. Multiple CPD patrol units followed the black sedan with their emergency lights and sirens activated. As the black sedan entered the intersection of Waterman Avenue and Vanderbilt Way, it veered left into oncoming traffic and continued driving northbound in the southbound lanes of Waterman Avenue. The marked CPD units continued north on the correct side of Waterman Avenue, pursuing the black sedan.

After a brief pause, Sergeant Hanna turned right onto Waterman Avenue and followed the pursuit from a distance. The pursuing officers quickly moved ahead of Sergeant Hanna, and he lost sight of them. Monitoring the radio, Sergeant Hanna heard that Smith

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continued northbound in the southbound lanes of Waterman Avenue and failed to stop at red lights. 40-King-3 broadcasted that Smith intentionally tried to crash into a sheriff's deputy who set up spike strips near 3rd Street. Sergeant Hanna thought, "he was intentionally trying to hurt officers earlier, was slamming on his brakes, now he's literally intentionally trying to run an officer over."

Sergeant Hanna knew that members of the Inland Valley SWAT team were nearby because they had just finished training in San Bernardino. Sergeant Hanna called CPD Officer Daniel Chavez, an Inland Valley SWAT team member, who had driven an armored rescue vehicle to and from the training that day. Sergeant Hanna told Officer Chavez to monitor the pursuit and to stay in the general vicinity because he wanted the armored vehicle to get to the scene, wherever the pursuit terminated, as quickly as possible in case Smith refused to surrender, or there was a crash, and they needed to extricate victims. The primary purpose of the armored rescue vehicle is to allow officers to more safely enter a dangerous situation to extricate victims, witnesses, or anyone needing medical attention. The armored rescue vehicles also enable officers to surround a perilous situation to contain it for public safety.

Sergeant Hanna continued northbound on Waterman. 40-King-3 broadcasted that Smith was involved in a traffic collision at the intersection of 5th and D Street. 40-King-3 advised that Smith's car and the other vehicle had come to a rest on the northeast corner of 5th and D Street. Sergeant Hanna turned west on 5th Street and headed westbound. Sergeant Hanna saw the scene of the crash in the distance. Sergeant Hanna radioed that he was on scene to alert police dispatch and the officers of his presence. Sergeant Hanna also radioed for Officer Chavez to respond to the northeast corner of the scene with the armored vehicle.

Sergeant Hanna saw the same black sedan he had seen earlier crashed and resting on the curb and sidewalk at the northeast corner of 5th Street and D Street. Parallel to the black sedan was a large white work truck (hereafter truck) that crashed and rested on the sidewalk. Both vehicles faced the north. Officers had set up a modified felony traffic stop; their police vehicles parked at the intersection of 5th Street and D Street, approximately 25 to 30 yards behind Smith's vehicle. Sergeant Hanna parked in the Jack in the Box parking lot across the street from the intersection. Due to the violent nature of the call, an armed robbery of a bank, and because Smith was reportedly armed with an AR-style rifle, Sergeant Hanna grabbed his rifle, loaded a magazine into it, and charged a round into the chamber. Sergeant Hanna got out of his truck with his rifle and handheld radio to continue coordinating resources.

40-King-3¹⁰ gave commands over the PA system for Smith to exit the vehicle with his hands up. Officers on the ground commanded Smith to exit the vehicle and show his hands to the officers. 40-King-3 cautioned the officers to watch their crossfire and to mind

¹⁰ The commands over the PA were given by Corporal Wickman. Based upon the audio and video, it does not appear that 40-King-3 gave commands over the PA.

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their backdrops. 40-King-3 advised there was a victim in the passenger seat of the truck. Sergeant Hanna saw the victim's foot prop open the passenger door of the truck when he arrived at the scene. The officers' backdrop was a large concrete wall attached to the post office.

Sergeant Hanna ran to the CPD K-9 patrol unit, which had the best vantage point of the clear daylight scene. Sergeant Hanna's view was of the passenger side of Smith's vehicle. The heavily tinted front and rear passenger side windows were rolled up. The rear window of Smith's car was also heavily tinted. However, the ambient light from the windshield created enough light for Sergeant Hanna to see silhouettes inside the car. Sergeant Hanna saw the silhouette of a person in the driver's seat but did not see any other people inside Smith's vehicle.

CPD Corporal Rich Randolph was positioned behind the open front passenger door of the K-9 unit. Corporal Randolph quickly briefed Sergeant Hanna, telling him Smith was still inside the vehicle and was ignoring commands to exit. Corporal Randolph advised there was a possibility that a child was in the back seat of Smith's car, but they had been unable to corroborate the information. Sergeant Hanna assessed the situation and saw that officers were positioned in formation for the felony traffic stop and were giving "appropriate commands" to Smith.

Sergeant Hanna felt they had time on their side to watch and wait for Smith to comply. The officers were in a good position; there was no need to run up to the vehicle, so the plan was to continue giving commands to Smith to exit the car. If Smith followed their commands and exited the vehicle, the officers would put him in handcuffs, take him into custody, and search the car. Sergeant Hanna knew the officers could use the armored rescue vehicle in the event Smith barricaded himself inside the car. If they were able to corroborate that there was a child inside Smith's car, the officers could use the armored rescue vehicle to rescue them. The plan was to keep Smith surrounded and to wait to see what Smith did and "not force a bad situation."

San Bernardino Police Department Sergeant Bonshire arrived. Sergeant Hanna spoke with Sergeant Bonshire and together, the two sergeants coordinated how they would handle the scene. Sergeant Bonshire would cover the medical response while Sergeant Hanna dealt with the tactical response to resolve the incident by affecting Smith's arrest. Sergeant Hanna focused on Smith while also coordinating their tactical response. There was a report that the victim in the truck was having trouble breathing. Knowing they needed to get the victim to safety, Sergeant Hanna reached out to Officer Chavez, who was en route with the armored vehicle, and told him exactly where he needed him. Sergeant Hanna told Officer Chavez to enter the scene westbound on 5th Street and position the armored truck between Smith and the truck. Sergeant Hanna aimed to send in a team with an armored truck for cover to extricate the victim. Sergeant Hanna used his phone to call the Inland Valley SWAT commander, Fontana Police Lieutenant Brian Binks, and requested additional armored vehicles to come to the scene. Sergeant Hanna

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wanted additional resources because it had been several minutes, and Smith still refused to comply with their commands. Sergeant Hanna planned for the possibility that the situation would turn into an armed, barricaded subject inside the vehicle. Lieutenant Binks told Sergeant Hanna two armored vehicles were on their way. While on the phone with Lieutenant Binks, Sergeant Hanna continued watching Smith's car.

As Sergeant Hanna ended his call with Lieutenant Binks, Sergeant Hanna saw the silhouette of the barrel of a rifle appear from the passenger side area and travel "arcing in a half circle to the driver side." Sergeant Hanna estimated he was 30 to 35 yards away when he saw the rifle. Sergeant Hanna readily recognized that it was a rifle barrel because he saw the skinny barrel, a protruding flash suppressor, and the distinctive tip of a rifle. Believing Smith was arming himself with the rifle that he had reportedly used in the bank robbery, Sergeant Hanna turned all his focus to Smith.

Sergeant Hanna stood to the right of Corporal Randolph, who, along with two SBSB deputies, stood behind the open passenger side door of the CPD K-9 unit, using the door for cover. Sergeant Hanna raised his rifle and aimed it at Smith's vehicle. Beyond Smith's car, the block wall in front of the post office was in Sergeant Hanna's backdrop. Smith "crawled into the passenger seat" and quickly "stuffed" his right hand down, apparently holding the rifle down out of sight. Sergeant Hanna and several other officers yelled, "Gun" and "Rifle, he's grabbing the rifle!" Sergeant Hanna believed that Smith "armed himself with a rifle for a reason" and anticipated that Smith would either start shooting at the officers through his car windows or would exit his vehicle and start shooting at them.

Sergeant Hanna could no longer see the rifle barrel or any part of the rifle. Smith then rolled down the front passenger window. As the window came down, Sergeant Hanna saw Smith's silhouette. Smith leaned, leading with his empty left hand, and leaned his torso out of the open front passenger window, and turned toward the officers. Smith faced the officers and began yelling. Sergeant Hanna could not understand what Smith yelled, but Smith's expression was angry, agitated, and Smith grimaced as he screamed at the officers. The officers gave Smith multiple commands to show his hands and to come out of the car with his hands up.

Based on his training and experience, Sergeant Hanna recognized that the expression on Smith's face was not that of someone "who was about to comply" or follow their orders. It was clear to Sergeant Hanna that Smith was angry and wanted to continue to challenge the officers. Nonetheless, the officers continued giving Smith commands, hoping he would comply and that they could come to a peaceful resolution. Several seconds to a minute passed. Smith then leaned back into the vehicle, and the Smith's rifle pointed out the window. Sergeant Hanna saw that Smith did not have a good shooting platform; the rifle was not aimed at them but was instead pointed off to the side and up in the air as if Smith was "just kind of presenting it" or showing it to the officers. Sergeant Hanna believed Smith was not going to start shooting right then. Sergeant Hanna and the other officers began yelling at Smith to drop the gun. Sergeant Hanna hoped Smith would drop

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the gun. Several seconds elapsed as officers repeatedly told Smith to drop the gun. Sergeant Hanna again yelled at Smith to drop the gun, but Smith did not comply.

Two to three seconds after Smith first presented the rifle, Smith leaned back slightly, and Sergeant Hanna saw the rifle barrel "spin around" and point toward Sergeant Hanna and his partners. At this point, Sergeant Hanna believed Smith was "absolutely, imminently going to fire his weapon." Sergeant Hanna believed Smith was going to try to kill him and his partners. Based on his training, Sergeant Hanna knew that neither the car door nor any body armor the officers wore would stop Smith's rifle rounds. Sergeant Hanna also knew several onlookers were likely nearby because several minutes had passed since the collision.

Believing Smith was about to fire the rifle and fearing for his life, the lives of his partners, and nearby civilians, Sergeant Hanna stepped to his right, took a half step forward, and began firing his rifle at Smith. Sergeant Hanna had a good sight picture of Smith, who now hung out of the vehicle's front passenger window as if to better "see his target and pull the trigger and get a good shot off towards myself and my partners." Sergeant Hanna fired approximately six to 10 rounds in rapid succession and hoped to overwhelm Smith and neutralize his threat. As Sergeant Hanna fired, Smith "fell back in the vehicle," and Sergeant Hanna's point of aim changed to the area between the driver's seat and the passenger seat, through the open front passenger window and "possibly the B pillar," where he believed Smith had retreated. Sergeant Hanna no longer saw the rifle and believed Smith's rifle went back in the car with him. Sergeant Hanna heard his partners were also shooting their firearms.

After his initial volley of six to 10 rounds, Sergeant Hanna stopped firing, stepped back, and crouched behind the vehicle door to reassess. Sergeant Hanna saw two bullet holes "appear" in the still rolled-up rear passenger side window of Smith's car. Sergeant Hanna's perception was that the two bullet holes came "outward from the [suspect] vehicle towards" the officers. Sergeant Hanna believed Smith was "wildly" shooting out of the car at the officers. Still in a crouched position, Sergeant Hanna fired six more rounds in rapid succession. Sergeant Hanna aimed again at the area between the driver's seat and the passenger seat, where he believed Smith was "secreted." Sergeant Hanna stopped shooting and again reassessed. Sergeant Hanna heard "a few" more gunshots coming from the officers. The gunfire stopped and after several seconds, Sergeant Hanna felt confident that the threat was neutralized. Sergeant Hanna estimated only three minutes had passed from the time he arrived on scene before the officer-involved shooting occurred.

