



C A L I F O R N I A

DEPARTMENT OF JUSTICE

Report on the Investigation into the Death of Curtis Barnett on July 13, 2022

Monterey County AB 1506

November 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 (“the Department” or “DOJ”) 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 have been handled primarily 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 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 discovered 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 any witnesses. 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.

For reasons related to privacy, as well as readability of this report, the witnesses will be indexed as follows:

- Witness 1 (W-1), neighbor of W-2, living at 220 Crescent Way, Salinas, California
- Witness 2 (W-2), stabbing victim living at 216 Crescent Way, Salinas, California
- Witness 3 (W-3), the daughter of Mr. Barnett
- Witness 4 (W-4), the ex-wife of Mr. Barnett

INTRODUCTION

On July 13, 2022, Salinas Police Department police officers responded to a call of a stabbing at 216 Crescent Way, Salinas, California. While the officers were en route to the scene, dispatch advised that a reporting party called in reporting that the suspect had a firearm. On arrival, officers contacted the stabbing victim at the curb of 220 Crescent Way. Minutes later, Curtis Barnett emerged at the front door of 216 Crescent Way with what appeared to be a Tommy submachine gun in his left hand and a sword in his right hand and began yelling expletives at the officers. Officers saw Mr. Barnett and repeatedly ordered Mr. Barnett to put down the gun. Mr. Barnett did not comply and instead, walked toward the officers while screaming and yelling, "Fuck you!" repeatedly. When Mr. Barnett advanced approximately halfway toward the officers, Officers Eduardo Bejarano, Gabriel Garcia, Alejandro Jimenez, and Jordy Urrutia fatally shot Mr. Barnett. After the shooting, the officers discovered that the Tommy submachine gun held by Mr. Barnett was an airsoft gun and not a firearm.

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 DOJ's review of the fatal OIS of Mr. Barnett and is limited solely to determining whether criminal charges should be brought against the involved officers and policy and practice recommendations as required by Government Code section 12525.3, subdivision (b)(2)(B)(iii). The review does not encompass or comment on any potential administrative or civil actions.

Upon thorough examination and as discussed in detail below, we conclude that no criminal charges will be filed because the evidence is insufficient to prove that the officers committed a crime, and the OIS was justified.

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

The following summary is based on information obtained in the investigation from various sources including body worn camera (BWC) footage, shooting officer interviews, incident reports prepared by assisting and percipient witness law enforcement personnel, dispatch records and logs of the incident, and audio recordings of dispatch calls and radio communications.

On July 13, 2022, W-2 and Curtis Barnett were watching television at W-2's residence located at 216 Crescent Way, Salinas. Suddenly, Mr. Barnett started talking about the five dollars he gave to W-2 the day before to buy some cabinet hinges and claimed that W-2 "ripped [him] off" for his work in the past years. Mr. Barnett asked W-2 why he did not pay him (Mr. Barnett) back the five dollars. When W-2 went to the bedroom to get money for Mr. Barnett, Mr. Barnett followed him. In the bedroom, Mr. Barnett hit W-2 in the ribcage with a baseball bat while telling W-2 that he was going to kill him. W-2 gave Mr. Barnett a fifty-dollar bill, and Mr. Barnett grabbed two more fifty dollar bills that W-2 had. Mr. Barnett then took a sword that W-2 had in the house and followed W-2 down the hall of the residence. When W-2 tried to leave the house through the front door, Mr. Barnett stabbed W-2 with the sword and said, "I'm going to kill you." W-2 grabbed the metal blade of the sword to stop it from stabbing him resulting in a cut to his fingers. W-2 was able to unlock the front door and quickly exit the home. W-2 yelled, "Help! Help!" while crossing the front yard toward the home next door (220 Crescent Way). His neighbor, W-1, let W-2 in, saw that W-2 was bleeding, and called 911 from his (W-1's) cell phone.

At approximately 10:30 PM, Monterey County Emergency Communications Department ("911 dispatch") received a telephone call from W-1's cell phone number. The caller, W-1, stated that his neighbor, W-2, who had just walked into W-1's house, had just been stabbed by W-2's roommate. W-1 stated that W-2's roommate was named Curtis Barnett and that Mr. Barnett remained at W-2's residence, 216 Crescent Way. W-2 could be heard in the background during this 911 call providing the name of his roommate, Curtis Barnett.

911 dispatch reported the stabbing at 216 Crescent Way over the radio stating, "the RP's roommate was just stabbed." The CAD log shows this was reported at 10:30 PM. Some communication followed, and then 911 dispatch reported at 10:31 PM, "we're getting a correction that it was the RP's next door neighbor that was stabbed by the roommate. Curt Barnett with a sword." The following are excerpts of communication that occurred next over the radio:¹

911 dispatch: "It looks like the suspect also had a baseball bat."

...

An officer: "What's the number on Crescent?"

911 dispatch: *(at 10:32:58 PM)* " ... 216. Units on scene. The victim will be at 220 Crescent. Again victim's at 220 Crescent. We got another RP calling from that address saying that the subject has a machine gun and a sword. He's going crazy."

...

¹ Ellipses indicate omitted communication not pertinent here.

Officer Macias: *(at 10:33:44 PM)* “ ... I’m with the RP standing in front of 220. Looks like he has a small laceration to his thumb and that’s about it. If you could stage medical.”

...

Officer Macias: *(at 10:34:07 PM)* “The victim’s going to be 64, white male adult conscious breathing. It’s going to be to his left thumb. Apparently, the suspect is in his mid-60s, and he’s inside 216.”

911 dispatch: “Copy. The suspect mid-60s. He’s inside 216.”

Officer Macias: “The suspect is going to be Curtis Barnett, white male adult, mid-60s. Still trying to get clothing.”

...

Officer Macias: *(10:34:51 PM)* “The suspect is going to be bald, wearing a tan or brown shirt with camo pants.”

...

Unidentified person: *(at 10:35:27 PM)* “Can you ask the victim about the firearm?”

911 dispatch: “They disconnected on us. Looks like we’re trying to call back. It’s just going to voicemail. We didn’t get a name for the second RP.”

Officer Macias: *(at 10:35:55 PM)* “There’s no firearms in there. He just said he has a big, long sword that belongs to the victim. No mention of any uh firearms.”

911 dispatch: “Copy. No mention of firearms.”

911 dispatch: “ ... It looks like the second call did come from 216 Crescent. From a landline, residential landline.”²

While 911 dispatch was communicating with the officers, the officers arrived on scene at the area of 216 Crescent Way. 216 Crescent Way was a residence situated with the front door facing south. 220 Crescent Way was located next door and to the west of 216 Crescent Way. SPD Officer Richard Macias arrived at approximately 10:33 PM and was the first officer on scene. He positioned his police vehicle (Unit 376) in the street in front of 220 Crescent Way facing east. Officer Macias contacted W-1 and W-2, both of whom were walking down the driveway of 220 Crescent when Officer Macias arrived. Officer Macias escorted W-2 (who was bleeding from his left hand) to the curb in front of 220 Crescent Way and had W-2 take a seat. W-2 told Officer Macias that his friend, later identified as Mr. Barnett, had stabbed him with a sword over an argument. W-2 stated that Mr. Barnett was still inside his house (216 Crescent Way) and was armed with a baseball bat and long sword. W-2 advised Officer Macias that there were no firearms in his residence, and Officer Macias relayed this information to 911 dispatch. During Officer Macias’ contact with W-2, other SPD officers began to arrive on scene including Officers Eduardo Bejarano, Gabriel Garcia, Alejandro Jimenez, and Jordy Urrutia.

