



C A L I F O R N I A

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# DEPARTMENT OF JUSTICE

## Report on the Investigation into the Death of Travis Shane Tarrants on April 7, 2022

San Bernardino County AB 1506

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June 2024

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# INVESTIGATION OF OFFICER INVOLVED SHOOTING

## BACKGROUND—AB 1506

Pursuant to California Assembly Bill 1506 (AB 1506), the California Department of Justice is required to investigate all incidents of an officer-involved shooting resulting in the death of an unarmed civilian in the state. Historically, these critical incidents in California had been primarily handled by local law enforcement agencies and the state's 58 district attorneys.

AB 1506, signed into law on September 30, 2020 and effective July 1, 2021, provides the California Department of Justice (DOJ) with an important tool to directly help build and maintain trust between law enforcement and the communities they serve by creating a mandate for an independent, statewide prosecutor to investigate and review officer-involved shootings of unarmed civilians across California. The DOJ investigates and reviews, for potential criminal liability, all such incidents covered under AB 1506, as enacted in California Government Code section 12525.3. Where criminal charges are not appropriate, the DOJ is required to prepare and make public a written report, like this one, communicating:

- A statement of facts, as revealed by the investigation;
- An analysis of those facts in light of applicable law;
- An explanation of why it was determined that criminal charges were not appropriate; and
- Where applicable, recommendations to modify the policies and practices of the involved law enforcement agency.

Recommendations to modify policies and practices of the involved law enforcement agency will be based on the facts of the incident, any known policies and practices of the relevant law enforcement agency, and the experience and expertise developed by DOJ personnel.

## PRIVACY STATEMENT

This report includes redactions of the names and other identifying information of witnesses and any family members of the decedent. The public interest in such information is limited, as it is not necessary to gain an understanding of the incident. Thus, the interest in nondisclosure clearly outweighs any public interest in disclosure.

## INTRODUCTION

On April 7, 2022, at 1:28 PM, the Fontana Police Department (“FPD”), received numerous 911 reports of an armed robbery at the Bank of America located on Summit Avenue in the City of Fontana. The decedent, later identified as Mr. Travis Tarrants, left the Bank of America on foot towards a Wendy’s restaurant located nearby. FPD officers confronted Mr. Tarrants as he exited the south door of the Wendy’s and ran towards a nearby cinderblock garbage enclosure. Mr. Tarrants hid within the dumpster enclosure and FPD officers established a perimeter around the enclosure. Shortly thereafter, Mr. Tarrants emerged from the enclosure pointing what was later determined to be an airsoft gun at the officers positioned on the hill above him. FPD Officers Sein, DeLeon, Gossert, Doakes, and Nassar fired and Mr. Tarrants was shot and killed. The California Department of Justice (DOJ) investigated and reviewed the Officer-Involved Shooting (“OIS”) pursuant to Government Code section 12525.3 (enacted by Assembly Bill 1506 (2019-2020 Reg. Sess.)). This report is the final step in the DOJ’s review of the fatal OIS involving Mr. Tarrants, and is limited solely to determining whether criminal charges should be brought against the involved officers, and possible policy and practice recommendations. The review does not encompass or comment on any potential administrative or civil actions. It does, however, include policy and practice recommendations, as required by Government Code section 12525.3, subdivision (b)(2)(B)(iii).

***CAUTION: The images and information contained in this report may be graphic and disturbing. Therefore, discretion is advised, especially for young children and sensitive individuals.***

## SUMMARY OF INCIDENT

On April 7, 2022, at approximately 1:28 PM, the California Highway Patrol (“CHP”) Inland Division and Fontana Police Department (“FPD”) Dispatch center, received several 911 calls that a man was robbing a Bank of America located at 15092 Summit Avenue in the City of Fontana. Witnesses told FPD dispatch that the suspect, later identified as Mr. Travis Shane Tarrants, fled the Bank of America on foot through the shopping center’s off-street parking lot towards a dumpster located northwest of the Wendy’s restaurant located at 15110 Summit Avenue, Fontana. Bank of America Corporate Security also called FPD and corroborated several of the 911 calls.

At approximately 1:32 PM, FPD officers arrived at the Bank of America and confirmed a robbery had occurred. After speaking with witnesses at Bank of America, FPD broadcast Mr. Tarrants’ physical and clothing description, direction of travel, and indicated that Mr. Tarrants used a pistol during the commission of the robbery. The dispatch log stated:

“RP from the bank. Susps ran out, WM, Approx pull over blk mask with eyes showing only, GRY long Sleeve plain Tshirt, Blue jeans” and “Gun was BLK in color and was bigger than his hand. Was inside grocery bag.”

Dispatch disseminated information over the FPD radio as it came in from different reporting parties. The first broadcast stated, “male with a gun in the rear of the Wendy’s. 15110 Summit. RP saying he tried to rob the bank.” Immediately following, there was an additional broadcast that stated, “We are getting multiple calls that he’s inside the Bank of America.” Shortly after that, they broadcast, “RP is advising he is inside the Wendy’s.” Based on the calls, it was unclear where Mr. Tarrant was when officers first responded to the scene.



Figure 1 – Bank of America Surveillance Video showing Mr. Tarrant (wearing grey shirt) approaching bank counter and customers leaving the bank

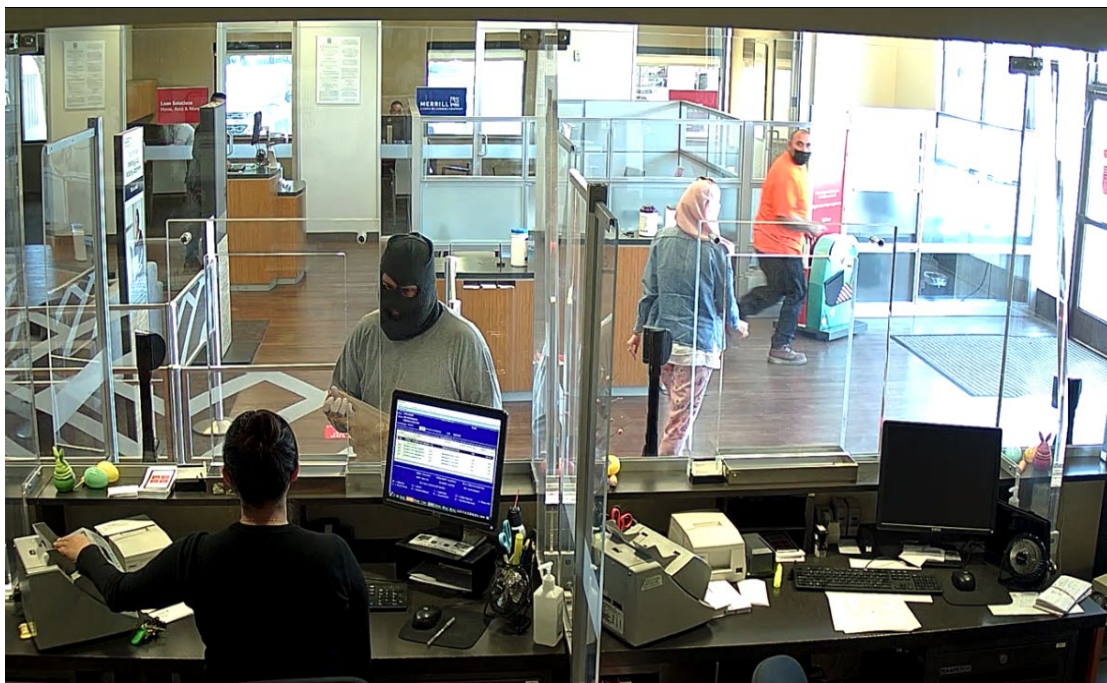


Figure 2 – Bank of America Surveillance Video showing Mr. Tarrant brandishing a firearm seconds after entering the bank



At 1:41 PM, FPD officers established a perimeter around the Wendy's restaurant. FPD Officers observed Mr. Tarrant's exit the south side of the Wendy's. FPD Officers Sein and DeLeon verbally ordered Mr. Tarrant's to surrender, and he immediately reentered the Wendy's restaurant.

FPD officers transmitted Mr. Tarrant's' updated description and location via radio communications to other law enforcement personnel on the scene. At 1:42 PM, Mr. Tarrant's again exited the Wendy's and ran northbound into a cinder block trash dumpster enclosure located outside the Wendy's. Officers Sein and DeLeon chased after Mr. Tarrant's and gave verbal commands to surrender. Officer Sein and DeLeon established a position east of the cinder block trash dumpster enclosure utilizing a commercial electrical enclosure as cover.



Figure 3 – Image from Officer Sein's BWC – Officer Sein positioned behind electric box

FPD Officers Gossert, Doakes, Nassar, and Sergeant Lally, arrived and took an elevated position north of the cinder block dumpster enclosure with an intermittent view of Mr. Tarrant's.



Figure 4 – Image from Officer Gossert's BWC – Officer Gossert's view from elevated position above the dumpster

FPD officers continued shouting commands for Mr. Tarrant to surrender. Officers yelled “let me see your hands” and “stop, don’t do it.” Officer Doakes verbally informed the other officers that he saw Mr. Tarrant was armed with a handgun and that Mr. Tarrant had concealed it in his right front shorts pocket.