Sergeant Hanna knew they still had a victim in the truck and heard someone yell about a baby in the car. Officers yelled at the person in the truck to run eastbound to safety, and he did so. Shortly after the gunfire had stopped, The Rialto PD armored vehicle arrived and stopped between Smith's vehicle and the white truck. Sergeant Hanna moved to the back of the armored vehicle and contacted the officers inside. Sergeant Hanna asked

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them if they could see inside Smith's vehicle, but they told him they could not see inside from their vantage point. Sergeant Hanna told the officers to keep their guns pointed at Smith's vehicle. Sergeant Hanna went around the open door of the armored vehicle and walked in between the armored vehicle and the bed of the crashed truck. From there, Sergeant Hanna saw Smith "slumped over the driver's seat." Smith did not appear to be a threat anymore, so Sergeant Hanna continued up toward the truck's cab to make sure no one else was inside the truck.

Once Sergeant Hanna saw that no one was inside the truck, he jumped on the truck's wheel well for elevation to better see inside Smith's car to look for a child or baby. Sergeant Hanna only saw miscellaneous trash and trash bags. Still not fully satisfied with that, Sergeant Hanna went around to the driver's side of the armored vehicle, opening the armored vehicle's door for cover. Seeing the two bullet holes in the rear passenger window of Smith's car, Sergeant Hanna used his rifle to "rake out all the glass of that window" and took a step back to cover in case Smith started to shoot again. Sergeant Hanna stepped back from cover and saw Smith still slumped over the driver's seat. Certain that Smith was not a threat at this point, Sergeant Hanna inspected the backseat of Smith's car to ensure there was no child or baby inside. There was no child or baby in the car, only a television, miscellaneous items, and trash bags.¹¹

Additional Inland Valley SWAT vehicles arrived, along with the SWAT commander. At this point, Sergeant Hanna's involvement ended while other officers handled the incident.

On July 1, 2022, **Corporal Eric Wickman** was interviewed by Detectives Owenn Domon and Ian Gosswiller of the San Bernardino County Sheriff's Department.

Corporal Eric Wickman was employed as a police officer by the Colton Police Department. On June 2, 2022, Corporal Wickman was on duty with his police K-9 partner. Corporal Wickman was covering as the watch commander for Sergeant Hanna, who was at SWAT training.

At approximately 3:40 p.m., while Corporal Wickman was at the Colton Police Station, speaking with Officer Anthony Elisarraraz, dispatch aired a triple tone, which alerted officers to an incident in progress. Because Corporal Wickman was a K-9 officer, and high priority calls often needed a police apprehension dog, Corporal Wickman typically goes to many of them. Corporal Wickman looked at the call for service on his computer and saw that the incident location was the Chase Bank, a couple of miles from the station. The call initially came in as an unknown problem, but then additional people called in to say it was a robbery. Dispatch broadcasted the call over the radio. Dispatch advised there was a possible armed bank robbery occurring, and multiple callers reported the suspect was armed with an AR-style rifle. Upon hearing multiple witnesses' accounts Corporal Wickman believed the call was not a false alarm. Corporal Wickman prepared to leave

¹¹ The trash bags were later found to contain over \$500,000 in currency from the armed robbery at the Chase Bank in Colton.

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the station. Dispatch advised that a suspect, wearing all dark clothing, had entered the bank with an AR-style rifle and was robbing the bank. Hearing that the suspect had a high-caliber rifle, Corporal Wickman realized lives were in danger.

Corporal Wickman exited the police station, got into his patrol unit with his K-9, and headed for the bank, driving code three with his lights and sirens activated. Corporal Wickman listened as dispatch broadcasted updates regarding the call for service. Corporal Wickman learned that callers reported that the suspect was in the bank vault with employees. Corporal Wickman heard CPD officers requested assistance from the San Bernardino County Sheriff's Department's helicopter, 40-King-3. Corporal Wickman heard CPD officers advise when they arrived on scene and began setting up a perimeter. Corporal Wickman then heard that the suspect (later identified as Smith) had fled the location in a dark colored vehicle, had failed to yield for a traffic stop, and officers were involved in a vehicle pursuit.

Corporal Wickman listened to the officers' updated broadcasts and tried to catch up to the pursuit. As the watch commander, Corporal Wickman needed to assist the officers. Officer Wickman also considered the possibility that Smith might flee from his vehicle and run from officers on foot. If this occurred, Corporal Wickman knew his K-9 would be helpful. Officers broadcast that the suspect ran multiple red lights, drove at excessive speeds, and into oncoming traffic. Corporal Wickman heard CPD Officer Gabriel Martinez say that the suspect tried to cause him to crash into his vehicle. Still trying to catch up to the pursuit, Corporal Wickman heard 40-King-3 broadcast that officers were pursuing Smith southbound on the I-215 freeway. Shortly thereafter, Corporal Wickman heard that Smith had slammed on his brakes and forced Officer Martinez to crash into Smith's vehicle. Upon hearing this, Corporal Wickman believed that Smith would do anything and harm anyone to evade capture. When Corporal Wickman drove past Officer Martinez moments later, he saw Officer Martinez standing outside his police vehicle. Another officer pulled over to assist Officer Martinez, so Corporal Wickman continued forward to catch up to the pursuit.

40-King-3 broadcasted that Smith had driven into The Highlands apartment complex and that multiple pedestrians were present. Corporal Wickman was familiar with the apartment complex and knew that children likely played outside because it was after school hours. Based on Smith's erratic driving, Corporal Wickman was concerned Smith would crash into a pedestrian, possibly a child, or would hurt someone with the rifle he possessed. Corporal Wickman arrived at the apartment complex and as he pulled into the north entrance, 40-King-3 advised, "The unit that just entered: he's right there in front of you." Corporal Wickman saw a black Honda driving toward him. Corporal Wickman attempted to block Smith at the entrance, but Smith hit the front end of his patrol unit, revved his engine, and pushed past, and scraped the side of his patrol unit. When Smith rammed into his unit, Corporal Wickman believed Smith's mindset was such that no one mattered to him, and Smith would do anything and harm anyone to get away from the police.

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Corporal Wickman made a U-turn and caught up to other officers pursuing Smith. Corporal Wickman saw Smith “slamming on his brakes attempt[ing] to get other police vehicles to crash into him.” As the pursuit continued, Smith continued this behavior and was “running red lights.” Over the radio, Corporal Wickman advised officers to “back off, give him some space.” Corporal Wickman knew the Sheriff’s helicopter was overhead and wished to de-escalate the situation to get Smith to stop running red lights and putting people in harm’s way.

Though officers backed off, Smith still drove recklessly, “running red lights, passing on the right shoulder, passing over the center line, going into oncoming traffic.” Smith made a northbound turn onto Waterman Avenue and began traveling more than 70 miles per hour, again running red lights. Smith “darted left and began traveling in the opposite lanes of traffic that had a heavy flow of traffic instead of traveling in the normal lanes of traffic that did not have much traffic at all.” Southbound traffic was heavy, and motorists had to swerve to avoid colliding with Smith. Corporal Wickman believed Smith was trying to “create such harm to the innocent public to try to get [the police] to stop pursuing him at that point, that he was either going to hurt somebody or kill somebody to try to get [the police] to back off.”

At times, Smith drove in the correct lanes, but “for the majority of the time going up Waterman, he was in oncoming traffic.” Smith had just robbed a bank and was armed with a rifle. Because Smith was dangerous to the public, Corporal Wickman knew he could not call off the pursuit. Corporal Wickman told the pursuing units to back off further and to let the helicopter follow Smith, hoping that Smith would go back into the correct lanes of traffic and stop running red lights. The officers backed off, but Smith continued to drive in the opposite lanes of traffic and failed to stop at red lights. Again, Corporal Wickman felt Smith “was going to do anything and everything to get away,” including harming innocent people.

Dispatch notified Corporal Wickman that SBSB deputies were ahead of the pursuit and had spike strips available. Corporal Wickman approved the use of spike strips, hoping it would flatten Smith’s vehicle tires, and force him to slow down. Having been involved in previous pursuits, Corporal Wickman knew that the spike strips were effective, and once a vehicle’s tires had no more rubber on them, the car could go no faster than 15 to 20 miles an hour.

As Corporal Wickman approached 3rd Street and Waterman Avenue, he saw a Sheriff’s deputy in the street, setting up the spike strips on 3rd Street. Corporal Wickman saw Smith turn his car left and accelerate straight toward the Sheriff’s deputy, attempting to run him over. The deputy had to run to avoid being struck by Smith’s vehicle. Corporal Wickman estimated Smith was only five to 10 feet away from striking the deputy.¹² Corporal Wickman estimated he was 100 yards away when he saw this occur. Corporal

¹² SBSB Sergeant M. Mason deployed the spike strips. Sergeant Mason sustained injuries to his back and hand when he was forced to take evasive action to avoid being struck by Smith’s vehicle.

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Wickman realized Smith would “kill a cop to get away.” Luckily, the deputy avoided being struck and successfully pulled the spike strips with him. The deputy advised over the radio that the spike strips were successful.

Corporal Wickman continued westbound on 3rd Street and northbound on D Street, trailing Smith and three other CPD patrol units. 40-King-3 broadcasted that Smith crashed into a vehicle at the intersection of 5th and D Streets. Corporal Wickman arrived at the scene of the crash about five to 10 seconds after the crash and saw Officer Anthony Elisarraraz and Officer Ismael Gonzalez had parked their units to the left of Smith’s vehicle, a black sedan with tinted windows, and set up a high-risk felony traffic stop. Corporal Wickman pulled to the right of Officer Gonzalez’s unit, about 15 to 20 yards behind the back passenger side of Smith’s car. With a felony traffic stop, the goal is to have the police units positioned around the vehicle to provide different vantage points to enable officers to see around the entire vehicle. Officers generally do not approach a car on foot during a felony traffic stop due to the danger. Because Smith was reportedly armed with an AR-style rifle, the officers would not approach his vehicle and risk being shot.

Smith had crashed into a white county work truck. Corporal Wickman saw the driver exit the county truck and begin to walk away. From Corporal Wickman's vantage point, he viewed Smith's car's entire passenger side and rear. The passenger side windows on Smith's car were rolled up. Because of the window tint, Corporal Wickman could only see silhouettes of items like the seat headrests and then Smith's silhouette when he began moving inside the vehicle.

Due to the severity of the crash, Corporal Wickman considered the possibility that Smith was injured. Corporal Wickman began to give commands over his police unit’s PA system and told Smith to exit the car with his hands up. Corporal Wickman gave multiple commands and allowed Smith plenty of time to exit the vehicle because he knew Smith had just been “involved in a crazy pursuit, heart rate’s up” and had been in a “bad accident.” Corporal Wickman didn’t know the extent of Smith’s injuries. Corporal Wickman wanted to give Smith ample time to “gain his composure” and “make the right decision to give up, as opposed to him coming out with the gun.” Corporal Wickman saw no movement in Smith’s vehicle.

A SBSD sergeant and a SBPD sergeant arrived. Corporal Wickman grabbed his AR-15 rifle, loaded a round into the chamber, kept the firearm on safe, and exited his unit. Corporal Wickman spoke with the SBPD and SBSD sergeants and attempted to coordinate a plan. The Sheriff’s sergeant advised that he had a pepper ball gun and asked Corporal Wickman if he wanted it used. Corporal Wickman answered in the affirmative and suggested they ready it in case they needed to use it. Corporal Wickman was hoping they could use chemical agents to get Smith to exit the vehicle. Corporal Wickman then heard a bystander on the elevated area of the post office, above where the vehicles had come to rest, say there was a “baby in that vehicle.” Corporal Wickman thought, “This guy

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did all this with his kid in the car? So, now he's taking it to a whole other level of putting his own child at risk." Corporal Wickman told the Sheriff's sergeant they would not be using the pepper ball due to the possibility of a child being present in the car. Corporal Wickman also knew he could not deploy his K-9 into Smith's vehicle because of the possibility of a child inside. Corporal Wickman heard from his partners that the county truck driver had told officers that a co-worker was still inside the county truck. The passenger in the county truck appeared to be breathing but was not moving from the vehicle. Officers had called for medical aid to respond and to stage near the scene. Corporal Wickman was concerned about the worker in the county truck and feared that Smith might shoot the worker if he saw him inside the truck.