² As described further below, the investigation later determined that the second reporting party was Curtis Barnett.

Firing of Lethal Rounds

On arrival, the officers were equipped with their duty pistols. Officer Bejarano also had a rifle and Officer Jimenez also had a 40-millimeter less-lethal launcher. The 40-millimeter less-lethal launcher was an alternative to lethal force. Moments before Mr. Barnett emerged at the front door of 216 Crescent Way, the positions of the officers relative to 216 Crescent Way were as follows: Officer Macias was at the curb in front of 220 Crescent Way talking with W-2; Officer Bejarano was standing next to Officer Macias; Officer Urrutia was walking toward them; and Officers Garcia, Jimenez, and Carlos Rios were standing close by in the street (Crescent Way). Officer Bejarano later estimated that it was about 40–50 feet between where W-2 was sitting and the front door of 216 Crescent Way. It was night time and dark outside. There was a small light located above the frame of the front door of 216 Crescent Way. Officer Macias' police vehicle (Unit 376) had its red and blue lights, parking lights, "alley light" (white light on top of police vehicle), and spot light (white light mounted next to windshield on driver side) on. Much of this lighting was focused on where W-2 was sitting on the curb; a civilian SUV parked curbside in front of 220 Crescent Way between W-2's location and 216 Crescent Way, obstructed the light from reaching the area in front of 216 Crescent Way. (Moments before the officer-involved shooting, Officers Macias and Garcia also had their handgun-mounted lights on).

At 10:37:00 PM, Mr. Barnett emerged from the front door of 216 Crescent Way shouting "Fuck you!" at the officers. Mr. Barnett was armed with a sword and what the officers described as a Tommy submachine gun but was later discovered to be an airsoft gun. The officers immediately drew and aimed their firearms at Mr. Barnett and ordered him to "put it down!" Officer Macias moved quickly up the driveway of 220 Crescent Way and took cover alongside the house while he aimed his firearm at Mr. Barnett and ordered Mr. Barnett to "put down the gun!" Officer Macias also ordered W-2 and W-1 to get inside 220 Crescent Way. Officer Bejarano raised his rifle at Mr. Barnett and positioned himself behind a trash can that was in front of 220 Crescent. Officers Garcia and Jimenez positioned themselves behind the engine block of the civilian SUV.³ Officer Urrutia ran toward Officers Garcia and Jimenez' locations and ordered Mr. Barnett to "drop it, drop it!"

Mr. Barnett did not comply with officer commands to put down the gun. Instead, Mr. Barnett stepped off the front concrete stoop of 216 Crescent Way and walked at a steady pace onto the front lawn and toward the officers repeatedly shouting, "Fuck you!" at the officers while holding a sword in his right hand and an apparent Tommy submachine gun in his left hand. The officers repeatedly ordered Mr. Barnett to "put it down!" When Mr. Barnett had walked approximately half-way into the front lawn, Officers Bejarano, Garcia, Jimenez, and Urrutia fired lethal shots at Mr. Barnett at 10:37:19 PM. Officer Urrutia appeared to have fired the first shot. At the time of this lethal fire, Officer Urrutia was approximately 33 feet from Mr. Barnett, Officer Garcia was approximately 33 feet from Mr. Barnett, Officer Jimenez was approximately 33 feet from Mr. Barnett, and Officer Bejarano was approximately 44 feet from Mr. Barnett.

³ Officer Garcia initially took a position in front of Officer Bejarano and behind the civilian SUV parked curbside. Officer Bejarano yelled, "Hey Gabe, watch out, Gabe!" and Officer Garcia moved from that position to take cover on the right side of the same vehicle behind the engine block.

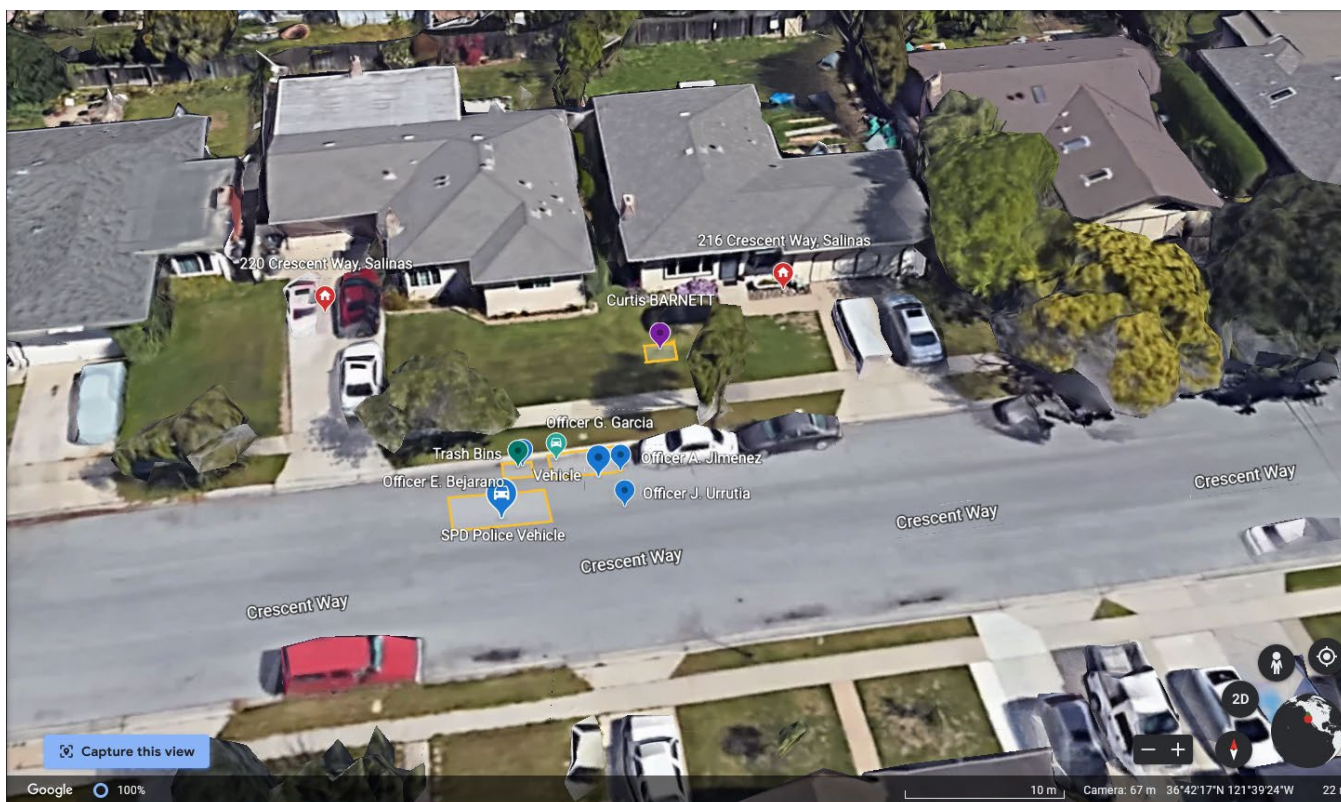


Image of incident area. Photograph not taken on day of incident. All locations, directions, and distances are approximate. Locations of Officers Bejarano, Garcia, Jimenez, and Urrutia in relation to Mr. Barnett and 216 Crescent Way, is based on officers' statements, police reports, and BWC footage. "SPD Police Vehicle" was where SPD Officer Macias' vehicle (Unit 376) was parked facing east.