Officer Nassar yelled to Mr. Tarrant, “it’s not worth it, dude. Let me see your hands.” At 1:43 PM, Mr. Tarrant suddenly emerged from the east side of the enclosed cinder block dumpster area in a two-handed shooting stance. Just before officers began to fire, Officer Gossert yelled, “he’s got a gun.” Mr. Tarrant pointed a gun at an upward angle towards Officers Doakes, Nassar, and Sergeant Lally. Officers Gossert, Nassar, Sein, DeLeon, and Doakes, simultaneously fired, striking Mr. Tarrant multiple times.



Figure 5 – Image from Officer Sein’s BWC – Mr. Tarrant exiting trash enclosure

Mr. Tarrant fell to the ground and landed on his back facing upwards. FPD Officer Nassar initiated lifesaving efforts while requesting advanced medical assistance to respond to the scene.

Paramedics were dispatched and arrived on scene at 1:52 PM. On arrival, paramedics observed officers providing “high-quality CPR.” Based on paramedic observations of Mr. Tarrant, paramedics concluded that any further treatment would be futile. At approximately 1:53 PM, San Bernardino County Fire Department Medical Squad paramedics declared Mr. Tarrant deceased at the scene.

The handgun that Mr. Tarrant used to commit the robbery at the Bank of America and subsequently pointed at the officers was later identified as an airsoft gun modeled after a large frame Beretta M92 FS semiautomatic pistol.

## INVESTIGATION

On April 7, 2022 (the day of the incident), at approximately 4:00 PM, the DOJ Division of Law enforcement (“DLE”) California Police Shooting Investigation Team (“CaPSIT”) was alerted that an OIS occurred in Fontana, California. The incident involved FPD and was determined to be a qualifying event within Government Code section 12525.3. (For more information on the DOJ’s practices and procedures, see <https://oag.ca.gov/ois-incidents>.)

CaPSIT agents responded to the scene to initiate a criminal investigation on behalf of the DOJ. A Deputy Attorney General (“DAG”) from the Attorney General’s Special Prosecutions Section also responded. An initial walkthrough of the scene was not conducted because of San Bernardino Sheriff’s Department’s (“SBSD”) concern of crime scene contamination. What appeared to be a large frame semiautomatic pistol, black in color, was visible near Mr. Tarrants’ body. Investigators at the scene were not readily able to verify whether the pistol Mr. Tarrants pointed at officers was an actual functioning firearm. It was not until approximately 10:20 PM that investigators were able to determine that the firearm was an airsoft gun.

Members of the CaPSIT team also responded to the Fontana Police Department. There, they observed the officer processing conducted by the San Bernardino Sheriff’s Office. Sergeant Lally from FPD identified Officers Sein, Doakes, Gossert, DeLeon, and Nassar as the officers involved in the shooting. Sergeant Lally and Officer Mudder were witnesses to the shooting.

The day of the incident, the shooting officers declined to provide a statement. However, all of the shooting officers provided statements on April 26 and 27, 2022.

## Evidence Review

The following evidence was reviewed:

- The incident scene, an off-street parking lot located at the 15000 block of Summit Avenue, in the City of Fontana. Specifically, northwest of Wendy’s restaurant, located at 15110, by the entrance to a cinder block dumpster enclosure
- Dispatch records and logs of the incident
- 911 audio recordings
- Fontana Police Department Police Reports
- Body worn camera footage from the officers involved in the incident and the witness officers
- Bank of America Video Surveillance
- Drone Footage
- Voluntary statements from shooting Officers Sein, Doakes, Gossert, DeLeon, and Nassar
- Voluntary statements from involved non-shooting Officer Mudder and Sergeant Lally
- Interviews of all civilian witnesses associated with this incident
- San Bernardino Sheriff Department Coroner’s Division Report
- SBSB Crime Scene Photos
- SBSB Scene Report and Evidence Recovery
- SBSB Weapon Processing Report



## Crime Scene Description

The OIS occurred in the off-street parking lot located at the 15000 block of Summit Avenue, in the City of Fontana. Specifically, northwest of Wendy's restaurant, located at 15110 Summit Avenue, by the entrance to a cinder block dumpster enclosure.



Figure 6 – Aerial view of OIS incident area



Figure 7 – Drone footage still photo of the Wendy's near the OIS location. Arrow indicating Mr. Tarrant's path of travel from Wendy's to the cinderblock trash enclosure

## Crime Scene Recovery

On April 7, 2022, Detectives Carpenter and Sims, and Crime Scene Specialist (“CSS”) Radeleff and Benike conducted a crime scene investigation at the Wendy’s restaurant. Radeleff and Benike assisted by taking overall, mid-range, and close-up photographs of the scene and evidence. Evidence found within the crime scene was labeled using photographic identification placards, photographed in place, and measured before it was collected as evidence.

Investigators marked and recovered the following items: four .40 caliber fired cartridge casing with head stamp "40 S&W WIN"; sixteen .223 caliber fired cartridge casings with head stamp "LC 223 REM"; five bullet fragments; black sweatpants; and one black airsoft replica semi-automatic handgun.

Placard #25 documented a white dumpster with black lids, located in the Wendy's restaurant northwest parking lot. Block walls enclosed the dumpster, and it had metal doors that faced south. The block wall had an additional opening on the northeast corner. Inside of the white dumpster were seventy-nine (79), \$100 dollar bills, in U.S. currency, totaling \$7,900.00. The bills lay on top of cardboard boxes that were inside of the dumpster.



Figure 8 – Photograph of U.S. currency found in dumpster



Placard #21 documented the black airsoft replica semi-automatic handgun, with no orange tip. The airsoft gun had an empty magazine inserted into the bottom of the gun magazine well. An airsoft gun is a low-power smoothbore air gun designed to shoot non-metallic spherical projectiles.



Figure 9 – photograph of Airsoft Gun

## **Firearm and Ballistics Evidence**

### ***Firearm***

SBSD Detective Carpenter collected the three rifles used by officers DeLeon, Gossert, and Sein and placed them in the back of an FPD patrol vehicle. CSS Radeleff, Benike, and Russ collected the rifles for processing. CSS Russ and Oliver photographed and processed the handguns belonging to Officers Nassar, Gossert, DeLeon, Doakes, and Sein.

### ***Officer DeLeon's Rifle***

Officer DeLeon's rifle was a black, Colt Defense Law Enforcement Carbine, 5.56 caliber, semiautomatic, with serial number LEC000662. Mounted to this rifle was a black Streamlight ProTac, serial number 288345 0721, and a black Aimpoint Red-Dot sight with serial number 12841-K71021. A black Magpul industries PMAG 30 round magazine was inserted into the well of the rifle. The 30-round capacity magazine removed from the rifle contained 13 cartridges. All 13 cartridges from the magazine were head stamped with "LC 223 REM." A live cartridge was located and ejected from the chamber that was head stamped with "LC 223 REM."

CaPSIT Special Agent Carlos determined, based on Officer DeLeon's statements and the number of live cartridges removed from the magazine and rifle chamber, that Officer DeLeon fired approximately 14 rounds.

#### ***Officer Gossert's Rifle***

Officer Gossert's rifle was a black and green, Colt Defense Law Enforcement Carbine, 5.56 caliber, semiautomatic rifle, with serial number LE040856. Mounted to the rifle was a black Odin OLIGHT, serial number L21318783, and a black Aimpoint Red-Dot sight, serial number 12841-K3085134. A black Magpul industries PMAG 30-round magazine was inserted into the well of the rifle. The 30-round capacity magazine removed from this rifle contained 21 cartridges. Three cartridges from the magazine were head stamped with "LC 21," and 18 cartridges were head stamped with "LC 223 REM." A live cartridge was located and ejected from the chamber that was head stamped with "LC 223 REM."

CaPSIT Special Agent Carlos determined based on Officer Gossert's statements and the number of live cartridges removed from the magazine and rifle chamber, that Officer Gossert fired approximately 8 rounds.

#### ***Officer Sein's Rifle***

Officer Sein's rifle was a black, Colt Defense, 5.56 caliber, semiautomatic rifle, with serial number LE320596. Mounted to the rifle was a black Streamlight ProTac, serial number 18972 0820, and a black Aimpoint Red-Dot sight, serial number 12841-K3071105. A black metal 30-round magazine was inserted into the well of the rifle. The 30-round capacity magazine removed from this rifle contained 22 cartridges that were head stamped with "LC 223 REM." A live cartridge was located and ejected from the chamber that was head stamped with "LC 223 REM."

CaPSIT Special Agent Carlos determined based on Officer Sein's statements and the number of live cartridges removed from the magazine and rifle chamber, that Officer Sein fired approximately 5 rounds.

#### ***Officer Nassar's Handgun***

Officer Nassar's handgun was a black, generation 4, Glock 22, .40 caliber, semi-automatic handgun. It had a magazine with a 15-round capacity. When examined, the handgun had one live round in chamber and four rounds in the magazine.

CaPSIT special agent Carlos determined based on Officer Nassar's statement and the number of live cartridges removed from the magazine that Officer Nassar fired approximately 11 rounds.

#### ***Officer Doakes' Handgun***

Officer Doakes' handgun was a black, generation 4, Glock 22, .40 caliber, semi-automatic handgun. There was one live round in the chamber, and nine rounds remaining in the 15-round magazine.

CaPSIT special agent Carlos determined based on Officer Doakes' statement and the number of live cartridges removed from the firearm and magazine that Officer Doakes fired approximately six rounds.

### **Body Worn Camera and Other Recordings**

CaPSIT special agents obtained copies of all BWC and all videos related to this case from Fontana Police detectives. The BWC footage of the involved officers was reviewed in detail. Video of the incident shows Mr. Tarrant's actions during the foot pursuit, notifications and attempts to make contact with him, and subsequent actions that lead to the OIS.