Sergeant Hanna arrived on scene from SWAT training. Corporal Wickman knew Sergeant Hanna had already called for an armored vehicle to respond. Corporal Wickman asked Sergeant Hanna if the armored vehicle was en route, and he told him it was. The Sheriff's sergeant asked if they wanted their armored vehicle to respond to the scene, and Corporal Wickman told him, "If it's closer, yes, let's get that here. Let's get SWAT activated en route." Corporal Wickman wanted SWAT because it was "becoming a barricaded subject at that point." The plan was to use the armored vehicles to extract the passenger in the work truck to get him to safety. After that, the officers would use the armored vehicles to get closer to get a better look inside Smith's vehicle to see if he was alive or had died in the collision, whether there was a baby inside, and to better establish communication with Smith to get him out of the vehicle. If they determined no child was inside the vehicle, Corporal Wickman planned to use his K-9 to extract Smith from the car.

If Smith exited the car and started to run, Corporal Wickman planned to use his K-9. Corporal Wickman wanted to make sure Smith was captured before he could run into the post office. Looking around to understand where everyone was situated, Corporal Wickman saw SBPD had cleared eastbound 5th Street. If Smith got out and ran eastbound on 5th Street, Corporal Wickman would deploy his K-9 in that direction as a less lethal way to apprehend him. Corporal Wickman saw Corporal Richard Randolph and two Sheriff's deputies at the passenger side of Corporal Wickman's unit. Officer Gonzalez was near the passenger side of his vehicle, parked to the left of Corporal Wickman.

A minute or two after Corporal Wickman gave PA announcements, he stood at the back of his patrol unit. Corporal Wickman heard someone advise that Smith was "coming out of the passenger side of the vehicle." Corporal Wickman heard officers command, "Drop the gun! Drop the gun!" Upon hearing that Smith had a gun in his hand, Corporal Wickman switched his rifle from safety to fire and aimed with his rifle's red dot optic at Smith's front passenger window that Smith was rolling down. Corporal Wickman could only see Smith's silhouette, but he believed Smith was still in the driver's seat when he rolled the window down and climbed over to the passenger side.

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Within seconds of the window rolling down, Corporal Wickman saw Smith's head and upper shoulder area come out of the front passenger window, at which time Smith began to turn. At that moment, Corporal Wickman saw Smith "starting to present" the long, dark rifle out the passenger window. Smith initially pointed his rifle eastbound. Officers yelled, "Drop the gun! Drop the gun!"

In one swift motion, Smith put the rifle "against his shoulder and began turning it like in a southbound direction and back toward officers, leaning more of his body out of the vehicle" to shoot at the officers. Corporal Wickman felt like Smith pointed the gun right at him and was about to shoot it. Corporal Wickman was "looking right down the barrel" of Smith's rifle and feared he was going to die. Corporal Wickman believed Smith was going to shoot at him and his partners or innocent people. Corporal Wickman believed Smith's target was the officers, but because bystanders had gathered behind them, he feared any stray rounds fired by Smith could harm the bystanders or go through the windows of the businesses behind them.

As soon as he saw Smith's rifle pointed at him and his partners, Corporal Wickman fired his rifle at Smith. Corporal Wickman fired two rounds into "the opening of the passenger front door." Corporal Wickman estimated he was 25 to 30 yards away from Smith when he fired. Corporal Wickman heard his partners' gunfire as they also fired their weapons at Smith. Smith fell back into the vehicle. When Smith fell back into the car, Corporal Wickman's angle of fire, were he to continue shooting, would have been toward the back passenger seat. Fearing a child might be in the back seat, Corporal Wickman stopped firing. Corporal Wickman moved to the front driver door of his patrol unit to get a better vantage point. However, the window tint on Smith's sedan prevented Corporal Wickman from seeing clearly into the car, so he did not fire any additional shots. Corporal Wickman heard other officers still firing and believed they had a better angle than he did.

Corporal Wickman estimated four to five minutes had elapsed from the time of the collision until Smith pointed the rifle at officers. Corporal Wickman recalled hearing "two successions of fire." After the initial one to two-second burst of gunfire, Corporal Wickman saw "movement inside Smith's car, and then there was a second two to three-second burst of fire." Corporal Wickman estimated that less than one second had elapsed between the two bursts of gunfire.

After the gunfire ceased, Corporal Wickman saw the passenger of the white truck get out and walk away, eastbound on 5th Street. 40-King-3 had called for medical aid for the collision, so Corporal Wickman knew medical was already en route. At that time, the Rialto armored vehicle arrived and approached the passenger side of Smith's car. SWAT officers approached Smith's vehicle and took over from there. Corporal Wickman stood by and watched to ensure no one approached the area. SWAT determined that Smith was deceased. Corporal Wickman's involvement ended thereafter.

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On July 1, 2022, **Corporal Rich Randolph** was interviewed by Detectives Bryan Sprague and Malcolm Page of the San Bernardino County Sheriff's Department.

Corporal Randolph was employed as a police officer by the Colton Police Department. On June 2, 2022, Corporal Randolph was on duty, assigned as a school resource officer. Corporal Randolph worked overtime, covering day shift patrol from 7:00 a.m. to 3:00 p.m. Corporal Randolph had signed off from working patrol but because he was scheduled to work at a school graduation that evening, had gone to the CPD station to have the dispatch center log him back into the system.

At the station, Corporal Randolph heard "the tones" alerting officers to a bank robbery in progress at Chase Bank on East Washington Street in Colton, a priority call. Corporal Randolph was aware of previous robbery calls at the same bank where CPD officers had been shot. Corporal Randolph considered the mindset of the bank robber and thought he must have been acting out of "desperation" to walk into a bank to commit a robbery in "broad daylight." Corporal Randolph was concerned for the safety of the bank employees, the civilians, and the officers responding to the scene. Corporal Randolph knew the responding officers were "younger" and had less experience. Corporal Randolph entered his marked patrol unit and headed for the bank, activating his emergency lights and sirens. While heading to the bank, Corporal Randolph listened over his radio as dispatch provided updates. Dispatch advised that the suspect (later identified as Smith) was inside the bank with an AR-15 rifle. Hearing this caused Corporal Randolph a great deal of concern. CPD officers broadcasted that they had arrived at the bank and were setting up a perimeter. Shortly thereafter, Corporal Randolph heard Officer Gabriel Martinez advise they were pursuing Smith, who drove a dark Honda eastbound on Washington Street. Corporal Randolph heard his partner's sirens in the background of their radio broadcasts and saw CPD patrol units' emergency lights ahead of him on Washington Street.

Corporal Randolph trailed pursuing officers as they followed Smith into Loma Linda. 40-King-3 arrived overhead and began calling out the pursuit at this time. Corporal Randolph took a position as the fourth patrol unit in the pursuit.¹³ Corporal Randolph was concerned with the reckless nature of Smith's driving because it was clear that Smith had no regard for the public's safety. During the lengthy pursuit, Officer Martinez collided with the rear end of Smith's car when Smith suddenly braked on the I-215 overpass, which was the highest overpass in the city. Because of this, Corporal Randolph believed Smith wanted to hurt officers and would hurt anyone who tried to stop him. The crash disabled Officer Martinez's patrol unit and caused all the airbags to deploy. Corporal Randolph slowed to check on Officer Martinez. Officer Martinez advised he was all right. Corporal Randolph rejoined his partners in the pursuit.

Smith's driving grew increasingly erratic and more dangerous as the pursuit progressed. Corporal Eric Wickman advised officers to back off from Smith, but Smith continued

¹³ Corporal Randolph described the pursuit in detail. His description of the pursuit was largely consistent with the other involved CPD officers.

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driving recklessly at unsafe speeds. Based on Smith's extreme recklessness, the fact that he was intentionally trying to harm officers and was reportedly armed with an AR-15 rifle, Corporal Randolph knew they could not simply terminate the pursuit.

Corporal Randolph heard 40-King-3 advise that Smith had tried to run over a deputy who set up spike strips at 3rd Street and Waterman Avenue in San Bernardino. Upon hearing this, Corporal Randolph recognized that the "threat level" posed by Smith had increased substantially. Corporal Randolph saw Smith's car turn north on D Street shortly thereafter. 40-King-3 cautioned officers that there was cross traffic up ahead. As Smith headed northbound on D Street, he crashed into a county work truck driving eastbound on 5th Street through the D Street intersection. The crash was violent. The county truck "lifted" and spun twice, the airbags on both vehicles deployed, and there was an explosion of glass and debris. Corporal Randolph immediately thought the collision had caused fatalities. Both vehicles ended up on the northeast corner of the intersection.

CPD Officers Elisarraraz, Alvarez, Gonzalez, and Corporal Wickman stopped their patrol units 20 to 30 feet behind Smith's car, setting up a felony traffic stop. Corporal Randolph parked his unit behind Corporal Wickman's. Grabbing his rifle, Corporal Randolph exited his unit and approached the passenger side of Corporal Wickman's unit. Corporal Randolph opened Corporal Wickman's front passenger door, which did not have ballistic panels, and stood behind it. Corporal Wickman was out of his unit, armed with his rifle. Corporal Randolph heard sirens as SBPD patrol units approached the scene. An unknown sheriff's deputy¹⁴ approached from behind and told Corporal Randolph, "Hey brother, I'm behind you." The deputy stood to his left, and another unknown deputy stood behind Corporal Randolph.

The driver emerged from the county truck, wearing an orange shirt and appearing dazed. Officers gave him commands to run for safety. The driver walked and then ran away from the crashed truck.

In setting up the felony traffic stop, the officers planned to allow time for de-escalation so they could resolve the situation peacefully. Recognizing that Smith had been involved in a traffic collision, the officers gave time for Smith's "adrenaline to come down" and "to de-escalate." Officers began giving Smith commands, "Driver, driver," and then Corporal Randolph heard a voice behind him say that he had a friend in the county truck who couldn't breathe. Corporal Randolph did not turn to look at the person because he was focused on Smith's car, but he told the person they would get someone out there to help his friend. Corporal Randolph radioed for paramedics to come to the scene. The officers gave Smith commands, but Corporal Randolph did not hear the commands as he spoke to the person and called for paramedics.

Sergeant Hanna arrived and "posted up" beside Corporal Randolph's right side. Sergeant Hanna had his rifle in hand. Sergeant Hanna asked Corporal Randolph, "Hey, what do

¹⁴ Based upon the interviews of all officers and investigation, it appears this was Deputy Yates.

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we have.” Corporal Randolph told Sergeant Hanna that Smith was still inside the vehicle. People began coming out of the post office which was elevated several feet above the street where the wrecked vehicles had come to rest. Corporal Randolph and his partners were concerned about the citizens in the post office. A woman exited the post office and yelled, “Hey, my baby, there’s a baby in the car.” Corporal Randolph was unsure where the baby was located but told the deputy behind him there was possibly a baby in Smith’s car.¹⁵ Officers requested armored vehicles respond to the scene to assist.

The rear window of Smith’s car was tinted, but the angle of the sunlight enabled Corporal Randolph to see inside. Corporal Randolph saw movement inside Smith’s car and radioed, “Colton F1, we’ve got movement inside the vehicle.” Corporal Randolph believed his vantage point, which enabled him to see the passenger side of Smith’s car, was better than Officers Elisarraraz’s and Alvarez’s.