After the officers fired lethal rounds at Mr. Barnett, Mr. Barnett fell to the ground on his back. The officers commanded Mr. Barnett not to reach for the gun and kept their firearms aimed at Mr. Barnett until more officers arrived on scene. The arrest team (which did not include the officers who fired lethal rounds during the OIS) moved up to Mr. Barnett utilizing a ballistic shield for cover and placed Mr. Barnett in handcuffs. Officers, including Officers Bejarano and Jimenez, then entered 216 Crescent Way and conducted a protective sweep of the residence. During that time, Officers Garcia, Urrutia, and Tommy Kor carried Mr. Barnett away from 216 Crescent Way and across the street to where Salinas Fire Department personnel and American Medical Response (AMR) Paramedics were staged. Salinas Fire Department personnel and AMR Paramedics began to perform CPR on Mr. Barnett. Fire personnel found a large knife inside one of Mr. Barnett's socks. After the knife was secured and the officers cleared 216 Crescent Way, Officers Bejarano, Garcia, Jimenez, and Urrutia were identified as the shooting officers who discharged their firearms during the incident. They were separated and transported to SPD where they were sequestered in separate locations in the building.

Salinas Fire Department personnel and AMR Paramedics continued to render aid to Mr. Barnett while they transported him to Natividad Medical Center. At the medical center, hospital staff continued to render aid to Mr. Barnett until resuscitative efforts were concluded and the doctors pronounced time of death for Mr. Barnett at 11:02 PM.

INVESTIGATION

Overview

On July 14, 2022, DOJ's Division of Law Enforcement (DLE) California Police Shooting Investigation Team (CaPSIT) received notification of a possible AB 1506 qualifying event in Salinas, California. Salinas Police Department (SPD) officers were involved in a shooting during the evening of July 13, 2022. On July 14, 2022, CaPSIT Supervising Special Agent (SAS) Romero promptly responded to the notification and received a briefing from the Monterey County District Attorney's Office (MCDAO) regarding the incident and the initial investigative steps taken by Salinas Police Department (SPD) and MCDAO per agency protocol. The steps included the execution of a search warrant for 216 Crescent Way, the processing of the shooting officers including their firearms, and the processing of the incident scene. After reviewing available SPD officer body-worn camera videos and dispatch and call recordings, SAS Romero determined the incident to be a qualifying event within the meaning of Government Code section 12525.3, and DOJ took primary investigative responsibility from that point. (For more information on DOJ's practices and procedures, see <https://oag.ca.gov/ois-incidents>.)

SAS Romero collected the shooting officers' firearms and ammunition from the SPD Property Controller, visited the incident location, and briefed CaPSIT Special Agents and assigned investigative tasks.

SPD Officers Bejarano, Garcia, Jimenez, and Urrutia had been sequestered after the incident and later provided voluntary statements to investigators. Statements were taken from percipient witnesses, including other law enforcement officers, paramedics, and civilian witnesses. DOJ team reviewed body worn camera (BWC) footage, 911 dispatch recordings, written reports of law enforcement officers, physical evidence, and the autopsy and toxicology reports.

DOJ's investigation into the death of Mr. Barnett was comprehensive, thorough, objective, and independent. As a whole, hundreds of hours of investigation were conducted by DOJ, MCDAO, SPD, SPD Crime Scene Investigations (CSI), and DOJ's Bureau of Forensic Services (BFS).

Evidence Reviewed

DOJ conducted an extensive investigation and reviewed comprehensive investigation materials regarding the incident including:

- The incident scene at 216 Crescent Way, Salinas, California
- Body worn camera (BWC) footage from SPD Officers
- Photographs of the incident scene and of the shooting officers
- 911 dispatch audio recordings and CAD logs
- Interviews of the shooting officers
- Interviews of civilian witnesses associated with this incident
- Interviews of Mr. Barnett's family members
- Interviews of the responding medical personnel
- Physical evidence recovered from the scene of the incident

- Autopsy and toxicology reports
- Firearms and ballistic analysis by DOJ's BFS

Incident Scene Description

This incident took place in a residential area, on the front lawn of a residence located at 216 Crescent Way, Salinas, California. The residence was situated facing south and had a concrete stoop just outside the front door. The front lawn was dry and brown in color. The house to the immediate west of 216 Crescent Way had the address 220 Crescent Way. At the time of the incident, a civilian SUV was parked in front of 220 Crescent Way at the curb and facing east, and trash bins were located curbside in front of 220 Crescent Way, behind the civilian SUV. Officer Macias' police vehicle (Unit 376) was parked just south west of the civilian SUV.

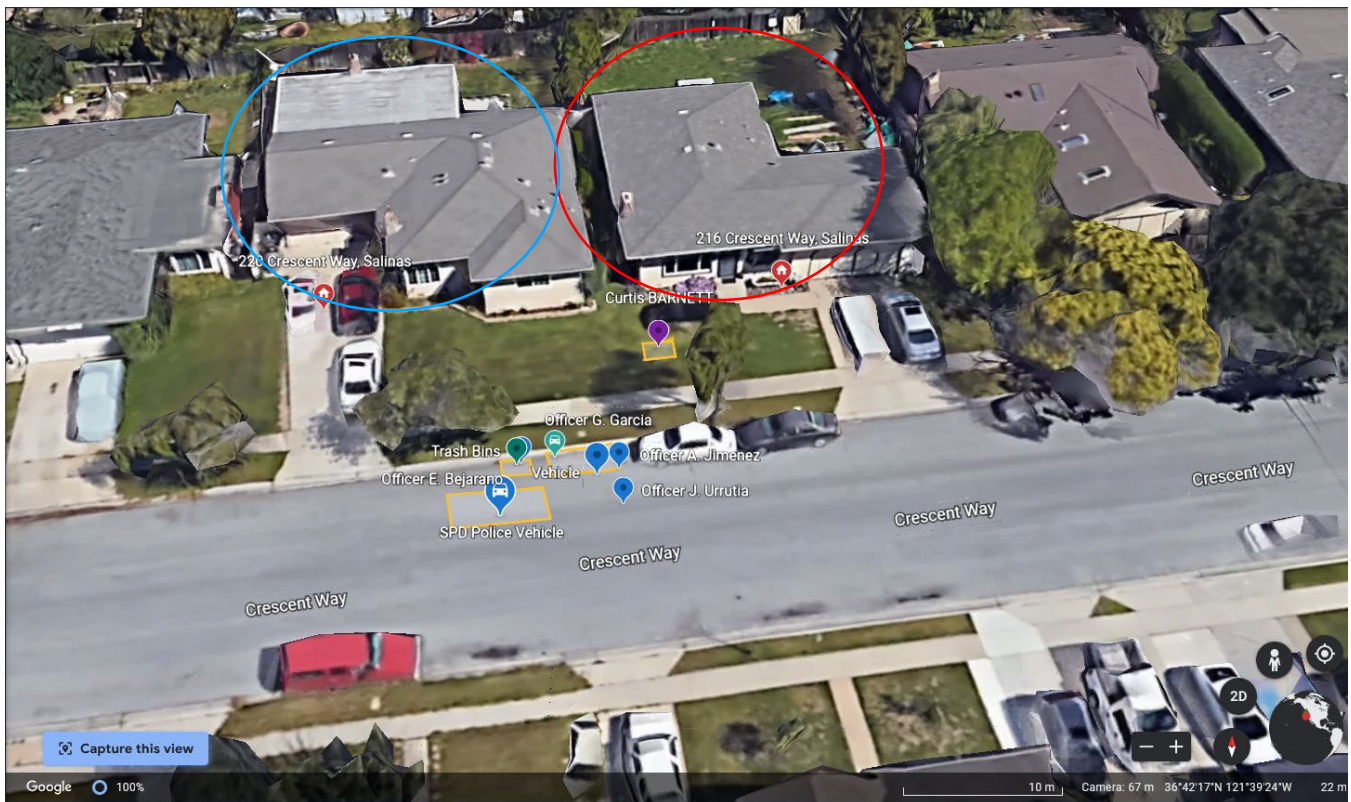


Image of incident area. Photograph not taken on day of incident. All locations, directions, and distances are approximate. Red circle is 216 Crescent Way. Blue Circle is 220 Crescent Way.