Surveillance videos were collected and reviewed from the Chevron gas station and Bank of America.



FPD does not utilize an in-car dash camera video system. Hence, no additional department video from this incident existed.

SBSD Crime Scene Specialists Radeleff and Benike collected evidence and took numerous photographs of the scene, including overall points of interest. In addition, the crime scene was surveyed using a FARO Focus, 3D X, and laser mapping system. This system uses reference points in and around the crime scene.

## **Interview of Involved Officers<sup>1</sup>**

Police officers, like all individuals, have the right to remain silent and decline to answer questions in the face of official questioning. (*Spielbauer v. County of Santa Clara* (2009) 45 Cal.4th 704, 714; see generally *Miranda v. Arizona* (1966) 384 U.S. 436.) All of the involved officers gave voluntary statements.

The following statements are summaries of their interviews, which describe the incident from the point of view of the individual officers. Please note that the interviews contain facts relayed by the officers that may be inaccurate or inconsistent with the facts of this incident as they are currently understood.

## **Shooting Officers**

On April 26 and 27, 2022, the involved officers provided voluntary statements. Special Agents Carlos and Cryar from the California Department of Justice conducted the interviews. Christopher Kucharski, from the law firm of Rains, Lucia, Stern, St. Phalle & Silver, represented the officers. A Deputy Attorney General from the Special Prosecutions Section was also present. The officers were permitted to view BWC footage from the incident prior to their interviews.

### ***Officer DeLeon***

Officer Jacinto DeLeon had worked in law enforcement for 20 years and had been employed by FPD for approximately 14 years. Prior to joining FPD, he worked as a sworn peace officer for Redlands and Grover Beach Police Departments. At FPD, DeLeon had worked as a street gang investigator and was part of the fugitive apprehension team. At the time of the incident, DeLeon worked in the patrol division.

On April 7, 2022, at approximately 1:28 PM, Officer DeLeon responded to the area following the radio transmission by FPD Communications regarding a report of a man with a gun located at 15110 Summit Avenue. There was an associated report of a bank robbery at Bank of America, located at 15092 Summit Avenue. Officer DeLeon initially occupied a perimeter position approximately 60 yards northwest of the Bank of America.

DeLeon armed himself with his FPD-issued Colt AR-15 patrol rifle and met up with Officer Sein. The two officers occupied a position at the southeast corner of the Aldi supermarket, located at 15080 Summit Avenue, oriented toward the south and west doors of the Wendy's restaurant. Officers DeLeon and Sein received information from a witness that the bank robbery suspect was inside Wendy's restaurant and obtained a physical description. The witness indicated that the suspect was wearing a blue shirt and camouflage pants.

Officers DeLeon and Sein were waiting outside the Wendy's when they observed Mr. Tarrants, matching the description provided by the witness, exit the south door of the restaurant. Officers Sein

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<sup>1</sup> Several of the involved officers made statements on Season 7 Episode 9 of the TV show Body Cam. Their statements on the show were consistent with the statements summarized within this section.

yelled verbal commands to Mr. Tarrants to stop and get on the ground, but Mr. Tarrants went back inside the restaurant.

Officer DeLeon was concerned about the potential for a hostage situation. Officer DeLeon stated that, shortly after retreating into the Wendy's, Mr. Tarrants again exited the restaurant, this time from the west door, and ran northbound. Officer DeLeon said he and Officer Sein gave Mr. Tarrants numerous verbal commands before Mr. Tarrants entered the cinder block trash dumpster enclosure located northwest of the restaurant. Officers DeLeon and Sein took cover behind a commercial electrical enclosure near the cinderblock trash dumpster enclosure.

Officer DeLeon stated he was aware that Officers Gossert, Doakes, Nassar, and Sergeant Lally had taken position on the high ground north of Mr. Tarrants' position, and he could clearly hear them giving Mr. Tarrants verbal commands to surrender. Officer DeLeon heard Officer Doakes, from the high ground position, say that Mr. Tarrants was armed with a firearm. Officer DeLeon said Officer Sein and Sergeant Lally requested a less lethal 40-millimeter launcher over the radio. In addition, Officer Mudder and his police canine arrived at the scene.

Mr. Tarrants exited the cinderblock trash dumpster enclosure with what appeared to be a black semiautomatic pistol pointed with an upward orientation at the officers on the elevated position, while advancing in their direction. Mr. Tarrants advanced on Officers Gossert, Doakes, Nassar, and Sergeant Lally's position "with a purpose." Officer DeLeon stated, "I had a perfect view of that opening...I could see inside...I just see a gun pop out and he [Tarrants] runs out. Like he runs with authority, like, and pointing that gun. I don't know if he saw us, but he definitely saw the guys on top of the hill and was like pointing at them, actually advancing with that gun pointed out...So at that point, [I thought] he was going to start firing at them."

Officer DeLeon stated, "I fired until he [Tarrants] actually stopped. He fell. I stopped firing at that point." Officer DeLeon stated his reason for the use of lethal force was because he was in fear for the lives of the officers in the elevated position, and it was his belief at the time of the incident that Mr. Tarrants was armed with a real firearm.

Officer DeLeon estimated he fired "maybe 10" shots from his rifle at Mr. Tarrants from a range of between 25 and 30 feet. Officer DeLeon advanced on Mr. Tarrants' position in the immediate aftermath of the OIS and initiated first aid until the arrival of paramedics.

### ***Officer Sein***

Officer Sein had been a police officer for 20 years, and had been employed by FPD for approximately 15 years. Before working at FPD, Sein worked as a peace officer at the Bell Gardens and Montclair Police Departments. At the time of the incident, Officer Sein worked as a Field Training Officer in the Patrol Division. Officer Sein had previously worked as a detective, police service dog-handler, and he was a member of the Fugitive Apprehension Team.

On April 7, 2022, at approximately 1:28 PM, Officer Sein was working uniformed patrol in a marked FPD police vehicle and was dispatched by FPD Communications to a report of a man with a gun in Wendy's restaurant dumpster enclosure located at 15110 Summit Avenue. There was an associated report of a bank robbery at Bank of America, located at 15092 Summit Avenue.

When he arrived, Officer Sein occupied a perimeter position approximately 60 yards northwest of the Bank of America and coordinated the deployment of incoming responding officers. Officer Sein armed himself with his FPD-issued Colt AR-15 patrol rifle and met up with Officer DeLeon. Officers Sein and

DeLeon moved to a position at the southeast corner of the Aldi supermarket, located at 15080 Summit Avenue, oriented toward Wendy's restaurant's south and west doors. Officers Sein and DeLeon received information from a witness that the bank robbery suspect was inside Wendy's restaurant and provided a physical description. Officer Sein shifted the orientation of the perimeter deployment via radio communication.

Officers Sein observed Mr. Tarrants, matching the description provided by the witness, exit the south door of the restaurant. Officer Sein gave verbal commands to Mr. Tarrants to stop and get on the ground, but Mr. Tarrants returned inside the restaurant. Officer Sein was concerned about the potential for a hostage or active shooter scenario unfolding during the incident. Officer Sein then saw Mr. Tarrants exit the west door of the Wendy's and run northbound. Officers Sein and DeLeon followed on foot.

Officer Sein gave Mr. Tarrants numerous verbal commands while moving towards him. Mr. Tarrants entered the cinder block trash dumpster enclosure located northwest of the restaurant. Officers Sein and DeLeon took position to the east utilizing a commercial electrical enclosure as cover. Over the radio, Officer Sein requested a less lethal 40-millimeter launcher to respond to the scene. He instructed the FPD police service dog handler, Officer Mudder, to reposition closer to him. Officer Sein, being a former dog handler, thought that the canine could be another less lethal option.

Officer Sein stated he was aware of the position of Officers Gossert, Doakes, Nassar, and Sargent Lally, on the high ground north of Mr. Tarrants' position within the cinderblock trash dumpster enclosure. Officer Sein could hear them giving him verbal commands to surrender. Officer Sein heard Officer Doakes say, "He's got a gun! He's got a gun!"

Officer Sein stated that as Officer Mudder, and his police canine repositioned south of the cinderblock trash dumpster enclosure, Mr. Tarrants emerged in a "shooting platform" with a "black pistol" in his right hand. Mr. Tarrants had the muzzle of the gun oriented north and upwards towards Officers Gossert, Doakes, Nassar, and Sergeant Lally's position on the high ground.

Officer Sein stated, "I'm in fear for the safety of my partners up here, the public, which obviously, this is an extremely busy area during this time, and I fire my patrol rifle at him." Officer Sein stated he fired "between three and four" shots from his rifle at Mr. Tarrants from a range of 10 and 15 yards. Officer Sein advanced on Mr. Tarrants' position in the immediate aftermath of the OIS and directed the initiation of first aid until the arrival of paramedics.

### ***Officer Doakes***

Officer Doakes had been a peace officer for six years, and had worked for FPD for approximately three years. At the time of the incident, he was assigned to the Special Operations Division. Previously, Officer Doakes had worked patrol. Before becoming a peace officer, Doakes was employed by the California Department of Corrections and Rehabilitation as a correctional officer.