Corporal Randolph saw a black rifle moving from the back seat to the front seat of Smith’s car. Officers began yelling, “Gun! Gun!” Corporal Randolph and his partners began giving commands to Smith, ordering him to “Drop the Gun! Drop the Gun!” The front passenger window of Smith’s car started rolling down, and Corporal Randolph saw Smith’s hand come out. Corporal Randolph thought Smith might surrender, but then he saw Smith’s “head pop up. He yelled something, did not look happy.” Corporal Randolph could not determine what Smith yelled, but Smith looked “agitated and angry,” and “it did not look like de-escalation was working.”

Corporal Randolph yelled, “Hey, drop the gun! Drop the gun!” While Corporal Randolph yelled these commands, Smith began maneuvering the rifle as follows: Smith’s “Gun comes out of the vehicle. It looks like he’s trying to negotiate, looks like he can’t, doesn’t have a full hold on it. And then it starts to point towards us.” Corporal Randolph saw Smith’s rifle barrel pointed at him and his partners. Corporal Randolph believed Smith was about to shoot them. Corporal Randolph, the deputy to his left, and Sergeant Hanna to his right were all crowded in a small space, crouched behind the patrol unit door. Sergeant Hanna was “fully exposed.”

Fearing that he and his partners would die, Corporal Randolph fired one shot from his rifle at Smith to stop the threat he posed. Corporal Randolph’s point of aim was Smith’s open front passenger window. Sergeant Hanna, who stood to the right of Corporal Randolph, also fired, as did the deputy who stood to Corporal Randolph’s left. Corporal Randolph believed Corporal Wickman also fired at Smith. Corporal Randolph saw Smith’s vehicle windows being struck by gunfire but could not tell whether the impacts were coming from Smith shooting through the windows at the officers, or from the officers’ gunshots.

¹⁵ Corporal Randolph later learned there was no baby in the suspect vehicle and that the woman’s baby was inside a red car parked in an area adjacent to the post office.

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Sergeant Hanna's rifle muzzle was beside Corporal Randolph's ear when Sergeant Hanna fired. Sergeant Hanna's muzzle flash was so hot that Corporal Randolph thought he "was taking rounds" from Smith's rifle. Corporal Randolph's ears were ringing as he "squatted back" and checked himself for gunshots. It was only after watching body-worn camera footage that Corporal Randolph learned that it was Sergeant Hanna's rifle muzzle that had caused the sensation. The deputy behind Corporal Randolph pushed him back up. Corporal Randolph heard gunshots, and believing they were taking gunfire from Smith, Corporal Randolph got back on target and fired on more shot at Smith's vehicle. Corporal Randolph did not fire any additional rounds because he no longer saw Smith's rifle protruding from the car or any movement inside Smith's car. Corporal Randolph never saw Smith's rifle again.

Corporal Randolph was concerned about the passenger in the county work truck and heard other officers yell that they had movement in the truck. Corporal Randolph maintained observation on Smith's car, watching for any movement. The passenger in the county work truck got out and walked away, disoriented.¹⁶ SWAT officers arrived in armored vehicles, and Corporal Randolph's involvement ended.

On June 17, 2022, at approximately 11:30 a.m., **Officer Anthony Elisarraraz** was interviewed by Detectives Owenn Domon and Ian Gosswiller of the San Bernardino County Sheriff's Department.

Officer Elisarraraz was employed as a police officer by the Colton Police Department (CPD). On June 2, 2022, Officer Elisarraraz was on duty, assigned as a school resource officer. At about 4:00 p.m., Officer Elisarraraz was at the Colton Police Department station when the emergency tone alerted officers to a robbery in progress at the Chase Bank located on Washington Street in Colton. The emergency tone meant that all available officers were to respond with their emergency lights and sirens activated to the bank.

As Officer Elisarraraz got into his patrol unit, dispatch updated officers that the suspect had entered the bank with an AR-style rifle and was currently inside. When Officer Elisarraraz was about halfway to the bank, he heard dispatch advise that the suspect had people inside the bank vault. To Officer Elisarraraz, this meant the armed suspect (later identified as Smith) had taken "hostages." Officer Elisarraraz feared that Smith would "barricade" inside the bank vault with the hostages, increasing the risk to the victims' lives. Officer Elisarraraz grew more concerned and knew he needed to get to the bank quickly to preserve life.

Officer Elisarraraz heard Officer Ismael Gonzalez broadcast over the radio that a witness flagged him down and advised that the suspect (Smith) was in a black Honda Civic or sedan. Officer Gonzalez then said he had located the vehicle and would attempt to make a traffic stop. Officer Gonzalez then advised that the suspect (Smith) had failed to yield,

¹⁶ The passenger in the county work truck sustained significant injuries in the collision but was not injured by gunfire.

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and a pursuit had begun. Officer Elisarraraz joined Officer Gonzalez in the pursuit as it passed by Loma Linda Children's Hospital. At various times during the pursuit, Officer Elisarraraz was either the third, second, or first patrol unit behind Smith's vehicle, a black sedan with dark tinted windows. Officer Elisarraraz listened to his partners' broadcasts and to 40-King-3's broadcasts when 40-King-3 arrived to assist and called out the pursuit.

Smith drove erratically on city streets and freeways at high rates of speed. On city streets, Smith drove 80 to 90 miles per hour, drove into oncoming traffic, and drove through intersections without stopping at red lights. On the freeway, Smith changed lanes from the number one to the number four lane in a matter of seconds, cutting off multiple vehicles and completely disregarding public safety. Officer Elisarraraz feared that Smith would collide with another vehicle or pedestrian and kill someone.

Smith "brake-checked" pursuing officers multiple times. Officer Elisarraraz explained that a brake-check is a technique used by people evading police wherein the suspect driver rapidly hits the brakes, rapidly decelerating or stopping their vehicle to cause the police vehicle to crash and become disabled. During the pursuit, Smith brake-checked Officer Elisarraraz, forcing Officer Elisarraraz to slam on his brakes and swerve into another lane to avoid crashing into the rear of Smith's car. As a result, Officer Elisarraraz's unit came to a stop directly beside Smith's car. Because Smith was reportedly armed with an AR-style rifle, Officer Elisarraraz feared that Smith might shoot him. Officer Elisarraraz looked over at Smith's vehicle but was unable to see inside due to the dark tinted windows on Smith's car. Smith sped off, and the officers continued to pursue him.

Using this brake-check technique, Officer Elisarraraz saw Smith successfully disable Officer Martinez's patrol unit on the I-215 overpass. Officer Martinez's vehicle struck the rear end of Smith's car. Smith's rear bumper was partially torn off and dangling as Smith continued to drive southbound. Officer Martinez's unit was disabled, taking him out of the pursuit. Smith did this on a dangerous freeway overpass at a "very high altitude" above other freeways. When Officer Elisarraraz saw this, he believed Smith had a total disregard for the officers' safety and possibly wanted to kill one of the officers.

As the officers continued pursuing Smith southbound on the I-215 freeway, Smith drove on the left-hand shoulder, bypassing heavy traffic at a high rate of speed. Officer Alvarez was the primary, or first unit, behind Smith, and Officer Elisarraraz was the second. It was so dangerous that Officer Elisarraraz feared for the lives of other motorists, Officer Alvarez's, and his own. When Smith reached the city of San Bernardino, he drove on sidewalks and the wrong side of the road, speeding northbound in southbound traffic lanes. Throughout the pursuit, Officer Elisarraraz feared for the lives of pedestrians and other motorists. However, because of the nature of the crime-- the fact that Smith was armed with a rifle and the level of danger that Smith posed to the public, Officer Elisarraraz believed they could not safely terminate the pursuit.

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When a San Bernardino County Sheriff's deputy deployed spike strips at Waterman Avenue and 3rd Street, Smith nearly crashed into the deputy. Officer Elisarraraz was the primary unit behind Smith and saw the deputy on foot, deploying the spike strips. Smith nearly crashed into the deputy, "almost killing a law enforcement officer." Officer Elisarraraz estimated that Smith's car was five feet from the deputy. Officer Elisarraraz feared for the deputy's life. To Officer Elisarraraz, this was a further escalation of Smith's violence and his disregard for the safety of others, including officers or anyone on the street.

After this, Smith headed westbound on 3rd Street and north on D Street. Smith drove at speeds "upward of 100 miles an hour," by the time he reached the 4th Street intersection. As Smith neared the 5th Street intersection, Officer Elisarraraz saw the light was red for northbound D Street traffic. Officer Elisarraraz saw a larger-sized white truck, possibly a utility truck, traveling eastbound on 5th Street and into the intersection. The light was still red for northbound traffic, but Smith did not stop. The truck collided with Smith's car as the vehicles entered the intersection. Officer Elisarraraz estimated Smith's vehicle speed at the collision to be over 85 miles per hour. The truck "flipped in the air several times" and ultimately landed on its tires. Smith's vehicle was disabled due to the collision.¹⁷

Officer Elisarraraz and other CPD officers set up a felony traffic stop behind Smith's car. Officer Elisarraraz positioned his unit about 100 feet behind and northwest of Smith's car.¹⁸ The hood of Officer Elisarraraz's unit faced the back "windshield" (rear window) of Smith's car, and afforded Officer Elisarraraz a view of the entire rear window and the whole driver's side of Smith's car. Additional officers stopped their police vehicles behind Smith's vehicle and set up a perimeter in a "half-moon formation." Officer Elisarraraz's unit was the furthest to the north, and no other units were to his left. Officer Ismael Gonzalez's unit was to Officer Elisarraraz's right. Officer Elisarraraz believed Officer Alvarez's vehicle was slightly behind Officer Gonzalez's unit but was unsure. Additional unknown officers formed the remaining half-moon formation behind Smith's car.

Officer Elisarraraz quickly exited his patrol car, unholstered his handgun, and pointed it at Smith's vehicle. Officer Elisarraraz stood at the apex of his unit's open driver's door and looked eastward toward Smith's vehicle. The airbags in Smith's car had deployed, blocked the driver's window and prevented Officer Elisarraraz from seeing into the vehicle through the driver's door window. The window on the rear passenger door on the driver's side of Smith's car was heavily tinted, so Officer Elisarraraz could not see into Smith's car through that window. However, there was enough light for Officer Elisarraraz to see Smith's silhouette inside the car through the rear window which he believed had a lighter window tint than the side windows.

¹⁷ Officer Elisarraraz's description of where Smith's car and the truck came to a rest after the collision was largely consistent with the descriptions provided by the other officers and civilian witnesses.

¹⁸ 40-King-3 video footage and crime scene photographs showed Officer Elisarraraz's unit was due west of Smith's car.

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An officer used a PA system to order Smith to surrender and come out with his hands up. Smith did neither. The officer continued giving Smith commands to come out with his hands up, but Smith did not. Smith gave no indication that he would comply with the officer's commands and surrender peacefully. Officer Elisarraraz did not give any commands because more than one officer giving commands can create a more chaotic environment. Officers also told the truck driver to exit the truck as safely and quickly as possible. The truck driver complied. Other officers advised that there was another passenger inside the truck, but Officer Elisarraraz was unable to see the passenger.

Officer Elisarraraz saw Smith moving in the back seat through the rear window of Smith's car. Officer Elisarraraz was unsure if Smith climbed into the back seat or if "the traffic collision, with force, put him in the back seat." Officer Elisarraraz estimated that the direct commands to Smith over the PA system lasted three minutes. Still, Smith failed to comply. During this time, Officer Elisarraraz transitioned from his handgun to his AR-15 patrol rifle.