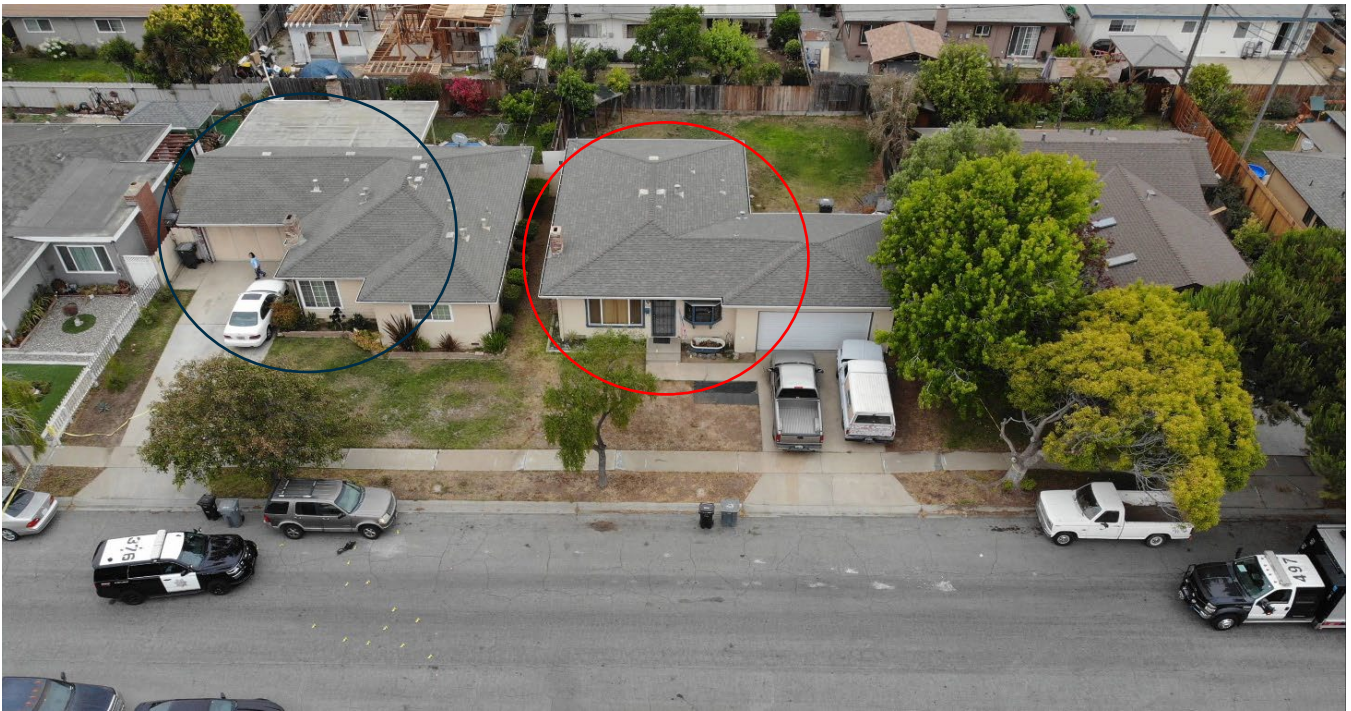


Image of incident area. Photograph taken on morning of July 14, 2022. Civilian SUV in front of 220 Crescent Way and Officer Macias' police vehicle (Unit 376) are parked as they were during the OIS. Red circle is 216 Crescent Way. Blue Circle is 220 Crescent Way.