On April 7, 2022, at approximately 1:28 PM, Officer Doakes was partnered with Officer Gossert at the FPD station. The pair self-dispatched themselves following a radio transmission by FPD Communications regarding a man with a gun in Wendy's restaurant dumpster enclosure. There was an additional associated report of a bank robbery at Bank of America. Officers Doakes and Gossert arrived and occupied a perimeter position on Beech Avenue and Summit Heights Gateway, east of Wendy's restaurant, to place the business under observation.

Officers Doakes and Gossert repositioned to the northwest corner of the business after hearing a radio transmission that Mr. Tarrants had exited the south door of the restaurant. Shortly after that, Mr. Tarrants exited the west door of the Wendy's and ran northbound from the restaurant, concealing himself in the cinder block trash dumpster enclosure located to the northwest of the business. Officer Doakes was in an elevated position on the south sidewalk of Beech Avenue, east of Officer Nassar. From his position, Doakes maintained intermittent visual observation of Mr. Tarrants.

Sergeant Lally joined officers Doakes and Gossert. The officers positioned themselves by the south sidewalk of Beech Avenue, in an elevated position looking down on Mr. Tarrants. Officer Doakes observed that Mr. Tarrants was armed with a handgun in his right hand, and that he was attempting to conceal it in his right side front shorts pocket. Officer Doakes verbally announced this to the other officers on the scene.

Officer Doakes observed Mr. Tarrants exit the east side of the cinderblock trash dumpster enclosure with a handgun pointed at him. Officer Doakes stated, "And all of a sudden, he came into sight again, he went out of sight and came into sight again, and he just looked like he was amping himself up, which happened so quickly. He came out postured up. At that point, I thought I knew where my partners were, and I thought that he was going to shoot at them. I was in fear for them. I was in fear for myself. It sounded like he shot, and I returned fire."

Officer Doakes stated he fired approximately five shots from his department-issued sidearm at Mr. Tarrants, but he could not estimate the distance between the two at the time of the shooting. Officer Doakes advanced on Mr. Tarrants' position in the immediate aftermath of the OIS and initiated CPR until the arrival of paramedics.

### ***Officer Gossert***

Officer Gossert had been a peace officer for four years with FPD. At the time of the OIS he was assigned to the Special Operations Division. Previously, Officer Gossert had worked in the patrol unit and had worked as a street gang investigator.

On April 7, 2022, at approximately 1:28 PM, Officer Gossert was partnered with Officer Doakes at the FPD station. The pair self-dispatched themselves following a radio transmission regarding a man with a gun in Wendy's restaurant dumpster enclosure. There was an additional associated report of a bank robbery at Bank of America. Officer Gossert and Doakes occupied a perimeter position on Beech Avenue and Summit Heights Gateway, east of Wendy's restaurant, to place the business under observation. Officer Gossert and Doakes repositioned to the northwest corner of the business after hearing a radio transmission that Mr. Tarrants had temporarily exited the south door of the restaurant. Shortly after that, Mr. Tarrants exited the west door of the Wendy's and ran northbound from the restaurant, concealing himself in the cinder block trash dumpster enclosure located to the northwest of the business.

Officer Doakes was in an elevated position on the south sidewalk of Beech Avenue, east of Officer Nassar, and he could observe the top of Mr. Tarrants' head from his vantage point. Officer Gossert observed Mr. Tarrants exit the east side of the cinderblock trash dumpster enclosure with a handgun pointed at him.

Officer Gossert stated, "So, he came out of the dumpster. I yelled gun, gun, gun. And a couple of seconds passed, and he came out in a shooting stance with the gun pointed up at me. I was the one that was pretty much right in front of him when he came out. And as soon as he came out, I could see smoke



behind him, which looked like a muzzle flash to me. And then I could hear gunshots. So, I thought he was firing at me. So, I took a, like, one step back, and then that's when I returned fire." Officer Gossert stated he fired between five to eight shots from his FPD issued rifle at Mr. Tarrants from a range of 20 and 30 feet. Officer Gossert advanced on Mr. Tarrants' position in the immediate aftermath of the OIS and relieved Officer Nassar in the administration of CPR until the arrival of paramedics.

### ***Officer Nassar***

Officer Nassar had been a police officer for seven years. Nassar had worked for FPD for approximately four years. At the time of the incident, Officer Nassar was assigned to the gang unit. Before working at FPD, Nassar worked at the Colton Police Department as a sworn peace officer.

On April 7, 2022, at approximately 1:28 PM, Officer Nassar was working gang suppression in a marked FPD police vehicle and self-dispatched following a radio transmission regarding a man with a gun in Wendy's restaurant dumpster enclosure located at 15110 Summit Avenue. There was an additional associated report of a bank robbery at Bank of America, located at 15092 Summit Avenue.

Upon arriving on scene, Officer Nassar occupied a perimeter position on Beech Avenue northeast of Wendy's restaurant to place the drive-through of the business under observation. Officer Nassar repositioned to the northwest corner of the business following a radio transmission that Mr. Tarrants had temporarily exited of the south door of the restaurant. Shortly after that, Mr. Tarrants exited the west door of the Wendy's and ran northbound towards his position. Officer Nassar yelled multiple verbal commands for Mr. Tarrants to surrender, but he refused to comply and concealed himself in the cinder block trash dumpster enclosure located northwest of the restaurant.

Officer Nassar was in an elevated position on the south sidewalk of Beech Avenue and could maintain visual observation of Mr. Tarrants above the shoulder from his vantage point. Officer Nassar continued to issue verbal commands to Mr. Tarrants with "negative results" and observed Mr. Tarrants conceal an unidentified item in the dumpster. Officer Gossert, Officer Doakes, and Sergeant Lally, who had positioned themselves east of his position on the elevated south sidewalk of Beech Avenue, joined Officer Nassar. Officer Nassar heard one of the officers, subsequently identified as Officer Doakes, announce that Mr. Tarrants was armed with a handgun concealed in his pocket. Officer Nassar observed Mr. Tarrants exit the east side of the cinderblock trash dumpster enclosure with a handgun pointed at him. Officer Nassar stated, "As soon as I see him come out and I can see his full body, I see a gun come up point at me in the direction of me. And that's when I fired at him. And I saw smoke come out of it, I thought it was his gun. I don't know if it was bullets hitting the cement or what, but I thought he was firing at us still. So I fired at him until he stopped the threat." Officer Nassar stated he fired approximately 10 or 11 shots from his department-issued sidearm at Mr. Tarrants from an estimated range of 10 to 20 feet. Officer Nassar advanced on Mr. Tarrants' position in the immediate aftermath of the OIS and initiated CPR until the arrival of paramedics.

## **Witness Officers**

### ***Sergeant Lally***

On May 5, 2022, Special Agents Carlos and Cryar from the California Department of Justice conducted an interview with Sergeant Lally. Attorney Christopher Kucharski was also present, representing Sergeant Lally.

Officer Lally had worked with the Fontana Police Department for approximately 22 years. At the time of the incident, he was a patrol sergeant. Lally had worked in traffic, as a detective, running the property division, and in administration as the personnel and training sergeant. In addition, Lally was the range master, and he supervised the terrorism liaison program.

On the day of the OIS, Sergeant Lally was in the area on another call when he heard a call for what sounded like an attempted robbery of a bank. As officers were responding, there was information that the subject was either at the bank or at Wendy's. While he was en route, an officer had cleared the bank so they were able to focus on just the area of Wendy's.

Sergeant Lally parked at the top of the driveway at Beach and Summit. Lally heard that the subject was running northbound. He followed the sidewalk curving around the Wendy's leading him on a hill above the trash enclosure. On the hill, he joined Officers Gossert, Nassar, and Doakes. From that position, Lally could see the upper portion of the Mr. Tarrant's head.

The other officers were giving commands such as "show me your hands," and saying "it's not worth it." Lally stated that his job as supervisor on the scene was to keep a wider eye on the area because it was filled with bystanders. At that point, Lally saw Officer Mudder bringing his canine closer into position on the scene.

Lally notified the other officers that the canine was coming up. Then, he heard an officer say that Mr. Tarrant's had a gun. A short time after that, a series of shots rang out, and then he saw Mr. Tarrant's on the ground. After the shooting was over, the officers moved down the hill and began to provide medical aid immediately.

### ***Officer Mudder***

On April 26, 2022, Special Agents Carlos and Cryar from the California Department of Justice conducted an interview with Officer Mudder. Attorney Christopher Kucharski was also present, representing Officer Mudder.

Officer Mudder had been with the FPD for approximately 15 years. At the time of the OIS, Mudder was a canine handler.

Officer Mudder heard a radio call with multiple reporting parties of either a man with a gun, or robbery at the Bank of America. The radio transmissions started to convey information that suggested the suspect was at the Wendy's. When Mudder arrived on scene, he decided to go over to the Wendy's restaurant.

Officer Mudder heard over the radio that FPD made several calls to Wendy's to see if they were in the process of being robbed, and to determine if anyone matched the description of Mr. Tarrant's. While they were in the process of doing that, Mr. Tarrant's came out of the Wendy's. He heard other officers giving commands, but did not know exactly what they were saying. Mr. Tarrant's ran into the Wendy's but then came back outside. Officer Mudder started yelling at him to stop and get down. Mr. Tarrant's continued running northbound through the parking lot and into the dumpster enclosure. Officer Mudder believed that he was in a strategically bad position so he moved over to his patrol car. He heard the other officers yelling at the suspect trying to get him to come out. He went to grab his dog and thought he might be able to deploy the dog into the dumpster area. He could not deploy the dog from his current position because he believed his canine would have a hard time figuring out whom to lock onto with all of the officers on scene.