Officer Elisarraraz saw Smith "making fast, rapid movements in the back seat, which was kind of concerning and not normal." Officer Elisarraraz saw Smith "manipulating something." Officer Elisarraraz believed Smith "was getting his weapon ready and possibly taking aim on us." Officer Elisarraraz did not see Smith's rifle; however, he believed Smith was "manipulating the rifle" because he knew Smith was reported to be armed with an AR-style rifle. Officer Elisarraraz heard Officer Alvarez yell that he saw the stock of Smith's rifle. At that point, Officer Elisarraraz knew Smith was "getting ready for violence and possibly taking aim on myself or other officers."

Based on Smith's non-compliance, Smith's rapid movements inside the car, and hearing Officer Alvarez yell that he saw the stock of Smith's rifle, Officer Elisarraraz "believed wholeheartedly that he [Smith] was going to kill one of us."

About 20 seconds of silence elapsed, and then Officer Elisarraraz heard approximately four gunshots coming from Smith's car. Believing Smith was shooting at officers, Officer Elisarraraz fired his rifle in rapid succession back at Smith. Officer Elisarraraz aimed for Smith through the rear window of Smith's car, where he saw Smith moving inside the vehicle. Officer Elisarraraz estimated he fired five rounds at Smith. Because Officer Elisarraraz stood at the apex of his patrol unit and the open driver's door when he fired eastward at Smith, Officer Elisarraraz's initial rounds went through the windshield of his patrol unit before reaching Smith's vehicle. Officer Elisarraraz repositioned "to the left side of the rounds initially placed. So, kind of outside the A-pillar, kind of within my doorframe, kind of where it V's."

Officer Elisarraraz saw Smith still moving in the back seat of his car and heard continued gunfire. Officer Elisarraraz believed Smith was still shooting at officers. Officer Elisarraraz feared for his life and the lives of his partners. Officer Elisarraraz fired between three and five additional rounds from his rifle, aiming for Smith through the rear passenger door window on the driver's side of Smith's car, near the B pillar. When Officer Elisarraraz fired,

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he heard his partners also shooting at Smith. Officer Elisarraraz stopped firing and saw Smith was no longer moving. SWAT officers arrived on scene, and Officer Elisarraraz's involvement ended.

On June 9, 2022, **Deputy Nicholas Yates** was interviewed by Detectives Owenn Domon and Ian Gosswiller of the San Bernardino County Sheriff's Department.

Deputy Yates was employed as a deputy sheriff by the San Bernardino County Sheriff's Department. On June 2, 2022, Deputy Yates was on duty, assigned to patrol in Loma Linda. Deputy Yates was at the Central Sheriff's Station in San Bernardino, booking evidence, when he heard a call over the police radio regarding an attempted robbery or burglary at a bank in Grand Terrace. Deputy Yates monitored the radio broadcasts regarding the call and learned that a male, armed with a rifle, had broken into and taken a cash register from the bank.

Shortly thereafter, Deputy Yates heard a BOLO (be on the lookout) for an armed robbery suspect out of Colton. CPD officers were involved in a vehicle pursuit with the armed robbery suspect. Dispatch broadcasted that the suspect was armed with an AR-15 rifle. Deputy Yates finished booking the evidence from his case when he heard that the CPD officers were in Loma Linda, still in pursuit of Smith, who was driving into oncoming traffic and trying to make police units crash into his vehicle.

Deputy Yates left the station, planning to drive to Grand Terrace to assist the deputy who had responded to the bank burglary scene. Deputy Yates listened to the Sheriff's dispatch broadcasts on his handheld radio and the CPD dispatch broadcasts over his unit radio. Deputy Yates headed west on 3rd Street and then south on Waterman Avenue. As he drove south on Waterman Avenue, Deputy Yates heard that the CPD pursuit was heading north on Waterman Avenue and that Smith was driving northbound in the southbound lanes at 100 miles per hour. Deputy Yates, still heading south on Waterman Avenue, saw heavy southbound traffic behind him. To keep Smith from crashing head-on into oncoming traffic, Deputy Yates turned on his overhead emergency lights and sirens and stopped traffic at Waterman and Mill Street. Deputy Yates saw Smith's vehicle as it headed north on Waterman Avenue. Smith "jumped back into normal traffic" lanes and passed by Deputy Yates. Smith's car was a "black, newer model Honda Civic." Deputy Yates noted that it had collision damage. When Smith returned to the correct traffic lane, his vehicle "jumped up on the curb" and nearly hit a fire hydrant before it continued through the intersection at a high rate of speed. Smith continued northbound on Waterman. Deputy Yates turned off his lights and sirens and continued to drive toward Loma Linda.

Over the radio, Deputy Yates heard CPD and Sergeant Mason coordinating the setting up of spike strips at 3rd Street and Waterman Avenue. Deputy Yates heard someone frantically announce over the radio that Smith had tried to run over deputies. Upon hearing this, Deputy Yates thought he should check on Sergeant Mason. Based on the radio

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broadcasts, Deputy Yates knew Smith had committed an armed robbery at a bank and was involved in felony evading of a peace officer. When Deputy Yates heard that Smith tried to run over Sergeant Mason, Deputy Yates believed the danger posed by Smith had escalated and that he needed to assist. Smith "obviously" did not want to go to jail, and, given that Smith was armed with a rifle, Deputy Yates feared Smith might shoot at police. Deputy Yates made a U-turn and drove to Waterman and 3rd, where he saw Sergeant Mason put the spike strips into the trunk of his patrol unit. Deputy Yates asked Sergeant Mason if he was okay, and Sergeant Mason said he was.

Deputy Yates heard that Smith had crashed at 5th and D Street over the radio. Deputy Yates, followed by Sergeant Mason and SBSD Deputy Michael Andrade, drove to the crash scene to aid the CPD officers. Deputy Yates saw the crashed vehicles: Smith's black Honda and a white county work truck. The vehicles had significant collision damage, including deployed airbags. Debris was in the street, Smith's car had come to rest on the curb, and the county truck was "still smoking." Deputy Yates parked his unit at the intersection of 5th and D Street. Deputy Andrade parked to his left, and Sergeant Mason parked to Deputy Andrade's left.

Four or five CPD units were stopped behind Smith's car in a felony traffic stop formation. Deputy Yates saw multiple civilians standing nearby, some were recording video of the scene. Deputy Yates knew that if Smith started shooting his rifle at the police or civilians, they would need as many law enforcement officers as possible. Deputy Yates walked up to the passenger side of a CPD unit parked directly behind Smith's car. Deputy Yates spoke to the CPD officer, though he did not get the officer's name. The CPD officer told him that Smith was still in the Honda and that a county worker was in the truck's passenger seat. The officer said the county worker could not get out of the vehicle because he had trouble breathing. Deputy Yates had his handgun out because Smith was reported to have an assault rifle.

A CPD SWAT officer¹⁹ approached and advised that the SWAT team was in San Bernardino for training, and a BearCat was en route to the scene. The officers discussed the plan, which was to keep Smith contained inside his car until the SWAT team arrived on scene to extract the county employee from the truck and thereafter take Smith into custody. The officers held Smith at gunpoint to contain him. Deputy Yates stood in the door jamb between the open front passenger door and the inside of the CPD unit, with his shoulder near the A pillar of the unit. Deputy Yates pointed his handgun at Smith's vehicle and "held the car at gunpoint." Deputy Yates was about 25 to 30 yards southeast of Smith. Deputy Yates had a direct line of sight to the front passenger door, the entire passenger side, and the back of Smith's car. The windows of Smith's car were tinted, but with the bright daylight, Deputy Yates could see Smith's silhouette through the passenger side and rear windows. Deputy Yates saw Smith reach into the back of the Honda. Smith

¹⁹ Deputy Yates did not know the SWAT officer's name, but the investigation revealed it was CPD Sergeant Jason Hanna.

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reached around the car as if looking for something. Smith climbed over the center console to the passenger side and was "fumbling around" there.

Believing Smith was trying to find his rifle, Deputy Yates warned the officers, "Hey, he's reaching around the passenger side." Several civilians were nearby, watching. Deputy Yates knew Smith was reported to have an assault rifle and thought, "This isn't gonna be good. And then he (Smith) reaches down and pulls a rifle out." The Honda's front passenger window was rolled down. Deputy Yates clearly saw Smith with the rifle through the open front passenger window. Smith picked up the gun from the stock and "pulled it straight up, and he had it in his hand with the barrel down." As soon as he saw the "stock of the rifle come up," Deputy Yates yelled, "Hey, he's got a rifle! He's got a rifle! He's got a gun!" Deputy Yates yelled this to alert everyone. Smith then grabbed the rifle with both hands. Smith's rifle was a matte gray AR-15 rifle with a rail system on the barrel.

Deputy Yates yelled commands at Smith to "Drop the gun!" and "Don't do it!" Deputy Yates repeated these commands three to four times. Smith did not comply. Smith yelled at officers, but Deputy Yates could not discern what he said because it was loud with the helicopter overhead and the nearby sirens. To Deputy Yates, it appeared that Smith "didn't care," he was "amped up and ready to go," and "had his mind set, he was not gonna give up." Smith put his "hand into the grip," and positioned the rifle "up into his shoulder," in an "offensive shooting position." Smith then "leaned to the left," turned his body, and pointed the gun out the open front passenger window. Smith stuck his head out of the window, looked at the officers, and pointed the rifle at Deputy Yates and the CPD officers beside him. Deputy Yates saw a flash that appeared to come from the barrel of Smith's rifle and heard a "round go off." Deputy Yates was scared and knew he needed to return fire to protect his life, his partner's lives, and the lives of nearby civilians.

Believing that Smith was trying to kill him and the other officers, Deputy Yates returned fire at Smith and aimed at Smith's upper thoracic area. Deputy Yates fired 14 rounds in quick succession, emptying his weapon, and then took cover, crouching down behind the patrol unit. Deputy Yates reloaded his handgun. Gunfire was still active, and Deputy Yates believed Smith was still shooting at officers. Deputy Yates stood back up and saw two bullets strike the "pillar right next door to my head."²⁰

²⁰ During the scene investigation, detectives found the passenger side A pillar of Corporal Wickman's patrol unit was struck by gunfire. CSI was unable to determine the trajectory.

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Crime scene photo showing bullet strikes to passenger side A pillar of Corporal Wickman's patrol unit. Smith's black Honda is in the distance.

Deputy Yates thought Smith "just shot" and almost "hit me in the head twice, and he's still shooting." Deputy Yates was scared because Smith was "still trying to kill us. He's still shooting it out," with officers. Deputy Yates knew he had to "come up," and "overwhelm him with gunfire," so Smith would stop shooting and "take cover in the car, and we can get him under control." Deputy Yates fired three to four additional rounds, aiming for the spot where he had last seen Smith. Deputy Yates estimated he was 25 to 30 yards away from Smith when he fired.

Deputy Yates stopped firing and reassessed the situation. Smith was no longer visible in the passenger window where Deputy Yates had last seen him. The gunfire stopped. Deputy Yates did not see Smith's rifle after the shooting. Deputy Yates asked the officers around him if they were okay, and they said they were.

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Not seeing Smith or his rifle, Deputy Yates feared Smith was waiting inside the car with the weapon to ambush the officers if they approached. Deputy Yates and the other officers did not approach Smith's vehicle but instead kept their guns aimed at Smith's car and waited for the SWAT officers to arrive with armored vehicles. SWAT officers arrived shortly thereafter, and that ended Deputy Yates' involvement.

STATEMENTS BY CIVILIAN WITNESSES²¹

On June 2, 2022, at approximately 7:42 p.m., **Witness #1** was interviewed by Detective Bryan Sprague of the San Bernardino County Sheriff's Department.