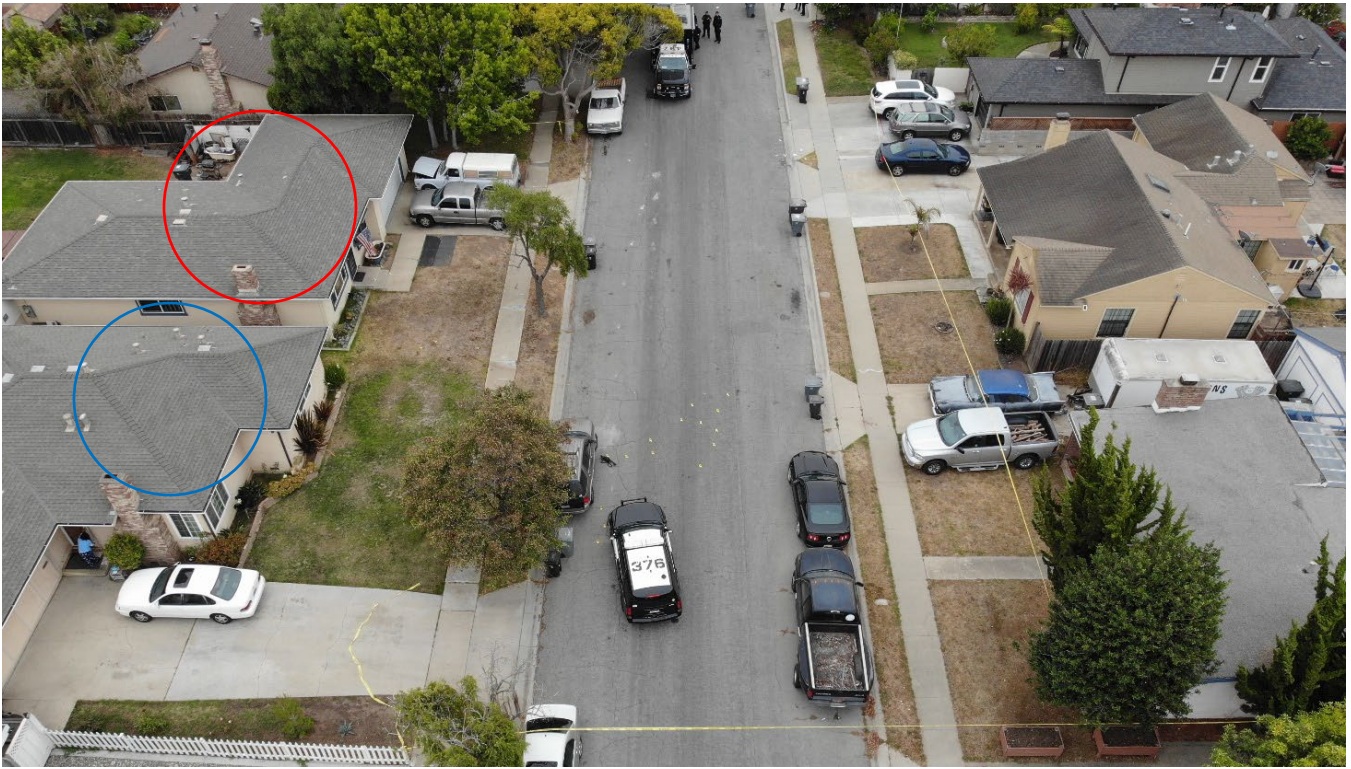


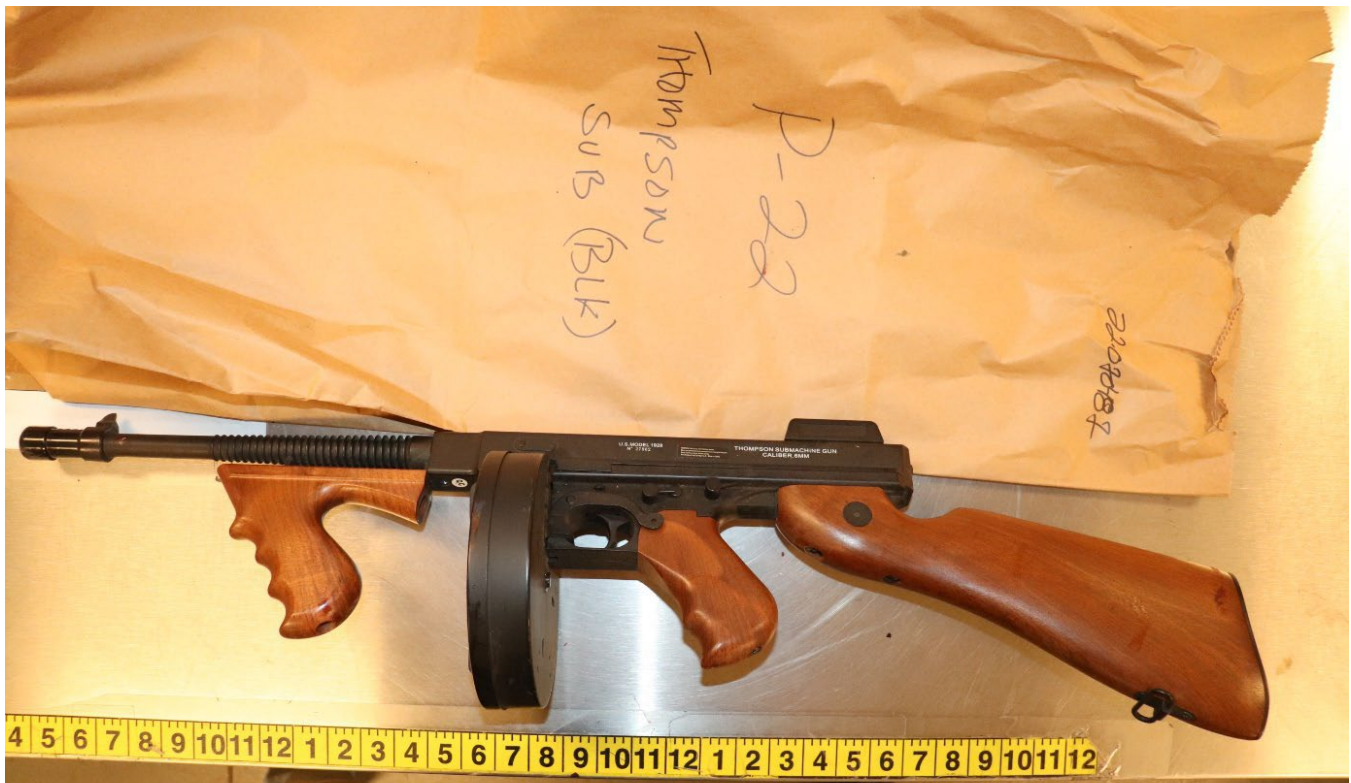
Image of incident area. Photograph taken on morning of July 14, 2022. Civilian SUV in front of 220 Crescent Way and Officer Macias' police vehicle (Unit 376) are parked as they were during the OIS. Red circle is 216 Crescent Way. Blue Circle is 220 Crescent Way.

Incident Scene Evidence Recovery

SPD CSI technicians/investigators responded to 216 Crescent Way and processed the crime scene and evidence prior to DOJ CaPSIT's arrival. SPD CSI collected the firearms of the four SPD officers who fired their firearms and booked them as evidence into SPD evidence storage. Personnel from DOJ's BFS received and processed the following evidence items collected by SPD: the shooting officers' firearms, cartridge casings, and bullets.

Airsoft Gun, Sword, and Knife

An apparent Tommy submachine gun was recovered from the scene of the incident in the front yard of 216 Crescent Way. SPD CSI investigators determined that the item was an airsoft gun and not a real firearm. CaPSIT agents observed that the airsoft gun did not have an orange or red tip at the end of the barrel commonly used to distinguish an airsoft gun from a real firearm.



Photograph of air soft gun recovered from incident scene.



Picture of 1927 A-1, Deluxe Carbine, .45 Cal., with detachable buttstock and vertical fore grip with 50 round drum magazine, from <https://shopkahrfirearmsgroup.com/auto-ordnance/long-guns/>, accessed on 12/13/23.

A sword, four feet in length, was recovered from the scene of the incident in the front yard of 216 Crescent Way.



Airsoft gun and sword recovered from incident scene.

While providing medical aid to Mr. Barnett at the incident scene, AMR Paramedic Diana Moreno discovered a large knife in Mr. Barnett's left sock and threw it on the ground. Ms. Moreno did not observe any blood on the knife. The kitchen knife was recovered from the sidewalk in front of 211 Crescent Way (across the street from 216 Crescent Way) and booked into evidence.



Kitchen knife located at the scene.

Firearms and Ballistics Evidence

DOJ's BFS examined and analyzed cartridge casings collected at the incident scene by SPD personnel and determined the following:

- Five .223 caliber Remington cartridge casings were ejected from Officer Bejarano's rifle
- Five nine-millimeter cartridge casings were ejected from Officer Jimenez' nine-millimeter pistol
- Five nine-millimeter cartridge casings were ejected from Officer Urrutia's nine-millimeter pistol
- Two .45 caliber cartridge casings were ejected from Officer Garcia's .45 caliber pistol.

DOJ's BFS examined and analyzed bullets that the autopsy staff collected from the autopsy of Mr. Barnett. DOJ's BFS determined that:

- One .223 caliber bullet removed from Mr. Barnett's right side at the autopsy was fired from Officer Bejarano's rifle
- One nine-millimeter bullet removed from Mr. Barnett's right thigh at the autopsy may have been fired from Officer Jimenez' pistol
- One .45 caliber bullet removed from Mr. Barnett's right back muscle at the autopsy may have been fired from Officer Garcia's pistol
- One bullet fragment collected from the autopsy was unsuitable for comparison.

Dispatch Recordings

Body-Worn Camera Footage

Officers Bejarano, Garcia, Jimenez, and Urrutia each wore a BWC during the incident. Officer Macias, not a shooting officer, also had a BWC.

Officer Jimenez' BWC was not activated until after the officer-involved shooting incident. Officer Bejarano had a BWC, which was activated at the time of the incident and provided an audio recording of the shooting incident. Officer Bejarano's BWC however, did not provide video of Mr. Barnett during the incident because the camera appeared to have been pointing away from Mr. Barnett due to Officer Bejarano's body positioning. Instead, his BWC captured video of Officers Jimenez and Garcia discharging their firearms during the incident.