Officer Mudder got into a position where he was prepared to deploy his canine. Officer Mudder believed the canine was the best less lethal option because the canine could have maneuvered into the trash enclosure. As he moved positions, he heard someone say, "He's got a gun." Out of his peripheral vision, he saw the suspect coming out of the enclosure with something in his hand. From his position, he could not tell if it was a gun for sure. Officer Mudder heard gunfire and felt debris hitting him. For a moment, Mudder thought that the suspect might have been shooting at him because he could feel things hitting him. As he was running, he saw Mr. Tarrant go down. At that point, he knew Mr. Tarrant was down and no longer posed a threat. He took a moment and tried to calm himself down before checking himself for injuries. He checked his dog to make sure the canine was alright as well. After he assessed himself and his canine, he was asked to find reporting parties for statements.

## **Interviews of Civilian Witnesses**

### ***Bank of America Bank Teller***

On April 7, 2022, at 2:15 p.m., Fontana Police Officer Ferguson interviewed the bank teller from Bank of America. The bank teller stated that she was helping a customer when she noticed a man walking towards the counter. The bank teller immediately noticed what appeared to be a firearm concealed inside an old grocery bag. She knew it was a firearm because the plastic grocery bag was see-through, and she could see the outline of a black firearm. The bank teller said that the man pointed the firearm directly in front of her and the barrel of the gun was approximately two feet from her. The man said, "Give me the money" while holding the firearm. The man grabbed money that was on a metal tray from the prior customer. The man ran out of the bank, and the bank teller pressed the panic button under the counter to alert police.

### ***Bank of America Customer***

On April 7, 2022, at 2:15 p.m., Fontana Police Officer Millan interviewed a customer from Bank of America. The customer came to the bank with \$8,000 in cash. She walked up to the Bank of America bank teller in order to obtain a cashier's check in exchange for the cash she was carrying. During the transaction, she observed a man, with his face covered, enter the Bank of America with a gun wrapped inside a plastic bag. The man told everyone to get to the back. The customer ran out of the bank and into the Aldi supermarket; she told an employee to call 911.

### ***Firefighter-Paramedic Wright***

On April 7, 2022, DOJ Special Agent Foster interviewed firefighter paramedic Brian Wright. Wright was an EMT since 2007 and has been a paramedic since 2013. On the day of the incident, Wright was dispatched at 1:45 p.m., and arrived at the scene at 1:52 p.m. Upon arrival, Wright observed a number of police patrol vehicles and immediately observed officers giving CPR to Mr. Tarrant. Wright determined the officers were giving good quality CPR. Wright immediately noticed approximately 200 ccs of blood coming from the back of Mr. Tarrant's head, and observed multiple penetrating injuries to the torso, neck, and head. After observing evisceration of brain matter, it was determined that further medical intervention would be futile.

### **Mr. Tarrants' Father**

On April 8, 2022, SBSB Detective David Carpenter interviewed Travis Tarrants' father. Mr. Tarrants' father had received a phone call from his sister-in-law, who told him that Mr. Tarrants had been shot and killed by law enforcement in California. Mr. Tarrants' father said that Mr. Tarrants had robbed the Old National Bank in Indiana and used a ski mask and "BB gun."<sup>2</sup> Approximately one month before the bank robbery in Indiana, Mr. Tarrants and his father were involved in an argument where Mr. Tarrants told his father he was going to commit "suicide by cop." Mr. Tarrants' father did not know if Mr. Tarrants was diagnosed with a mental illness or if he had attempted suicide in the past. He did not know if he abused any illegal narcotics.

### **Autopsy**

Chief Forensic Pathologist Hutchens conducted the postmortem examination of Travis Tarrants on April 18, 2022, at the SBSB Coroner Division. Travis Shane Tarrants was a 46-year old white male, six feet tall, weighing approximately 217 pounds. Dr. Hutchens' autopsy report documented 20 gunshot wounds sustained by Tarrants during the OIS: two gunshot wounds to the head and neck, nine thoracic<sup>3</sup> gunshot wounds, and nine gunshot wounds to the extremities. Dr. Hutchens recovered bullet fragments from the neck, chest, abdomen, right leg, and left leg. Dr. Hutchens, determined Mr. Tarrants' cause of death was "multiple gunshot wounds," and the manner of death was "homicide."

Chest blood and liver samples were collected during the autopsy, and a basic drug panel was done. The postmortem toxicology results showed: ethanol 20 mg/dL (BAC 0.020 g/100mL) in chest blood.

## **APPLICABLE LEGAL STANDARDS**

Homicide is the killing of one human being by another. (*People v. Beltran* (2013) 56 Cal.4th 935, 941.) There are two types of criminal homicide, murder and manslaughter.

### **Murder**

Murder is the unlawful killing of a human being with malice aforethought. (Cal. Pen. Code, § 187, subd. (a).) Murder is divided into first and second degrees. A willful, deliberate, and premeditated killing is murder of the first degree. (Pen. Code, § 189; *People v. Hernandez* (2010) 183 Cal.App.4th 1327, 1332.)

Second degree murder is the unlawful killing of a human being with malice aforethought but without the additional elements of willfulness, premeditation, and deliberation, that would support a conviction of first-degree murder. (*People v. Knoller* (2007) 41 Cal.4th 139, 151.) The malice required for second degree murder may be express or implied. (Pen. Code, § 188; *People v. Hernandez*, supra, 183 Cal. App.4th at p. 1332.) Malice is express when there is an "intent to kill." (Pen. Code, § 188; *People v. Delgado* (2017) 2 Cal.4th 544, 571.) Malice is implied "when the killing results from an intentional act, the natural consequences of which are dangerous to life, which act was deliberately

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<sup>2</sup> On November 15, 2021, in the State of Indiana, Mr. Tarrants was arrested for robbery of the Old National Bank West, City of Bloomington, Indiana. Mr. Tarrants was additionally charged with attempting to disarm a police officer and subsequently released on a promise to appear. At the time of the OIS, Mr. Tarrants had an active no-bail felony warrant for his arrest for this bank robbery.

On March 1, 2022, the Marion Police Department, in the State of Illinois, identified Mr. Tarrants as a suspect in the robbery of the Peoples National Bank, City of Marion, Illinois. Mr. Tarrants was reportedly armed with a handgun during the bank robbery and Detective Maria Dwyer with the Marion Police Department had authored a probable case affidavit. This investigation was ongoing before the OIS in Fontana.

<sup>3</sup> The thoracic region gunshots were observed at the right midline chest, the left chest, the right chest, the right upper abdominal quadrant, and the right lower chest.



performed by a person who knows that his [or her] conduct endangers the life of another and who acts with conscious disregard for life.” (*People v. Dellinger* (1989) 49 Cal.3d 1212, 1215.)

A homicide may also be reduced to second degree murder if premeditation and deliberation are negated by heat of passion arising from subjective provocation. If the provocation precludes one from deliberating or premeditating, even if it would not cause an average person to experience deadly passion, the crime is second degree murder. (*People v. Padilla* (2002) 103 Cal.App.4th 675, 678.)

### **Voluntary Manslaughter**

Manslaughter is an unlawful killing without malice. (Pen. Code § 192; *People v. Thomas* (2012) 53 Cal.4th 771, 813.) Several factors may preclude the formation of malice and reduce a killing that would otherwise be murder to voluntary manslaughter including: (1) heat of passion, and (2) imperfect self-defense. (*People v. Moye* (2009) 47 Cal.4th 537, 549.)

Imperfect self-defense is the killing of another human being under the actual but unreasonable belief that the killer was in imminent danger of death or great bodily injury and the use of deadly force is necessary to defend against that danger. Such a killing is deemed to be without malice and thus cannot be murder. (*People v. Cruz* (2008) 44 Cal.4th 636, 664.) The doctrine of imperfect self-defense cannot be invoked, however, by a person whose own wrongful conduct (for example, a physical assault or commission of a felony) created the circumstances in which the adversary’s attack is legally justified. (*People v. Booker* (2011) 51 Cal.4th 141, 182.)

### **Self-Defense**

A homicide is justified and lawful if committed in self-defense. Self-defense is a complete defense to a homicide offense, and, if found, the killing is not criminal. (*People v. Sotelo-Urena* (2016) 4 Cal.App.5th 732, 744.) When a person is charged with a homicide-related crime and claims self-defense, the prosecution must prove beyond a reasonable doubt that the homicide was not committed in self-defense. (*People v. Winkler* (2020) 56 Cal.App.5th 1102, 1167.)

Penal Code sections 196 et. seq. set forth the law of self-defense in homicide cases. Penal Code section 196 provides that a homicide committed by a peace officer is justified when the use of force complies with Penal Code section 835a. (Cf. Pen. Code, § 197 [listing circumstances where homicide committed by “any person” is justifiable, which includes self-defense or the defense of others].)

Under Penal Code section 835a, an officer may use deadly force only when the officer “reasonably believes, based on the totality of the circumstances, that such force is necessary”: (1) “to defend against an imminent threat of death or serious bodily injury to the officer or to another person”; or (2) to apprehend a fleeing person who has committed a felony “that threatened or resulted in death or serious bodily injury,” and the officer “reasonably believes that the person will cause death or serious bodily injury” if not immediately apprehended. (Pen. Code, § 835a, subd. (c)(1); see Pen. Code, § 835a, subd. (a)(2) [peace officers may lawfully use deadly force “only when necessary in defense of human life”]; see *People v. Randle* (2005) 35 Cal.4th 987, 994 [self-defense arises when a person actually and reasonably believes in the necessity of defending against imminent danger of death or great bodily injury], overruled on other grounds by *People v. Chun* (2009) 45 Cal.4th 1172.)