Witness #1 was employed by the County of San Bernardino Public Works Department. On June 2, 2022, at an unknown time, Witness #1 drove a county public works pickup truck²² east on West 5th Street about 25 feet behind his co-workers, Witness #2 and Witness #3, who drove another county work truck. They were all headed toward the county yard in San Bernardino. Witness #1 approached the intersection of North D Street. The light for eastbound traffic on 5th Street was green. Witness #1 estimated he and his co-workers were travelling at about 25 miles per hour as they approached the intersection.

Witness #1 heard sirens and looked to see from where the sirens came. Witness #1 saw the suspect vehicle, which he described as a "black flash," drive northbound on North D Street toward West 5th Street in the middle of the road, between the north and southbound lanes. Witness #1 saw Colton Police Department vehicles were in pursuit of the suspect (later identified as Smith). Witness #1 heard a loud bang and saw Smith's car collide with Witness #2 and Witness #3's truck near the middle of the intersection. Witness #1 saw his co-workers' truck flip over before coming to a stop against a wall along the north curb line of West 5th Street. The police vehicles stopped abruptly in the intersection. The officers quickly got out of their vehicles and pointed their firearms at Smith's vehicle. Witness #1 could not recall the number of officers but said there were "a lot."

Witness #1 stopped his truck in the roadway on 5th Street, west of North D Street. Witness #1 activated his truck's overhead lights and stood at the southwest corner of the intersection. Witness #1 called his supervisor and reported the collision. Witness #1 heard officers yelling at Smith but could not understand what they said because he was focused on checking on his co-workers, Witness #2 and Witness #3. Witness #2 exited the truck and walked south toward Witness #1. Witness #2 was limping and Witness #1 believed he was injured. Witness #1 heard Witness #2 tell an unknown officer that Witness #3 was still inside the county truck. Witness #2 then approached Witness #1 and told him Witness #3 was "out of it" and was still inside the truck.

²¹ All reports of civilian statements made were reviewed, though not all are summarized here.

²² The truck was a white Ford-F350.

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Witness #1 was at the southwest corner of 5th and D Street when he told a deputy that his co-worker was inside the truck. The deputy told him they would take care of it. Witness #1 turned around and looked at the crashed vehicles. Witness #1 saw Witness #3 standing outside the work truck. Witness #3 appeared disoriented. Witness #1 yelled at Witness #3 and asked him if he was okay. At that moment, Witness #1 saw a rifle protrude outward from the passenger window of Smith's car. Witness #1 yelled at Witness #3 to get down. Witness #1 ran around the back of a truck parked in the parking lot of Jack in the Box and ducked down to avoid being shot. Witness #1 did not see gunshots fired from Smith's rifle before he ducked down. Witness #1 heard multiple officers yell unknown commands, followed by multiple gunshots fired in rapid succession. Witness #1 estimated he heard 50 gunshots, lasting about three to four seconds. Witness #1 did not see what had occurred and was worried about Witness #3's safety.

When the gunfire ended, Witness #1 ran to the east side of the Jack in the Box building, where he saw Witness #3. Witness #1 talked to Witness #3 who was disoriented. Witness #3 complained about back pain and was transported to an unknown hospital.²³ Witness #1 spoke with his supervisor, who arrived shortly thereafter. Witness #1 looked over at the scene and saw several armored rescue vehicles had arrived. The armored rescue vehicles were not there during the shooting.

INCIDENT AUDIO AND VIDEO²⁴

Deputy Michael Andrade's Belt-Recording

00:00-00:45 Deputy Andrade and an unknown male had a discussion regarding a report by a witness that a baby was possibly in the suspect's car. An unknown male voice mentioned there was a county employee in the truck. The sound of the helicopter rotor was heard in the background, making it difficult to hear the conversation.

01:01-01:42 Unknown male voices discussed their plan to use the BearCat to extricate the male from the county truck when the BearCat arrived. A siren was heard in the background.

02:29 An unknown male voice yelled, "He's got a gun! He's got a rifle! He's got a rifle!" Additional unknown male voices were heard in the background at the same time, but the words were unintelligible.

²³ Witness #3 received significant injuries, including fractures, during the collision and was subsequently hospitalized.

²⁴ Multiple audio and video recordings were submitted for review. All audio and video recordings were reviewed in their entirety, though not all are summarized here. The summaries are limited to the relevant portions of the audio and video recordings that captured the events immediately before, during, and immediately after the officer involved shooting.

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02:38 An unknown male yelled, "Don't do it! Put the gun down! Get out of the car! Put the gun down!" Additional shouts were heard in the background, but the words were not discernable.

02:45-02:56 The sound of gunfire from multiple guns was heard. There were two brief pauses in the gunfire before all sounds of gunfire ceased.

03:01 Deputy Yates broadcasted, "15 22, shots fired." Dispatch copied Deputy Yate's broadcast.

Officer Gonzalez's Body-Worn Camera Video

Officer Gonzalez activated his body-worn camera when the pursuit began. During the pursuit, police sirens, the radio broadcasts from dispatch, 40-King-3, and other officers were audible. The camera view consisted primarily of the interior of Officer Gonzalez's patrol unit. Through the windshield, street signs could be seen, but Smith's vehicle was never in camera view during the pursuit due to the angle of the camera.

21:55 40-King-3 broadcasted, "Watch cross traffic, just T.C'd,²⁵ just T.C'd." When 40-King-3 broadcasted the collision, Officer Gonzalez, evidently stunned, uttered the word, "Oh!"

22:04 Officer Gonzalez stopped his patrol unit in the intersection, quickly exited and stood at the apex of his patrol unit's open driver's door and the unit. Officer Gonzalez pointed his handgun at Smith's car. The camera view of Smith's car was blocked by the patrol unit's side rear view mirror. Additional patrol units arrived with their lights and sirens activated and stopped in the intersection.

22:08 Multiple officers yelled, "Move, move," "Get out of the way!" "He's armed!"

22:52 Over the PA, Corporal Wickman began giving commands to Smith, telling him to "Step out of the vehicle with your hands up." Corporal Wickman repeated the commands over the PA, saying, "Driver, step out of the vehicle with your hands up."

23:08 In the distance, Officer Alvarez yelled to Smith, "Come out of the vehicle with your hands up. We don't want to hurt you, bud. Come out with your hands up."

23:20 Officer Alvarez yelled, "Come out with your hands up."

23:49 Corporal Wickman ordered Smith over the PA, "Driver, step out of the car with your hands in the air." Multiple civilians walked nearby and stopped to watch the scene unfold.

²⁵ Traffic collision.

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24:42 Unseen officers began saying they saw Smith moving inside the car. Due to the distance, it was difficult to discern exactly what the officers said. (However, upon review of Officer Alvarez's body-worn camera, Officer Alvarez was heard saying, "He's moving, he's moving!" Officer Alvarez then radioed, "He's moving, he's moving, he's grabbing something in the back seat." Simultaneously, multiple officers yelled, "Hey!" "Got movement!" and "He's moving!" Officer Alvarez yelled, "Hey, he's grabbing, he's reaching." Officer Alvarez's body-worn camera video showed Officer Alvarez stepped backward and took cover at the rear of his patrol unit. Officer Alvarez's unit was parked several feet west of Officer Gonzalez's unit. Officer Alvarez told an unseen person, "Two robberies, two armed robberies. One in Grand Terrace, one in Colton.") Officer Gonzalez backed up and stood near the rear driver's side of his patrol unit, still pointing his handgun toward Smith's car.

25:21 Officer Gonzalez moved to the rear passenger side of his patrol unit and Corporal Wickman's K-9 unit came into camera view. Corporal Wickman's unit was parked beside and southeast of Officer Gonzalez's unit. Corporal Wickman's unit's overhead emergency lights were activated, and the driver's door was open. Corporal Wickman was not seen. The white county work truck was visible in the distance beside Smith's black Honda. The passenger side rear view mirror on Officer Gonzalez's unit blocked the camera view of Smith's car.

25:41 Unseen officers discussed that there was possibly a baby in the car.

25:45 An unseen officer asked if the SWAT team was coming to extricate the passenger from the truck. Another unseen officer replied that they were trying to get the ARV²⁶ there "now." The officers discussed having another team with an ARV also respond if they were closer to the scene.

26:23 Officer Gonzalez told Corporal Wickman, "There's a gun, sir" as Corporal Wickman came into camera view at the rear driver's side of his patrol unit. Corporal Wickman pointed his rifle at Smith's vehicle. Multiple officers yelled, "There's a rifle! There's a rifle!" (On Officer Alvarez's body-worn camera, Officer Alvarez yelled, "He has the gun! I saw the stock of the gun, dude!" Officer Alvarez then announced over his radio, "Hey, I think I saw the stock of the gun. I think he has it in his hands." Officer Alvarez yelled, "Drop the gun!")

26:32 Multiple unseen officers yelled, "Don't do it! Put the gun down!" "Put it on the floor!" "Put the gun down!"

26:38 The sound of gunfire from multiple guns was heard. Officer Gonzalez fired his handgun from the rear passenger side of his unit. Corporal Wickman fired his rifle toward Smith's car from the rear driver's side of his unit. No other officers were in camera view. During the shooting, there were two brief pauses in the gunfire.

²⁶ Armored Rescue Vehicle.

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26:54 All gunfire ceased. Multiple officers asked if anybody was hit and whether everyone was ok.

27:25 The passenger from the truck came into camera view as he emerged from the truck and walked into the street. Officers told him to run.

27:31 Unseen officers said, "He's still moving around inside the car." Another officer yelled that there was "still movement." Officer Gonzalez and Corporal Wickman held their positions at the rear of their units, pointing their guns toward Smith's car.

28:01 The first armored rescue vehicle (Rialto Police Department SWAT) arrived and parked against the rear of Smith's car. Several additional armored rescue vehicles arrived shortly thereafter.

40-King-3 VIDEO RECORDING²⁷

00:00-01:32 CPD officers and SBSB deputies remained by the marked CPD patrol vehicles. SBSB Tactical Flight Officer, Deputy Jacob Hernandez communicated from 40-King-3 over the radio with officers on the ground. Radio broadcasts from ground officers and surrounding air traffic broadcasts were also captured on the recording.

01:32 Officers on the ground broadcasted, "He's got a gun, he's got a gun in his hands."

01:42 Deputy Hernandez broadcasted to ground officers that the "passenger in the victim vehicle is still moving."

01:43 Smith pointed the barrel of the AR-15-style rifle out the front passenger window of the black Honda in a southwest direction toward CPD officers and SBSB deputies.

²⁷ Two video recordings from 40-King-3 were submitted for review. The video resolution was clear and contained audio. Investigators determined the date stamp was correct, but the time stamp was inaccurate based on computer aided dispatch. The first video was 18:50 minutes long and only recorded the pursuit. The second video was 4:46 minutes long and recorded the officer-involved shooting.

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01:44 to 01:46 Smith continued pointing the barrel of the rifle outside the front passenger window at CPD officers and SBSB deputies. Plumes of smoke from the officers' bullet strikes were observed as the officers shot toward Smith's car. Smith appeared to fire a round from the AR-15-style rifle toward the officers: a plume of smoke emerged from the barrel of Smith's rifle, consistent with gunpowder particles emitting from a fired weapon. When the shooting began, the camera angle zoomed in closer, focusing on Smith's car, and the CPD officers and SBSB deputies were lost from camera view. 40-King-3 hovered at approximately 1800 feet above the scene and no gunshots were heard on the recording. Due to the camera's distance, it was impossible to discern in the video which officers or deputies fired. Smith's rifle fell to the ground outside the front passenger door of his car. Deputy Hernandez broadcasted, "Shots fired."

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Enlarged image showing gases expelled from the rifle muzzle of Smith's weapon. Smith appeared to have fired one round.²⁸ Officers returned fire and Smith's rifle dropped onto the ground beside the front passenger door.