The BWC of Officers Garcia, Urrutia, and Macias were activated at the time of the incident. Their BWC and the audio from Officer Bejarano's BWC showed the following with BWC time stamps:

- At 10:37:00 PM, Mr. Barnett emerged from the front door of 216 Crescent Way and yelled, "Fuck you!" at the officers while holding a sword in his right hand and what appeared to be a Tommy submachine gun in his left hand.
- At 10:37:02 PM, Officer Bejarano yelled, "Hey! Gun!"
- At 10:37:04 PM, officers ordered Mr. Barnett, "Put it down!" as they aimed their firearms at Mr. Barnett. Officer Macias moved quickly from the curb toward the house at 220 Crescent Way.
- At 10:37:05 PM, officers ordered Mr. Barnett, "Let's see your hands!"
- At 10:37:06-09 PM, officers repeatedly ordered Mr. Barnett, "Put that down!"
- At 10:37:09 PM, Officer Macias ordered either W-2 or W-1 or both, "get inside the house!"
- At 10:37:10-11 PM, an officer ordered Mr. Barnett, "Put that down!" and Mr. Barnett yelled at the officers, "Fuck you!"
- At 10:37:12 PM, officers ordered Mr. Barnett, "Put it down!"
- At 10:37:13 PM, officers ordered Mr. Barnett, "Put it down!" and Mr. Barnett yelled at the officers, "Fuck you!"
- At 10:37:14-15 PM, officers ordered Mr. Barnett, "Put down the gun! Put down the gun! Put it down! Put that down!"
- At approximately 10:37:15 PM, Mr. Barnett stepped off the front stoop and walked onto the front lawn toward the officers standing in the street. Mr. Barnett was holding something in his hand. The BWC footage did not provide a clear picture of the item in Mr. Barnett's hand or how he was holding the item. Officers ordered Mr. Barnett, "Put down the gun! Put down the gun! Put it down! Put that down!"
- At 10:37:16 PM, officers ordered Mr. Barnett, "Put it down! Put that down!"

- At 10:37:17-18 PM, W-2 could be heard on Officer Macias' BWC saying, "it's a BB gun. It's a BB gun. It don't work." This statement was also heard faintly on Officer Bejarano's BWC, but this statement was not audible on the BWCs of Officers Garcia, Jimenez and Urrutia.⁴
- At 10:37:17 PM, Officer Garcia at this point could be heard saying in low volume, "shoot."
- At 10:37:18 PM, Mr. Barnett yelled "Fuck you!" at the officers as he continued walking on the front lawn toward the officers in the street while holding something in his hand. Officer Garcia continued to order Mr. Barnett, "Put it down!"
- At 10:37:19-21 PM, lethal rounds were fired by the shooting officers and Mr. Barnett fell to the ground.



Screenshot from Officer Urrutia's BWC at 10:37:18 PM. Mr. Barnett is circled in blue. Screenshot is presented solely as a reference rather than an accurate depiction of shooting officers' perception.

⁴ At the time of W-2's statement:

Officer Macias was standing in the driveway of 220 Crescent Way, at the driver side rear of a parked white vehicle and approximately 22-24 feet away from W-2;

W-2 was getting up from sitting curbside in the grass in front of 220 Crescent Way, facing Officer Macias, and then taking a couple of steps laterally in the sidewalk away from 216 Crescent Way while continuing to face Officer Macias;

W-2 was facing away from Officer Bejarano, who was approximately 12-15 feet away from W-2;

W-2 was facing away from Officers Garcia, Jimenez, and Urrutia, who were approximately 25-28 feet away from W-2.



Screenshot from Officer Macias' BWC at 10:37:19 PM. Mr. Barnett is circled in blue. Screenshot is presented solely as a reference rather than an accurate depiction of shooting officers' perception.

In-Car Camera Footage

Officer Macias' patrol vehicle, Unit 376, was parked at the incident scene, facing east and just southwest of the parked civilian SUV. SPD reported that no in-car camera video for the evening of July 13, 2022, was located for Officer Macias' vehicle. SPD reported that Unit 376 had an older recording system and that "a lot of in-car systems in those vehicles at that time were not functioning properly."

Ring Camera Footage

The ring camera footage from the neighboring residences did not capture the shooting. The ring camera footage captured the incident area from 10:32 to 10:33 PM, 10:41 to 10:42 PM, and 10:48 PM. The shooting occurred at 10:37:19 PM.

Communications

Copies of 911 calls, radio communications ("911 dispatch"), and Computer-Aided Dispatch (CAD) logs/records were obtained and reviewed.

At approximately 10:30 PM, W-1 made the initial 911 call, and at this time, W-2 was with W-1, sheltering at W-1's home, 220 Crescent Way. The following are pertinent excerpts of the 911 call.⁵

W-1: ... My next door neighbor, he just walked into my house right now, stabbed.

911 dispatch: Okay, who stabbed him?

⁵ Ellipses indicate omitted communication not pertinent here.

W-1: His roommate. His roommate. [indiscernible background noise]

911 dispatch: Okay.

W-1: He's standing in my house, bleeding.

911 dispatch: Okay. The police are on their way right now. Stay on the line with me and don't hang up, okay?

...

911 dispatch: [What is the name of] the person who stabbed him?

...

W-2 (in background): Curt Barnett ... [indiscernible]

W-1: His name is Curt Barnett. He must be at the house next door.

911 dispatch: Does he know what happened with the knife?

...

W-2 (in background): It was a sword.

W-1: It was a sword. All I know is the guy just walked into my house; my neighbor just walked into my house. That's all we know.

...

911 dispatch: ... Can you ask him if he has any other weapons?

W-2 (in background): A knife in there, a baseball bat ... [indiscernible]

W-1: A knife, a baseball bat. Hit him with a baseball bat and then stabbed him with a knife.

W-2 (in background): Said he was going to kill me.

...

W-1: ... Police are here.

911 dispatch relayed over the radio at 10:30:36 PM, "RP's roommate was just stabbed." Then at 10:31:37 PM, 911 dispatch relayed over the radio, "we're getting a correction that it was the RP's next door neighbor that was stabbed by the roommate. Curt Barnett with a sword."

A few minutes later, at approximately 10:32:30 PM, 911 dispatch received the following second 911 call from a second reporting party, later identified as Mr. Barnett, calling from the landline of 216 Crescent Way:

911 dispatch: 911, what's your emergency?

Mr. Barnett: At 216 Crescent Way. There is a guy in it. He's got a machine gun and a sword, and he is going crazy. At 216 Crescent Way.

911 dispatch: He's inside the house?

Mr. Barnett: Yeah.

911 dispatch then relayed over the radio at 10:32:58, "We got another RP calling from that address saying that the subject has a machine gun and a sword. He's going crazy."

The voice of the second reporting party sounded like a high-pitched male voice. During the investigation, this second 911 call was reviewed and then compared with the BWC audio from a traffic stop of Mr. Barnett on June 4, 2021. Mr. Barnett's voice in the traffic stop sounded consistent with the voice heard on the second 911 call. During the investigation, W-2 was asked to listen to the voice on the second 911 call made on July 13, 2022, from the landline of 216 Crescent Way, and W-2 immediately identified the voice as that of Mr. Barnett. W-1 was also asked to listen to the voice on the second 911 call made on July 13, 2022, from the landline of 216 Crescent Way, and W-1 also immediately identified the voice as that of Mr. Barnett. In short, on July 13, 2022, at approximately 10:32:30 PM, Mr. Barnett himself, called 911 using the landline of 216 Crescent Way and reported that a subject at 216 Crescent Way had a "machine gun" and sword and was going crazy. Then, at 10:37:00 PM, Mr. Barnett exited the front door of 216 Crescent Way, holding the sword and what appeared to be a Tommy submachine gun, and confronted the SPD officers.

Photographs

SPD personnel photographically documented the shooting officers wearing the uniform and equipment the shooting officers had on during the incident. SPD personnel took digital photographs of the incident scene.