To determine whether deadly force is necessary, “officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” (Pen. Code, § 835a, subd. (a)(2); *People v. Hardin* (2000) 85 Cal.App.4th 625, 629-630 [“only that force which is necessary to repel an

attack may be used in self-defense; force which exceeds the necessity is not justified” and “deadly force or force likely to cause great bodily injury may be used only to repel an attack which is in itself deadly or likely to cause great bodily injury”).)

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 to another person. (Pen. Code, § 835a, subd. (e)(2); see *People v. Lopez* (2011) 199 Cal.App.4th 1297, 1305-1306 [imminent peril is “immediate and present” and “must be instantly dealt with”; it is not prospective or even in the near future].)

“Totality 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. (Pen. Code, § 835a, subd. (e)(3).) De-escalation methods, tactics, the availability of less than lethal force, and department policies may be used when evaluating the conduct of the officer. However, when an officer’s use of force is evaluated, it must be considered “from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight, and that the totality of the circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” (Pen. Code, § 835a, subd. (a)(4); accord, *Graham v. Connor* (1989) 490 U.S. 386, 396-397 [“The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight”]; *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082-1083 [to determine whether use of force is objectively reasonable for self-defense, trier of fact must consider all the circumstances that were known or appeared to the officer as well as consideration for what a reasonable person in a similar situation with similar knowledge would have believed]; *People v. Bates* (2019) 35 Cal.App.5th 1, 9-10 [knowledge of another person’s prior threatening or violent conduct or reputation for dangerousness may provide evidence to support a reasonable belief in imminent harm].)

Self-defense also has a subjective component. (*Humphrey, supra*, 13 Cal.4th at p. 1082.) The subjective element of self-defense requires that a person actually believes in the need to defend against imminent peril or great bodily injury. (*People v. Viramontes* (2001) 93 Cal.App.4th 1256, 1262.)

## **Burden of Proof**

A prosecutor bears the burden of proving a criminal defendant’s guilt beyond a reasonable doubt. (Pen. Code, § 1096.) Where an investigation is complete and all of the evidence is available for review, prosecutors should file charges only if they believe there is sufficient admissible evidence to prove the charges beyond a reasonable doubt at trial. (See, e.g., Nat. Dist. Attys. Assn., National Prosecution Standards (3d ed. 2009) Part IV, § 2 pp. 52-53; United States Department of Justice Manual § 9-27.220; Melilli, Prosecutorial Discretion in an Adversary System (1992) B.Y.U. L.Rev. 669, 684-685 [surveying ethical standards used in the exercise of charging discretion by prosecutors]; accord, *People v. Catlin* (2001) 26 Cal.4th 81, 109 [“A prosecutor abides by elementary standards of fair play and decency by refusing to seek indictments until he or she is completely satisfied the defendant should be prosecuted and the office of the prosecutor will be able to promptly establish guilt beyond a reasonable doubt,” quotation and internal quotation marks omitted]; *People v. Spicer* (2015) 235 Cal.App.4th 1359, 1374 [explaining that a prosecutor may have probable cause to charge a crime but reasonably decline to do so if they believe there is a lack of sufficient evidence to prove the charge beyond a reasonable doubt at trial]; cf. Rules Prof. Conduct, Rule 3.8(a) [prosecutor should not initiate or continue prosecution of charge that is not supported by probable cause].)

Further, the prosecution has the burden of proving beyond a reasonable doubt that a killing is not justified. It is not a criminal defendant's burden to prove that the force was necessary or reasonable. (People v. Banks (1976) 67 Cal.App.3d 379, 383-384.) Thus, in an officer-involved shooting, the prosecution must prove beyond a reasonable doubt that the officer did not have an actual or reasonable belief in the need for self-defense or the defense of others.

## LEGAL ANALYSIS

The DOJ has completed an independent investigation and review of the facts and circumstances that led to the death of Travis Tarrants. This analysis is based on all of the evidence provided to the DOJ in this matter, including police reports, witness statements, forensic evidence, Coroner's report, body-worn camera footage, and surveillance video from the surrounding businesses. The issues presented in this OIS are whether Officers Sein, DeLeon, Gossert, Doakes, and Nassar, acted lawfully in self-defense or defense of others, and whether their actions are subject to criminal prosecution. A detailed analysis of the evidence surrounding the OIS shows that the officers reasonably and actually believed that the use of deadly force was necessary to defend against an imminent threat of death or great bodily injury to themselves, their fellow officers, or to bystanders. Therefore, a criminal prosecution is unsupported by the evidence.

Numerous factors indicate that the officers on scene actually and reasonably believed Mr. Tarrants posed an imminent threat of death or great bodily harm to either themselves or others on the scene:

- Officers on scene were responding to several reports of an armed robbery;
- Officers gave numerous commands for Mr. Tarrants to surrender and come out with his hands up;
- Officer Doakes informed the other officers on scene that he saw Mr. Tarrants had a firearm;
- Mr. Tarrants emerged from the trash enclosure with a two-hand grip pointing what appeared to be a firearm directly at the officers positioned on the hill;
- The replica firearm appeared real and was modeled after a large frame Beretta M92 FS semiautomatic.

The Officers on scene stated they used deadly force because they believed Mr. Tarrants was going to fire at them:

**Officer DeLeon:** "I had a perfect view of that opening...I could see inside...I just see a gun pop out and he [Tarrants] runs out. Like he runs with authority, like, and pointing that gun. I don't know if he saw us, but he definitely saw the guys on top of the hill and was like pointing at them, actually advancing with that gun pointed out."

DeLeon stated his reason for the use of lethal force was because he was in fear for the lives of the officers in the elevated position, and it was his belief at the time of the incident Mr. Tarrants was armed with a real firearm.

**Officer Sein:** Officer Sein stated that Mr. Tarrants emerged from the cinderblock trash dumpster enclosure in a "shooting platform" with a "black pistol" in his right hand. Mr. Tarrants had the muzzle of the gun oriented north and upwards towards Officers Gossert, Doakes, Nassar, and Sergeant Lally's position on the high ground.

Officer Sein stated, "I'm in fear for the safety of my partners up here, the public, which obviously, this is an extremely busy area during this time, and I fire my patrol rifle at him."

**Officer Doakes:** Officer Doakes observed Mr. Tarrants exit the east side of the cinderblock trash dumpster enclosure with a handgun pointed at him. Officer Doakes stated, "And all of a sudden, he came into sight again, he went out of sight and came into sight again, and he just looked like he was amping himself up, which happened so quickly. He came out postured up. At that point, I thought I knew where my partners were, and I thought that he was going to shoot at them. I was in fear for them. I was in fear for myself. It sounded like he shot, and I returned fire."

**Officer Gossert:** Officer Gossert stated, "So, he came out of the dumpster. I yelled gun, gun, gun. And a couple of seconds passed, and he came out in a shooting stance with the gun pointed up at me. I was the one that was pretty much right in front of him when he came out. And as soon as he came out, I could see smoke behind him, which looked like a muzzle flash to me. And then I could hear gunshots. So, I thought he was firing at me. So, I took a, like, one step back, and then that's when I returned fire."

**Officer Nassar:** Nassar stated, "As soon as I see him come out and I can see his full body, I see a gun come up point at me in the direction of me. And that's when I fired at him. And I saw smoke come out of it, I thought it was his gun. I don't know if it was bullets hitting the cement or what, but I thought he was firing at us still. So I fired at him until he stopped the threat."

The factual statements by Officers Sein, DeLeon, Gossert, Doakes, and Nassar are largely consistent and no available evidence undermines their credibility. These statements demonstrate that the officers used deadly force because they actually believed that Mr. Tarrants was going to either fire at them, their fellow officers, or possibly harm the public. In addition, the officers' observations were corroborated by the BWC video, which show Mr. Tarrants exiting the trash enclosure, holding what appears to be a firearm, pointed in the direction of officers. Although the object held by Mr. Tarrants was not a real firearm, it so closely resembled one that the difference could not be discerned from a distance. Their belief that the firearm was authentic was corroborated by the bank teller and bank customer who similarly reported that Mr. Tarrants was armed with a gun. The officers' statements, combined with the other evidence, show that the officers' assertions, that they actually believed the use of deadly force in this case was necessary to prevent serious physical harm or death, were credible.

In addition to the officers' statements, the totality of the evidence confirms that the officer's beliefs were reasonable. The officers responded to several reports of an armed robbery and a person with a gun; information about the firearm was reported over the radio and would have been heard by the officers. Based on those reports, the officers responded to the scene believing that Mr. Tarrants was armed with a firearm. Officers gave commands for Mr. Tarrants to surrender and come out with his hands up. The officers gave repeated commands as they established a perimeter and prepared other less lethal options. As they prepared to deploy the canine, Mr. Tarrants emerged from the trash enclosure in a two-hand shooting stance with the replica firearm pointed directly towards the officers positioned up on the hill. It appeared to the officers that Mr. Tarrants was ready and able to fire at them. The officers fired at Mr. Tarrants until he went down, and then proceeded to render aid. As



noted, the BWC video corroborated the officers' accounts of the events leading up to the shooting. Thus, the totality of the evidence shows that Officers Sein, DeLeon, Gossert, Doakes, and Nassar held the subjective belief that deadly force was necessary to defend themselves and their partners from imminent deadly force and that their belief was objectively reasonable.