01:46 to 2:01 Plumes of smoke from the officers' bullet strikes were observed on Smith's car. Deputy Hernandez broadcasted, "Hold your fire guys, that passenger is getting out." A man with an orange shirt emerged from the front passenger door of the white county work truck as the officers stopped firing and no further bullet strikes were observed.

WEAPON

The AR-style rifle used by Smith was found on the ground outside the front passenger window of Smith's car. The rifle, with a "Sniper laser and light attachment" was unloaded, unbranded, and had no serial number. The barrel pointed to the southwest.

²⁸ Gunshot residue particles were not detected on Smith's hands during testing.

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DECEDENT

Mike Smith was pronounced deceased by San Bernardino County Fire Department Captain/Fontana Police Department Medical Technical Reserve Officer Ryan Starling at approximately 4:47 p.m.

AUTOPSY

Witness #4, Forensic Pathologist for the San Bernardino County Sheriff's Department Coroner Division, conducted the autopsy of Mike Smith on June 9, 2022. Witness #4 noted three gunshots and two gunshot fragment wounds. Witness #4 determined the cause of death was multiple gunshot wounds and that death occurred within minutes. Femoral blood, vitreous fluid, and urine were collected, and a basic drug panel was requested. The testing of the samples found no controlled substances.

CRIMINAL HISTORY

Mike Smith has a criminal history that includes the following convictions:

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2000, 529(a)(3) of the Penal Code, False Personation to Make Another Liable, 23152 (b) of the Vehicle Code, Driving Under the Influence of Alcohol, Riverside County case number RIM393966, misdemeanors.

2004, 23152(b) of the Vehicle Code, Driving Under the Influence of Alcohol, San Bernardino County case number TSB111422, a misdemeanor.

2005, 243(e)(1) of the Penal Code, Battery of Spouse/Cohabitant, San Bernardino County case number MVA047517, a misdemeanor.

2006, 23152(a) of the Vehicle Code, Driving Under the Influence of Alcohol or Drugs With Priors, San Bernardino County case number FSB057071, a felony.

2013, 273.5(a), of the Penal Code, Inflict Corporal Injury to Spouse/Cohabitant, San Bernardino County case number FSB1402934, a felony.

CRIMES UPON PEACE OFFICERS

Attempted Murder of a Peace Officer

California Penal Code section 664/187(a) (Summarized in pertinent part).

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.

Notwithstanding subdivision (a), if the elements of subdivision (e) are proven in an attempted murder and it is also charged and admitted

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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.

Assault With a Deadly Weapon

California Penal Code section 245(d) (Summarized in pertinent part).

- (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.

APPLICABLE LEGAL PRINCIPLES

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

An arrestee has a duty to refrain from using force or any weapon to resist arrest if he knows or should know that he is being arrested. (Penal Code §834a.) This duty remains

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

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

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

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

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

(Penal Code §835a(c)(1).)

Discharge of a firearm is "deadly force." (Penal Code §835a(e)(1).) The "[t]otality of the circumstances" means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force." (Penal Code §835a(e)(3).)

While the appearance of these principles is new to section 835a in 2020,³⁰ the courts have been defining the constitutional parameters of use of deadly force for many years. In 1985, the United States Supreme Court held that when a police officer has probable cause to believe that the suspect he is attempting to apprehend "has committed a crime involving the infliction or threatened infliction of serious physical harm" to the officer or others, using deadly force to prevent escape is not constitutionally unreasonable.

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

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(*Tennessee v. Garner* (1985) 471 U.S. 1, 11-12.) California courts have held that when a police officer's actions are reasonable under the Fourth Amendment of our national Constitution, the requirements of Penal Code § 196 are also satisfied. (*Martinez v. County of Los Angeles* (1996) 47 Cal.App.4th 334, 349; *Brown v. Grinder* (E.D. Cal., Jan. 22, 2019) 2019 WL 280296, at *25.) There is also a vast body of case law that has demonstrated *how* to undertake the analysis of what is a reasonable use of force under the totality of the circumstances. (See *Reasonableness* discussion, *infra*.) As such, our pre-2020 state case law, developed upon the former iteration of section 196, is still instructive.

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

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

- (1) that the use of force should be exercised judiciously and with respect for human rights and dignity; that every person has a right to be free from excessive uses of force;
- (2) that use of force should be used only when necessary to defend human life and peace officers shall use de-escalation techniques if it is reasonable, safe, and feasible to do so;
- (3) that use of force incidents should be evaluated thoroughly with consideration of gravity and consequence;³¹

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

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- (4) that the evaluation of use of force is based upon a totality of the circumstances, from the perspective of a reasonable officer in the same situation; and
- (5) that those with disabilities may be affected in their ability to understand and comply with peace officer commands and suffer a greater instance of fatal encounters with law enforcement, therefore.

(Penal Code §835a(a).)

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

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

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

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

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

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

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

(Penal Code §835a(e)(2).)

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

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

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

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

When deciding whether a person’s beliefs were reasonable, a jury is instructed to consider the circumstances as they were known to and appeared to the person and consider what a reasonable person in a similar situation with similar knowledge would have believed. (CALCRIM 505.) It was previously held that in the context of an officer-involved incident, this standard does not morph into a “reasonable police officer”

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standard. (*People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1147.)³² To be clear, the officer's conduct should be evaluated as "the conduct of a reasonable person functioning as a police officer in a stressful situation." (*Id.*)

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

Whether the suspect posed an immediate threat to the safety of the officer or others has been touted as the "most important" *Graham* factor. (*Mattos v. Agarano* (9th Cir. 2011) 661 F.3d 433, 441-442.) The threatened use of a gun or knife, for example, is the sort of immediate threat contemplated by the United States Supreme Court, that justifies an officer's use of deadly force. (*Reynolds v. County of San Diego* (9th Cir. 1994) 858 F.Supp. 1064, 1071-72. "An officer may reasonably use deadly force when he or she confronts an armed suspect in close proximity whose actions indicate an intent to attack.") Again, the specified factors of *Graham* were not meant to be exclusive; other factors are taken into consideration when "necessary to account for the totality of the circumstances in a given case." (*Mattos v. Agarano, supra*, 661 F.3d at 441-442.) The use of force policies and training of an involved officer's agency *may* also be considered as a factor to determine whether the officer acted reasonably. (Sen. Bill No. 230 (2019-2020 Reg. Sess.) §1. See fn. 3, *infra*.)

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

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

(*Martinez v. County of Los Angeles, supra*, 47 Cal.App.4th at 343, citing *Smith v. Freland* (6th Cir. 1992) 954 F.2d 343, 347.) Specifically, when a police officer reasonably believes a suspect may be armed or arming himself, it does not change the analysis, even if

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

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subsequent investigation reveals the suspect was unarmed. (*Baldrige v. City of Santa Rosa* (9th Cir. 1999) 1999 U.S. Dist. LEXIS 1414 *1, 27-28.)

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

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

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

ANALYSIS

When assessing whether an officer's use of lethal force was justified, it is essential to analyze the facts and circumstances that led to that decision. In this case, the officers were aware that Smith had reportedly committed a robbery at the Chase Bank while armed with an AR-style rifle. Police dispatch radio transmissions informed the officers that Smith, armed with an assault rifle, had entered the bank and forced two bank employees into the vault. As the officers arrived at the Chase Bank, two separate witnesses directed Officer Gonzalez's attention to Smith just as Smith drove out of the bank parking lot. One of the witnesses told Officer Gonzalez that Smith had a gun and was the individual who had just committed the armed bank robbery. Officer Gonzalez initiated a traffic stop, but Smith fled, leading the officers on a lengthy, high-speed pursuit that posed significant danger to the public and the pursuing officers.

Throughout the pursuit and up until the very end, the officers made several attempts to de-escalate the situation. However, despite the officers' best efforts, Smith escalated matters at every opportunity. During the car chase, Smith slammed on his brakes repeatedly, attempting to force multiple patrol units to crash into his car. This tactic effectively disabled Officer Martinez's patrol unit. Because of Smith's dangerous driving, the officers backed off several times, hoping he would slow down. However, even when the officers created distance, Smith continued to drive with complete disregard for the safety of other motorists as well as the pursuing officers. Given that Smith was suspected of having committed an armed robbery and was believed to be armed with an assault

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rifle, he posed a significant threat to the public. As a result, the officers could not safely terminate the pursuit.

Smith's actions during the pursuit also clearly demonstrated his aggression toward the officers. Not only did he attempt to force the pursuing officers to crash into his vehicle, but he deliberately crashed into Corporal Randolph's unit and tried to run over two deputies on the street. These actions made it evident to the officers that Smith was willing to do anything, including injuring or killing the officers and innocent civilians, to evade capture.

After the collision, Smith refused to comply with several commands to exit the car with his hands in the air. Recognizing the possibility that Smith may have been injured in the crash, the officers exercised patience and provided him with ample time to follow their orders. Because Smith was reportedly armed with an assault rifle; the officers took cover either behind their patrol units or their patrol unit's open doors and pointed their firearms at Smith's vehicle. Smith's car was situated dangerously close to the county work truck, which contained a passenger who was injured and unable to escape to safety. A witness at the scene urgently shouted that there was "a baby in the car." Although the witness did not specify which vehicle contained the baby, the officers were reasonably concerned by the potential presence of a baby in Smith's car.

Considering these critical circumstances, Sergeant Hanna called for the SWAT team to respond with an armored rescue vehicle. The collective goal of the officers was to use the armored rescue vehicle to evacuate the injured passenger from the truck while simultaneously striving to secure Smith's compliance. Their aim was to effectuate Smith's arrest safely and without harm to anyone involved, particularly the vulnerable infant who was potentially inside Smith's car. Confident they had time to manage the situation, the officers remained positioned behind their patrol units and urged Smith to exit the vehicle with his hands in the air. The officers resolved to wait for the SWAT team to arrive, ensuring that none of the officers approached Smith's vehicle. The officers prioritized the safety of all individuals involved. As the officers waited, multiple civilian witnesses gathered around the scene, including several who stood outside the businesses on the south side of 5th street, behind the officers.

Because the side curtain airbags deployed on the driver's side of Smith's car during the collision, the officers were unable to see inside his vehicle through those windows. Smith likely could not see the officers either through his driver's side windows. However, the officers were able to observe Smith through the rear window and the passenger side windows of his vehicle. Although the windows were tinted, which made it challenging for the officers to see clearly inside, they could still make out Smith's silhouette as he moved around within the car.

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Use of Force by Sergeant Hanna, Corporal Randolph,
Deputy Yates and Corporal Wickman

While the officers waited for the SWAT team to arrive with the armored vehicle, Smith armed himself with the rifle, leaned over the center console to roll down the front passenger-side window, and pointed the rifle out of the window at the officers who were positioned around Corporal Wickman's patrol unit. Sergeant Hanna, Corporal Randolph, Deputy Yates, and Corporal Wickman were those officers. Sergeant Hanna, Corporal Randolph, and Deputy Yates were behind the open front passenger door of Corporal Wickman's patrol unit. Corporal Wickman stood at the back of his patrol unit on the driver's side. Corporal Wickman's unit was approximately 25 to 30 yards west-southwest of Smith's car.

According to Sergeant Hanna, Smith did not immediately point the rifle at the officers and initially pointed the barrel of the gun off to the side and up in the air as if he was "just kind of presenting it." Corporal Randolph saw Smith's rifle before Sergeant Hanna when Smith moved the gun from the back seat to the front seat of his car. Corporal Randolph yelled commands at Smith to drop the gun before Smith rolled his front passenger window down. Deputy Yates saw Smith's rifle after Smith had rolled down the window. Deputy Yates watched Smith pick up the gun from the stock and pull it straight up with the barrel pointing down. When Deputy Yates saw the rifle stock "come up," he yelled, "Hey, he's got a rifle! He's got a rifle! He's got a gun!" Deputy Yates yelled at Smith to "Drop the gun!" and yelled, "Don't do it!" several times. Sergeant Hanna, Corporal Randolph, and Deputy Yates heard Smith screaming at them but could not discern what Smith said. However, Sergeant Hanna, Corporal Randolph, and Deputy Yates gathered from Smith's expression that Smith was "angry," "agitated," and "amped up and ready to go."