Autopsy

On July 15, 2022, Forensic Pathologist Venus Azar, M.D., of the Monterey County Sheriff's Office, Coroner Division, conducted an autopsy of Mr. Barnett at the Monterey County Morgue. The cause of death was determined to be a homicide resulting from multiple gunshot wounds. It is unknown which bullet(s) from which firearm caused the fatal gunshot wounds. Dr. Azar noted the following injuries in this report:

- Gunshot wound of entrance on the right upper chest, perforating. The gunshot wound of exit on the right side of the back between the scapula and spine.
- Gunshot wound of entrance on the left lateral back, penetrating. "A mushroomed, copper metal jacketed bullet measuring 5.5 cm in diameter at the base was recovered from the right lower lateral chest subcutaneous tissues."
- Gunshot wound of entrance on the left lower back, penetrating, "A mushroomed, copper metal jacketed bullet, measuring 1.1 cm in diameter at the base, [was] recovered from the right para-midline back muscle."
- Gunshot wound of entrance on the left lateral buttock, perforating left thigh, penetrating right thigh. The bullet exited and re-entered the body in the medial proximal right thigh. A mushroomed, copper metal jacketed bullet, measuring nine-millimeter in diameter at the base was recovered from the subcutaneous tissues of the proximal posterior-lateral right thigh.

- Gunshot wound of entrance on the right anterior thigh, perforating and exit on the right proximal posterior-lateral thigh.
- Gunshot wound of entrance on the left ankle, perforating. The gunshot wound of exit on the left ankle.
- Gunshot wound of entrance on the left lateral upper arm, perforating. The gunshot wound of exit on the left anterior upper arm.
- Gunshot wound of entrance on the proximal posterior-lateral left forearm, perforating. The gunshot wound of exit on the left anterior proximal forearm.
- Gunshot wound of entrance on the right anterior forearm, perforating. The gunshot wound of exit on the right posterior forearm.

The toxicology test of Mr. Barnett’s blood collected from the autopsy detected the presence of fentanyl, norfentanyl, morphine, codeine, and cannabinoids.

Interviews and Statements of Police Officers

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.) Officers Bejarano, Garcia, Jimenez, and Urrutia each provided 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.

SPD Officer Eduardo Bejarano

On July 15, 2022, SPD Officer Eduardo Bejarano was interviewed by DOJ Special Agent J. Vignau. Officer Bejarano’s attorney, Nicole Pifari, and MCDAO Investigator Rachel Maldonado were also present. Officer Bejarano stated that he did not review any audio or video recordings or reports about the incident prior to the interview. At the time of the OIS, Officer Bejarano was 27 years old and had been in law enforcement for approximately five years, all with SPD as a patrol officer. He was also a negotiator for the negotiation team and part of the Internet Crimes Against Children Unit.

On the day of the incident, Officer Bejarano started his shift at 10:00 AM as a patrol officer. He and Officer Garcia had just finished dealing with a call when they heard dispatch advising of a victim of a stabbing at 216 Crescent. As they started driving in the direction of 216 Crescent, dispatch further advised that the victim knew the suspect and according to Officer Bejarano, “it seemed like the suspect had gone inside the house and was just in there.” Officer Bejarano heard dispatch advise that somebody else had called in saying the suspect had a firearm. At this point, Officer Bejarano broadcast over the radio that he and Officer Garcia were going to respond.

Officer Bejarano arrived westbound on Crescent and parked slightly west of 216 Crescent. Officer Bejarano set up his rifle. At this time, Officer Rios (a canine officer) was in the back of his (Rios’) patrol car deploying his rifle. Officer Bejarano advised Officer Rios that he (Bejarano) “would stay with the long gun” and if he wanted to, Officer Rios could use his partner, the canine. Officer Bejarano then

approached Officer Macias who was talking with W-2, whom Officer Bejarano believed was the stabbing victim. Officer Macias and the victim were located at the curb in front of 220 Crescent Way. Officer Bejarano estimated that it was about 40–50 feet between where W-2 was sitting and the front door of 216 Crescent Way. Officer Bejarano saw that W-2 had some blood in his hands. Officer Bejarano knew that the suspect was believed to be inside 216 Crescent.

About 20 to 30 seconds after Officer Bejarano arrived on scene, as Officer Macias was trying to figure out what was going on from W-2, Officer Bejarano saw Mr. Barnett exit 216 Crescent Way with “the submachine gun on his [Mr. Barnett’s] left hand and in Mr. Barnett’s right hand what looked to be a sword.” Officer Bejarano knew that a submachine gun “could send rounds towards him or his partners very quickly.” Mr. Barnett was gripping the sword and holding it up at shoulder height and he was holding the submachine gun straight down at his side “kind of down by his leg.” Officer Bejarano also heard Mr. Barnett screaming and saw him moving his arms “a lot.” Mr. Barnett was upset and irate. Immediately, Officer Bejarano aimed his rifle at Mr. Barnett and positioned himself behind a nearby trashcan. Officer Bejarano heard “other people [to his right] challenging [Mr. Barnett] by telling him to stop and drop what he had.” Officer Bejarano saw Officer Garcia move to a position behind the engine block of a parked civilian SUV.

Officer Bejarano stated that he continued to hear officers giving commands. He saw Mr. Barnett “exit” while screaming and moving his arms “like he appeared to be agitated.” Officer Bejarano could not tell what Mr. Barnett was screaming. He could hear officers tell Mr. Barnett to stop and drop the weapons. Mr. Barnett continued screaming at the officers and “took several steps approaching Officer[s] Garcia, Jimenez, and Urrutia who were positioned to Officer Bejarano’s right and in the street in front of 216 Crescent Way. Officer Bejarano stated that Mr. Barnett’s attention appeared to be towards Officers Urrutia, Jimenez, and Garcia. Mr. Barnett was trying to “gain ground” and ignoring the officers’ orders. Mr. Barnett “continued approaching, failed to listen to commands and ... he got maybe halfway into the lawn.”

At this point, Officer Bejarano decided to fire his rifle because Officer Bejarano knew that Mr. Barnett was a suspect in a stabbing and had the submachine gun in his left hand that he knew could fire several rounds quickly. Officer Bejarano stated that Mr. Barnett was moving “quite a bit” and was not listening to officer commands. Officer Bejarano feared for the other officers’ safety and believed that Mr. Barnett intended to hurt his partners. Mr. Barnett had advanced to within “probably 10 to 15 feet” from Officer Bejarano’s partners, and based on his training, Officer Bejarano was aware of how quickly that gap could be closed. At this point, Officer Bejarano fired four rounds at center mass of Mr. Barnett. Officer Bejarano stopped firing when Mr. Barnett fell to the ground face up. The submachine gun was on Mr. Barnett’s left side. Officer Bejarano could not tell where the sword was. He waited for other officers to arrive on scene and could see that Mr. Barnett was still moving. Sergeant Angel Gonzalez then arrived with a ballistic shield and with other officers, approached Mr. Barnett and handcuffed him. Officer Bejarano continued to point his rifle towards 216 Crescent Way to “mak[e] sure nobody else exited the residence.”

Officer Bejarano and other officers then entered 216 Crescent Way to conduct a protective sweep of the residence to make sure no one else was in there and no one else was hurt. After this was completed, Officer Bejarano and the other shooting officers were sequestered and transported to SPD where they continued to be sequestered.

During a break in the interview, Officer Bejarano was given the opportunity to review his BWC footage and did not have anything to add to his statement after viewing the BWC.

SPD Officer Gabriel Garcia

On July 15, 2022, SPD Officer Gabriel Garcia was interviewed by DOJ Special Agent J. Vignau. Officer Garcia's attorney, Nicole Pifari, and MCDAO Investigator Sara Jackson were also present. Officer Garcia stated that he did not review any audio or video recordings or reports about the incident prior to the interview. At the time of the OIS, Officer Garcia was 30 years old and had been in law enforcement for approximately three and a half years, all with SPD as a patrol officer.