## **CONCLUSION**

Based upon the review of the evidence obtained by the Department of Justice, the applicable statutes, legal principles, and totality of the circumstances, Officers Sein, DeLeon, Gossert, Doakes, and Nassar acted in lawful defense of self and defense of others, when they used deadly force against Mr. Tarrants. Therefore, there is insufficient evidence to support a criminal prosecution. As such, no further action will be taken in this case.



C A L I F O R N I A

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DEPARTMENT OF JUSTICE

**Policy and Practice Recommendations for the  
Fontana Police Department Related to the Officer-  
Involved Shooting of Travis Tarrants on April 7, 2022**

ISSUED PURSUANT TO CALIFORNIA GOVERNMENT CODE  
SECTION 12525.3, SUBDIVISION (B)(2)(B)(III)

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June 2024



## POLICY AND PRACTICE RECOMMENDATIONS

The Attorney General is required to include “[r]ecommendations to modify the policies and practices of the law enforcement agency, as applicable” as a component of this report. (Gov. Code, § 12525.3 subd. (b)(2)(B)(iii).) Therefore, the Department of Justice (DOJ) through its Police Practices Section (PPS) conducts a supplemental review of the information obtained through the criminal investigation, including body-worn camera footage, interview recordings, video recordings, and witness statements and other records, as well as the publicly-available policies of the agency employing the officers who are subject to the criminal investigation.<sup>1</sup> PPS uses the review process to identify “applicable” recommendations, including any recommendations to modify policies and practices that may reduce the likelihood that officers use deadly force, as well as recommendations to address any other deficiency or concern related to the officers’ conduct or the agency’s response that PPS observes. PPS’s goal is that these recommendations will assist the agency and the officers involved in the incident in understanding, from an independent perspective, improvements that may be made to address what was observed through this incident.

As background, on April 7, 2022, at approximately 1:28 p.m., the Fontana Police Department (FPD) received numerous 9-1-1 telephone reports of an armed robbery at a Bank of America in Fontana. The suspect, later identified as Travis Tarrants (Tarrants), was reported to be armed with a pistol. A subsequent caller to FPD stated Tarrants left the Bank of America on foot toward Wendy’s restaurant in the same shopping center. At approximately 1:32 p.m., FPD officers arrived on the scene. At approximately 1:41 p.m., officers confronted Tarrants as he exited the south door of Wendy’s restaurant. Tarrants failed to follow FPD officers’ verbal commands and re-entered the business. At approximately 1:42 p.m., Tarrants exited the business and ran northbound into the cinder block trash dumpster enclosure located northwest of the restaurant. At approximately 1:43 p.m., FPD officers transmitted over police radio that Tarrants was contained in the trash dumpster enclosure and “shots fired” was transmitted shortly thereafter. FPD officers requested medical assistance, and at approximately 1:53 p.m., Tarrants was declared deceased at the scene. It was later determined during the investigation that Tarrants’ pistol was an airsoft gun.

PPS evaluated all the facts and available evidence, and pursuant to its obligations under Government Code section 12525.3, subdivision (b)(2)(B)(iii), PPS advises that FPD review and implement five recommendations.

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<sup>1</sup> Because of the nature of this process, the DOJ does not generally obtain additional information from the employing law enforcement agency, or conduct independent investigation of the agency’s practices outside of the single incident under review, which makes this process different from the DOJ’s formal Civil Code section 52.3 investigations and oversight reviews of local law enforcement agencies.

## 1. COMMAND AND CONTROL

PPS reviewed a myriad of FPD's policies regarding: (1) General Operations, including Use of Force, Officer-Involved Shootings and Deaths, Firearms, Officer Response to Calls, Canines, and (2) Patrol Operations, including Patrol Function, Rapid Response and Deployment, Field Training Officer Program, Contacts and Temporary Detentions, Body Worn Computer, and Crisis Intervention Incidents, but PPS did not find a policy regarding the command and control of an operation or scene. Though FPD may have general orders, trainings, or practices that outline the responsibilities of the first responding officer or supervisor at a scene, FPD should develop a formal policy that provides guidance related to: (1) how an officer should establish command and control of a scene, (2) what having command and control of the scene requires, (3) how and under what circumstances that command and control should be communicated to the other officers at the scene, and (4) how and under what circumstances command and control may or should be transferred to a supervisor or another officer at the scene.

In this chaotic and rapidly evolving incident, the five officers involved, Sein, Doakes, Nassar, Gossert and DeLeon, arrived on scene and attempted to establish a perimeter around the Wendy's restaurant where Tarrants was reported to be hiding. Within a few minutes, Tarrants ran out of the restaurant and Officers Sein and DeLeon initiated a foot pursuit yelling verbal commands to surrender. Tarrants ran into a cinder block trash dumpster enclosure and Officers Sein and DeLeon established a position east of the enclosure. Officers Gossert, Doakes, Nassar, and Sergeant Lally took an elevated position north of the cinder block dumpster enclosure on the south sidewalk of Beech Avenue with an intermittent view of Tarrants. Multiple officers were shouting commands at Tarrants simultaneously from the two locations where they were positioned.

In very quick succession, Officer Sein requested over the radio a less lethal 40 millimeter launcher to respond to the scene and instructed the FPD police service dog handler, Officer Mudder, to reposition closer to Tarrants. Officer Sein was a former dog handler and thought the canine could be another less lethal option. Near the same time, Sergeant Lally also called for a 40 millimeter launcher after he arrived at the elevated position on the sidewalk and can be heard on his BWC saying "dog's coming up." Thus, while there are indications that Officer Sein may have been in command at least initially, it is unclear if such command was actually established and communicated to the other officers at the scene. If Officer Sein was in command, it is also unclear whether Sergeant Lally relieved him of that responsibility at any time prior to the shooting, and whether the other officers on scene understood from whom they should be taking direction.

With a dynamic situation presented at the scene, it is critical to clearly establish and communicate who is in command of the scene in order to avoid cross signals or further chaos. An officer who maintains a centralized point of command can best direct with authority where all the officers should position themselves, lead or direct communications with the subject, provide clear direction to officers regarding less lethal options and next steps, and adjust as appropriate to the changing circumstances at the scene. Though this incident evolved quickly, FPD should evaluate whether its current procedures, practices, and training are sufficient to provide future guidance to officers regarding how to establish and communicate who is in control at the scene, and when and how to communicate transfer of command, when appropriate. Additionally, FPD should create a written policy to formalize this guidance and ensure its officers are trained appropriately.



## 2. DE-ESCALATION

FPD's de-escalation policy states that officers should: (1) "consider actions that may increase officer safety and may decrease the need for using force," and (2) "when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force."<sup>2</sup>

In this incident, Tarrants ran out of the Wendy's and into the dumpster enclosure, at which time the officers immediately began yelling verbal commands. Specifically, four to five officers began yelling at the same time, "show me your hands," "show me your f[]n hands," and "let me see your f[]n hands now." While the dynamics and timing of this incident may not have allowed for sufficient time to make attempts at de-escalation feasible, to guide future situations, FPD should revise its Use of Force de-Escalation policy to be consistent with existing law.<sup>3</sup> Notably, FPD does include some de-escalation techniques in its Crisis Intervention Policy, which can be applied to its Use of Force de-escalation policy, including that responding officers should:

...evaluate safety conditions; introduce themselves and attempt to obtain the person's name; be patient, polite, calm, courteous and avoid overreacting; speak and move slowly and in a non-threatening manner . . . and that responding officers generally should not: use stances or tactics that can be interpreted as aggressive . . .<sup>4</sup>

PPS recommends that FPD revise its Use of Force de-escalation policy to require de-escalation to include a non-exhaustive list of specific de-escalation tactics and techniques that an officer can employ, when feasible under the circumstances, including:

- Verbal persuasion.
- Warnings and advisements.
- The use of other resources, such as crisis intervention teams.
- Avoiding language or behavior that would escalate the stress or tension in the environment.
- Once the policy is established, provide additional training for all staff on these policies.

## 3. SITUATIONAL/POSITIONAL AWARENESS

After Tarrants ran into the cinder block dumpster enclosure, in a matter of seconds, Officer Sein communicated over the radio and instructed the FPD police service dog handler, Officer Mudder, to reposition closer to Tarrants. Officer Mudder immediately proceeded to retrieve his canine in order to potentially deploy the dog as a less lethal option. As Officer Mudder was in the process of repositioning

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2 Fontana Police Department Policy No. 300.3.4, "Use of Force: Alternative Tactics – De-Escalation" (January 2, 2024) <[https://www.fontanaca.gov/DocumentCenter/View/43566/300-Use\\_of\\_Force-3](https://www.fontanaca.gov/DocumentCenter/View/43566/300-Use_of_Force-3)> [as of June 5, 2024].

3 Government Code section 7286, subdivision (b)(1) states, "Each law enforcement agency shall, by no later than January 1, 2021, maintain a policy that provides a minimum standard on the use of force. Each agency's policy shall include all of the following: (1) A requirement that officers utilize deescalation techniques, crisis intervention tactics, and other alternatives to force when feasible."