Sergeant Hanna, Corporal Randolph, and Deputy Yates were crowded together in a small space behind the open front passenger door of Corporal Wickman's patrol unit. The door did not have ballistic panels, and the officers knew that a rifle round would easily pass through the door. When Smith pointed the rifle out of the window, and before he pointed the gun at the officers, Corporal Randolph and Deputy Yates yelled multiple commands at Smith to drop the gun. Corporal Wickman heard his partners yelling commands at Smith to drop the gun and saw Smith roll down his front passenger window. Corporal Wickman saw Smith "starting to present" the rifle out the passenger window. According to Corporal Wickman, Smith initially pointed his rifle eastward.

Several seconds elapsed as the officers repeatedly yelled at Smith to drop the gun. Sergeant Hanna saw Smith lean back slightly and watched the barrel of Smith's rifle "spin around," and point toward him and his partners. Corporal Randolph saw Smith "trying to negotiate" the rifle as if he did not have a "full hold on it," and then saw Smith point the rifle at him and his partners. Deputy Yates saw Smith put "his hand into the grip" and position the rifle "up into his shoulder," in an "offensive shooting position." Deputy Yates observed Smith shift let, twist his body, and point the rifle out the open front passenger

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window at him and the officers beside him. Deputy Yates observed a muzzle flash and heard a shot fired when Smith discharged the rifle at the officers. Corporal Wickman saw Smith put the rifle "against his shoulder," and begin to turn the rifle in a southbound direction and back toward the officers. Corporal Wickman saw Smith "lean" his body out of the vehicle to shoot at the officers.

The video from 40-King-3 captured the shooting incident, showing that that Smith aimed the rifle directly at Sergeant Hanna, Corporal Randolph, Deputy Yates, and Corporal Wickman. At that moment, the officers genuinely and reasonably feared for their own lives, the lives of their partners, and the safety of nearby civilians. To protect themselves and the civilians in the vicinity, Sergeant Hanna, Corporal Randolph, Deputy Yates, and Corporal Wickman fired their weapons at Smith to neutralize the threat he posed.

Sergeant Hanna fired between six to ten rounds at Smith before stopping and crouching down behind the door of his patrol unit to reassess the situation. While crouched, Sergeant Hanna saw two bullet holes suddenly appear in the rear passenger-side window of Smith's car. Sergeant Hanna believed these bullet holes were caused by Smith shooting at the officers. Given the circumstances, Sergeant Hanna's belief was objectively reasonable. Sergeant Hanna reasonably and honestly believed that Smith was wildly shooting at the officers from inside his car. Sergeant Hanna fired six more rounds in rapid succession and aimed for the area between the driver's seat and the passenger seat where he believed Smith was secreted.

Corporal Randolph fired one shot from his rifle at Smith. Corporal Randolph noticed that bullets were hitting the windows of Smith's vehicle, and like Sergeant Hanna, Corporal Randolph also could not determine whether the shots were coming from Smith's gunfire or the officers firing at Smith. When Corporal Randolph felt the hot muzzle flash near his ear, he reasonably believed he had been shot by Smith, who had just pointed a rifle at him and his partners. Corporal Randolph did not know the hot sensation had been caused by Sergeant Hanna's rifle muzzle. Corporal Randolph honestly believed Smith had shot him. As Corporal Randolph's ears rang, he crouched down to check himself for bullet wounds. An unknown deputy then pushed him back up. With gunfire continuing around him, Corporal Randolph's belief that Smith was still shooting at the officers was both honest and objectively reasonable. Believing his life and the lives of his partners were still in imminent danger, Corporal Randolph fired one more round at Smith's vehicle.

Deputy Yates fired 14 rounds in quick succession from his handgun, targeting Smith's upper thoracic area. This emptied Deputy Yates' weapon. Deputy Yates then crouched down behind the patrol unit door and reloaded his gun. Since the gunfire was still ongoing, Deputy Yates believed that Smith was actively shooting at the officers. When Deputy Yates stood back up, he saw two bullet strikes to the A pillar of the patrol unit, which was very close to his head. Given the continued gunfire, Deputy Yates honestly and reasonably believed that these bullet strikes were coming from Smith's rifle. Convinced

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that he and his partners were still in imminent danger, Deputy Yates fired three to four more rounds at Smith, aiming at the location where he had last seen him.

Use of Force by Officer Gonzalez

Officer Gonzalez's patrol unit was parked beside and several feet northeast of Corporal Randolph's unit. Officer Gonzalez was standing behind his unit's open driver's door, pointing his handgun at Smith's car, when he saw Smith lean into the backseat. Officer Gonzalez believed that Smith was reaching for his assault rifle. Officer Gonzalez was directly behind Smith's car and feared Smith would shoot at officers through the rear window of his car. Because of this, Officer Gonzalez retreated to the rear driver's side of his patrol unit. Officer Gonzalez's view into Smith's car was obscured, and his partner, Officer Alvarez, told him to move to the rear passenger side of his unit.

After Officer Gonzalez moved to the rear passenger side of his unit, he had a clear, unobstructed view into Smith's car through its rear window. Officer Gonzalez saw Smith "jump" over the center console of his car toward the passenger side and then quickly and briefly stick his head out of the front passenger window. Officer Gonzalez then saw Smith extend the barrel of a rifle out of the same window. Officer Gonzalez heard several of his partners yell, "Drop the gun! Drop the gun!" Smith shouted something at the officers, but Officer Gonzalez could not understand what Smith said.

Next, Officer Gonzalez witnessed Smith point the rifle toward Sergeant Hanna, Corporal Randolph, and Corporal Wickman. As Smith aimed the rifle at his partners, Officer Gonzalez saw him "leveling" the gun, "ready to take a shot." Fearing that Smith was about to shoot his partners, Officer Gonzalez believed the officers were in imminent danger. In addition to the fear for his partners' lives, Officer Gonzalez was also afraid for his own life, knowing that Smith could quickly aim the rifle at him as well. Officer Gonzalez's belief was honest and objectively reasonable.

Amid the chaos, Officer Gonzalez heard gunfire that seemed to be "coming from all directions." Fearing for his life and the lives of his partners, Officer Gonzalez fired two rounds in rapid succession at Smith through the back window of Smith's car. Officer Gonzalez stopped shooting when he could no longer see into the vehicle due to the debris flying around as his partners returned fire at Smith.

Use of Force by Officer Elisarraraz

Officer Elisarraraz was located approximately 100 feet behind and to the east of Smith's car. Officer Elisarraraz stood behind his unit's open driver's door, pointing his handgun at Smith's car. Officer Elisarraraz was able to observe Smith's silhouette through the rear window. Officer Elisarraraz heard Corporal Wickman giving Smith commands over the PA system to come out of his car with his hands up. The commands were given multiple

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times over the course of several minutes, but Smith failed to comply. Officer Elisarraraz transitioned from his handgun to his rifle.

Officer Elisarraraz saw Smith moving in the back seat of the car, "making fast, rapid movements." This concerned Officer Elisarraraz because the movements were abnormal. Officer Elisarraraz saw Smith "manipulating something," and believed Smith "was getting his weapon ready and possibly taking aim" at the officers. Though Officer Elisarraraz did not see Smith's rifle, he reasonably believed Smith had a rifle based on the reports from eyewitnesses at the Chase Bank robbery.

Officer Elisarraraz's nearest partner, Officer Alvarez, was located southeast of Smith's car and had a more direct view of Smith through the back window of Smith's car. Officer Alvarez yelled, "He has the gun! I saw the stock of the gun, dude!" As soon as Officer Elisarraraz heard Officer Alvarez yell that he saw the stock of Smith's rifle, Officer Elisarraraz believed that Smith was going to shoot at the officers. Officer Elisarraraz's belief was reasonable. During the pursuit, Officer Elisarraraz saw Smith's aggression toward multiple officers, including himself, when Smith slammed on his brakes, and tried to force the officers to crash. Officer Elisarraraz also saw Smith nearly crash into the deputy who was on foot deploying the spike strips. To Officer Elisarraraz, this was a further escalation of Smith's violence toward the officers.

Additionally, despite multiple loud and clear commands over the PA system for Smith to get out of his car with his hands up, Smith refused to comply. Officer Elisarraraz saw Smith furtively move inside the vehicle, so he knew Smith's failure to comply with the officers' commands was intentional and not simply because he was injured in the collision. Based on all these factors, it was reasonable for Officer Elisarraraz to believe that Smith had armed himself with the rifle and was preparing to shoot at the officers.

In addition to warning Officer Gonzalez that Smith had the rifle, Officer Alvarez also radioed to the officers on scene, "Hey, I think I saw the stock of the gun. I think he has it in his hands." Officer Alvarez yelled at Smith to drop the gun. Simultaneously, Corporal Randolph and Deputy Yates, who also saw that Smith had a rifle, yelled at Smith, "Don't do it! Put the gun down! Put it on the floor! Put the gun down!" Officer Elisarraraz was unable to see Smith's rifle but based on the statement from Officer Alvarez that Smith had the rifle, Officer Elisarraraz reasonably believed he did. Further confirmation that Smith had armed himself with the rifle came from the shouts of multiple officers who ordered Smith to drop the gun.

Officer Elisarraraz then heard four gunshots, which sounded like they originated from Smith's car. Although Smith's rifle was later found to have no ammunition and no magazine, if a bullet had been chambered, Smith could have fired that bullet. Video footage from 40-King-3 showed gases were expelled from the muzzle of Smith's rifle, which indicates that he likely fired one round at the officers. Almost simultaneously, the officers returned fire at Smith.

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Given what Officer Elisarraraz saw and heard, it was reasonable for him to believe that Smith was shooting at the officers. Fearing for his life and the lives of his partners, Officer Elisarraraz fired his rifle in rapid succession and aimed at Smith through the rear window of Smith's car. Officer Elisarraraz's initial shots passed through his unit's windshield. As Officer Elisarraraz moved to his left, he saw Smith continue to move in the back seat of his car and heard continued gunfire. Believing Smith was still engaged in a gun battle with the officers, Officer Elisarraraz continued to fire and discharged three to five more rounds at Smith through the rear driver's side passenger window. When he observed that Smith was no longer moving, Officer Elisarraraz ceased fire.

When Smith pointed the rifle out of the window at officers, Sergeant Hanna, Corporal Randolph, Deputy Yates, Corporal Wickman, Officer Gonzalez, and Officer Elisarraraz recognized an immediate and grave threat to their lives and the lives of nearby civilians. Each officer held an honest and objectively reasonable belief that lives were in danger. Video camera footage captured the moment several officers were forced to duck for cover, unable to fire back at Smith due to their vulnerable positions behind their fellow law enforcement partners. The danger posed by Smith was clear and imminent. Consequently, Sergeant Hanna, Corporal Randolph, Deputy Yates, Corporal Wickman, Officer Gonzalez, and Officer Elisarraraz were compelled to take swift and decisive action to safeguard themselves, their colleagues, and innocent civilians in the vicinity.

CONCLUSION

Based on the facts presented in the reports and the applicable law, Officer Ismael Gonzalez's use of deadly force was a proper exercise of his 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, Sergeant Jason Hanna's use of deadly force was a proper exercise of his 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, Corporal Eric Wickman's use of deadly force was a proper exercise of his 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, Corporal Rich Randolph's use of deadly force was a proper exercise of his right of self-defense and defense of others, and therefore, his actions were legally justified.

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

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

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