4 Fontana Police Department Policy No. 466.6, "Crisis Intervention Incidents: De-Escalation" (July 19, 2023) <[https://www.fontanaca.gov/DocumentCenter/View/42584/466-Crisis\\_Intervention\\_Incidents](https://www.fontanaca.gov/DocumentCenter/View/42584/466-Crisis_Intervention_Incidents)> [as of June 5, 2024].

himself with his canine south of the dumpster enclosure, he heard someone say “he’s got a gun.” Out of his peripheral vision, Officer Mudder saw Tarrants emerging from the dumpster enclosure with something in his hand. Officer Mudder then heard gunfire and felt debris hitting him as the other officers fired their service weapons at Tarrants. Officer Mudder stated in his interview that he felt as though he was “in the middle of it,” he “could feel stuff hitting me from the direction of where the guy was at,” he thought Tarrants might have been shooting at him, and that he was in a dangerous position relative to Tarrants and the officers firing at him.

Instead of moving behind the dumpster enclosure where Tarrants was located, it may have been safer for Officer Mudder to reposition himself by moving north to the sidewalk where the other officers were located and going around to the enclosure, so he was not in the line of fire. It appears that at least Sergeant Lally was aware of the potential for crossfire risks and can be heard saying “dog’s coming up” on his BWC, but it is not clear whether that was ever communicated to Officer Mudder, or the other officers not in his immediate vicinity. PPS was not able to find any existing FPD policy regarding situational/positional awareness in any of its patrol, operations, canine, or firearms policies. FPD should establish a specific policy regarding situational and positional awareness of officers when repositioning and during an encounter, particularly encounters with subjects who are thought to be armed. The policy should discuss: (1) how officers can clearly communicate with each other concerning any potential risks in their positions, (2) when officers should reposition during an incident, and (3) how officers should reposition with awareness for the safety of all involved officers to ensure they are not putting themselves or other officers in the line of fire. Additionally, once a policy is established, FPD should train its officers on situational/positional awareness.

#### **4. BODY WORN COMPUTER<sup>5</sup>/RECORDING SYSTEMS**

FPD’s Body Worn Computer (BWC) policy states that officers should:

[A]ctivate the BWC anytime the officer believes it would be legal, appropriate, and valuable to record an incident. The activation should be prior to contact, or as soon as safely possible to do so, and continue until the contact or event is concluded. If the contact resumes, so should the BWC recording. Officers should not turn the BWC on and off during a single incident as it will create an incomplete or edited recording of the incident, except as stated otherwise in this policy. The safety of employees and members of the public is the highest priority, and the department acknowledges there may be situations in which operation of the device is impractical or may be an impediment to public or employee safety.

The policy further states that “[e]mployees should activate the BWC to record any investigative or enforcement related contacts,” including, for example:

All enforcement encounters where there is at least reasonable suspicion the persons(s) has committed, is committing or may be involved in criminal activity or any enforcement encounter where there is reason to believe that the individual is committing a violation for which a citation may be issued. . . . Calls for service, complaints, and self-initiated activity . . . Uses of force . . . Suspect, victim and witness statements unless otherwise stated under this policy . . .

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<sup>5</sup> FPD refers to its body-worn camera system as “computers.” See Fontana Police Department Policy No. 449, “Body Worn Computer: When to Activate” (July 19, 2023) <[https://www.fontanaca.gov/DocumentCenter/View/42577/449-Body\\_Worn\\_Computer](https://www.fontanaca.gov/DocumentCenter/View/42577/449-Body_Worn_Computer)> [as of June 5, 2024].

(Fontana Police Department Policy No. 449.8.6.)<sup>6</sup>

FPD policy states, “Officers will use reasonable judgment in determining when to deactivate the body worn camera, such as when the purpose for activation is no longer present. When officers are on lengthy incidents and are not going to be contacting involved parties or the public they can stop recording. An example is a lengthy crime scene once the scene is secured.” (Fontana Police Department Policy No. 449.8.7.)<sup>7</sup>

FPD’s policy also states that “[e]mployees are not required to record while they are conferring on a call, during tactical briefing and debriefings of events requiring BWC activation or during safety and security procedures. . . .”<sup>8</sup> This provision seems to conflict with the other provisions of the policy regarding when to activate the BWC, and it does not describe what is considered a “tactical briefing,” or the circumstances under which a tactical briefing would allow for officers to turn off their BWC while they are still involved in an enforcement encounter and the purpose for the BWC activation is still present. Additionally, FPD policy requires that “[a]ny start/stop exceptions should be documented audibly on camera or documented in writing when applicable in a report.” (Fontana Police Department Policy No. 449.8.7.)<sup>9</sup>

Officers Doakes, DeLeon, and Sein were equipped with BWCs. Each activated their BWCs prior to the shooting, but each also stopped the audio recording on their cameras at various times during the incident. The officers can be all be clearly heard initially on their BWC videos, indicating that their microphones were operational.

Before the shooting occurred, and as the officers were determining their strategy, Officer Sein muted the audio on his video from the 5:57 to the 8:21 mark. After Tarrant is shot, Officer Gossert is heard asking Officer DeLeon, “you good?” and DeLeon responds “yeah” and asks Gossert, “you good?” Officer DeLeon then mutes his audio for approximately five seconds starting at 4:01. About two minutes later, Sergeant Lally is seen on Officer DeLeon’s BWC video talking to him and another officer, telling them “You guys are out of play, just hang out here.” Officer DeLeon then mutes his audio again at 6:05, and his audio remains muted for the remainder of his BWC footage.

After Tarrant is shot, Officer Doakes also mutes his BWC video at the 2:23 mark while he speaks with Officer DeLeon. Officer Doakes unmutes his audio at 3:53, and then mutes his audio again and is seen on the BWC talking with Officer DeLeon. His audio remains muted for the remainder of the BWC footage.

Under FPD’s governing BWC policy, Officers Doakes, DeLeon, and Sein should have activated their BWCs from the beginning of their arrival at the shopping center and prior to their contact with Tarrant, and should not have turned the BWC audio on and off during the incident. Officer Sein stated in his interview that he was muting his BWC to discuss tactics with Officer DeLeon, but because the FPD policy seems to have conflicting provisions, and may permit officers to deactivate their BWC during tactical briefings, it is unclear from FPD’s policy whether this first instance of Officer Sein muting

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6 Fontana Police Department Policy No. 449.8.6, “Body Worn Computer: When to Activate” (July 19, 2023) <[https://www.fontanaca.gov/DocumentCenter/View/42577/449-Body\\_Worn\\_Computer](https://www.fontanaca.gov/DocumentCenter/View/42577/449-Body_Worn_Computer)> [as of June 5, 2024].

7 Fontana Police Department Policy No. 449.8.7, “Body Worn Computer: Cessation of Recording” (July 19, 2023) <[https://www.fontanaca.gov/DocumentCenter/View/42577/449-Body\\_Worn\\_Computer](https://www.fontanaca.gov/DocumentCenter/View/42577/449-Body_Worn_Computer)> [as of June 5, 2024].

8 Fontana Police Department Policy No. 449.8.8, “Body Worn Computer: Activation Not Required or Not Permissible [sic]” (July 19, 2023) <[https://www.fontanaca.gov/DocumentCenter/View/42577/449-Body\\_Worn\\_Computer](https://www.fontanaca.gov/DocumentCenter/View/42577/449-Body_Worn_Computer)> [as of June 5, 2024].

9 *Ibid.*

his BWC would be permissible under the policy. Additionally, Officers Doakes and DeLeon spoke with each other after the officers shot Tarrant, but their BWC does not reveal the content of the conversation because their audio was muted. FPD's policy does not reflect that officers may mute their audio while still keeping their BWC video activated. Nor does the policy set forth any guidelines regarding when it is appropriate to mute, for example, to perform administrative functions, and what those functions may include.

Without the full benefit of the video and audio evidence, there is a concern that the muting of the BWC audio prevented investigators and the public from being provided important and relevant information and evidence regarding the shooting of Tarrant.

Because FPD's current policy appears to have conflicting provisions, PPS recommends that FPD revise its policy to ensure it does not contain inconsistent direction and instead provides clear guidelines to the officers on when they should activate their BWC. The BWC policy should clearly delineate the circumstances, if any, by which officers may mute their BWC audio or video, and the policy should include an instruction that officers explicitly define any policy or order requiring them to mute their audio or video on their BWC before muting.

## 5. WEBSITE POSTING OF AGENCY POLICIES

In conducting its review, PPS attempted to locate on FPD's website "all current standards, policies, practices, operating procedures, and education and training materials that would otherwise be available to the public if a request was made pursuant to the California Public Records Act." (Pen. Code, § 13650.) While FPD's policies are on its website, they are not "conspicuously post[ed]" as required by law. (*Ibid.*) Two of FPD's policies, the Automated License Plate Readers (ALPRs) Policy and BWCs, can be found under the "About Us, Public Information" page,<sup>10</sup> though the BWC policy posted there is outdated, as it is labeled Policy 451 and was last updated on September 10, 2018. The remainder of FPD's policies are located under the broad category of "Recruitment," and then under the link for "Training Materials."<sup>11</sup> Under the "Training Materials" link, the BWC policy is labeled Policy 449, and is dated July 19, 2023. The locations of FPD's policies are not immediately apparent, and may be challenging for a member of the public to locate. PPS recommends that FPD ensure the policies in its manual are updated to include the most recent versions of the policies, and that it "conspicuously post" the manual on its website, as required by law.

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10 Fontana Police Department, "About Us, Public Information" <<https://www.fontanaca.gov/379/Public-Information>> [as of June 5, 2024].

11 Fontana Police Department, "Recruitment, Training Materials" <<https://www.fontanaca.gov/3263/Training-Materials>> [as of June 5, 2024].