On the day of the incident, Officer Garcia started his shift at 9:00 PM as a patrol officer. He had just finished dealing with a call with Officer Bejarano when he (Garcia) heard the dispatch for officers "to Crescent" for a victim of a stabbing. He heard from dispatch "that the roommate was stabbed and a sword was the weapon." He heard someone on the radio say to start a unit "with a 40."⁶ He advised dispatch that he would "start that way." He followed Officer Bejarano. While en route, Officer Garcia heard dispatch say that the suspect had a submachine gun. On arrival, Officer Garcia parked "on the west side ... away from [216 Crescent]." He left his red and blue lights on to indicate that police were present. While he got out of his vehicle and went to the trunk, Officer Garcia saw Officer Macias tending to the victim on the sidewalk in front of 220 Crescent. Officer Garcia got out his 40-millimeter less-lethal launcher and then he saw Officer Jimenez arrive almost the same time as he did. He asked Officer Jimenez if he was qualified to fire a 40-millimeter less-lethal launcher, and when Officer Jimenez said "yes," Officer Garcia told Officer Jimenez to take the 40-millimeter less-lethal launcher and he (Garcia) would "go hands-on." By "hands on," Officer Garcia meant that he would be ready for hand to hand combat. Officer Garcia did this because he was bigger in size and thought he would be more effective if he needed to physically engage with Mr. Barnett. Officer Garcia then started gloving up while keeping an eye "on everything." Officer Garcia recalled seeing blood on W-2's hand.

Within seconds of getting to where Officer Macias was with W-2, which was on the curb in front of 220 Crescent Way, Officer Garcia heard someone say "there he is, or something to that effect. And I heard that there – he has a gun." Officer Garcia then turned his attention to 216 Crescent Way. He saw that the front door was open and Mr. Barnett was standing there holding up a sword in front of him with his right arm and what Officer Garcia believed was a "Tommy gun" in his left hand. The drum magazine caught Officer Garcia's attention and he saw "the stock." Officer Garcia knew that a drum magazine had the capacity to hold a lot of bullets. Officer Garcia drew and "pointed [his] gun" and took position at the rear left bumper of the civilian SUV parked at the curb between W-2 and 216 Crescent Way. He then heard Officer Bejarano "saying get out of the way, get out of the way" and so he repositioned himself on the right side of the vehicle at the engine block and next to Officer Jimenez. Officer Garcia stated he yelled at Mr. Barnett to stop. He could not recall the exact words he used. Mr. Barnett walked toward the officers with his hands flailing and saying something but Officer Garcia did not know what he was saying. Mr. Barnett looked angry. Officer Garcia thought that Officer Jimenez (who was to his right) had the 40-millimeter less-lethal launcher at this time and told Officer Jimenez, "shoot." Officer Garcia did not hear anything. So, he quickly looked to his right and saw that Officer Jimenez had his gun drawn and saw that the 40-millimeter less-lethal launcher was on the ground.

⁶ "40" is a reference to a 40-millimeter less-lethal launcher. The 40-millimeter less-lethal launcher is an alternative to lethal force.

Officer Garcia looked back at Mr. Barnett and saw that Mr. Barnett continued to ignore commands to “put it down.” Officer Garcia stated that as Mr. Barnett was walking towards them, all he (Garcia) could think of was his partners getting hurt by the gun. Officer Garcia stated that he had seen the video surveillance of his former partner who was shot in the head and face in February 2022, and saw “[h]ow fast someone can shoot and get a shot on you.” He stated that he recalled hearing people in the background near Crescent Way and was aware of W-2 being nearby and thought that Mr. Barnett had the opportunity “to really hurt us ... with the Tommy” based on Mr. Barnett’s behavior, his not listening to commands to stop, and “the fact that he just stabbed someone.” Officer Garcia was also thinking that “anyone within a split second, without even aiming -- especially, a submachine gun, all you got to do is just pull a trigger and just raise your hand.” He thought “we were going to get hurt.” Officer Garcia stated, “ ... but in fear of my partners getting hurt or getting shot and, you know, that’s why I – I did what I did. I decided to pull the trigger because I felt the threat was imminent and I felt the threat was real.” Officer Garcia fired his gun at Mr. Barnett, and he stopped firing when he saw blood on Mr. Barnett’s left arm and Mr. Barnett “stopping.” Mr. Barnett had “dropped to the floor.” Officer Garcia still gave Mr. Barnett commands because he (Barnett) had “the weapons at his disposal right next to him.” Officer Garcia estimated that Mr. Barnett was approximately two car lengths from him (Garcia) when Officer Garcia fired his gun.

An arrest team arrived shortly and “took [Mr. Barnett] into custody,” and Officer Garcia and other officers picked up Mr. Barnett and carried him across the street to where AMR was staged. AMR “immediately took over.” Other officers conducted a protective sweep of 216 Crescent Way and Officer Garcia “[held] the perimeter” on the far east corner of the residence. The sergeants then identified the shooting officers and separated them.

During a break in the interview, Officer Garcia was given the opportunity to review his BWC footage and did not have anything to add to his statement after viewing the BWC.

SPD Officer Alejandro Jimenez

On July 15, 2022, SPD Officer Alejandro Jimenez was interviewed by DOJ Special Agent J. Vignau. Officer Jimenez’ attorney, Nicole Pifari, and MCDAO Investigator Sara Jackson were also present. Officer Jimenez stated that he did not review any audio or video recordings or reports about the incident prior to the interview. At the time of the OIS, Officer Jimenez was 27 years old and had been in law enforcement for approximately one year and six months, all with SPD as a patrol officer.

On the day of the incident, Officer Jimenez started his shift at 9:00 PM as a patrol officer. Officer Jimenez stated that he was on patrol when he heard the dispatch regarding a stabbing at Crescent Way. As he responded and drove to the location, he heard dispatch further advise that the stabbing victim had run out to a neighbor’s house asking for help because he had been stabbed. While en route, Officer Jimenez heard Officer Garcia over the radio say that he (Garcia) was en route, he (Garcia) had the 40-millimeter less-lethal launcher, and he (Garcia) would be the one to deploy it. As Officer Jimenez approached the location, he heard that there was a victim of a stabbing and that “there’s a possible machine gun involved.” When Officer Jimenez arrived on scene, he saw several officers in the area “getting gear ready to go.” A canine officer arrived on scene and was also getting his gear ready. Officer Jimenez himself was trying to figure out “where is the guy at this moment” and “which house – it was.” Officer Jimenez exited his vehicle and “pass[ed]” one or two patrol cars. The officers had protocol to arrive “approximately two houses before” to allow for tactical positioning and to be able to see the layout of the incident area. Officer Jimenez saw Officer Macias speaking with someone he

(Jimenez) believed was the stabbing victim. The victim was sitting on the ground with blood on his hands and explaining to Officer Macias what happened. Officer Jimenez watched the house at 216 Crescent Way, and Officer Garcia was next to him with a 40-millimeter less-lethal launcher. Officer Garcia then asked Officer Jimenez if he (Jimenez) was qualified to use the less-lethal launcher, and when Officer Jimenez said yes, Officer Garcia told him to take the 40-millimeter less-lethal launcher “if we have to hands on.” Officer Garcia then started putting on gloves and gave Officer Jimenez the 40-millimeter less-lethal launcher.

Officer Jimenez had been speaking to Officer Garcia for about ten to fifteen seconds when Officer Jimenez heard somebody yelling, “very angry” and “aggressive,” from the front door of 216 Crescent Way. Officer Jimenez was unable to understand what the person was yelling. He looked to his right and saw a man exit the front door of 216 Crescent Way with a sword, about “three, three and a half feet” in an “upright position raised about waist to shoulder [...] height.” The man looked at the officers and was yelling. The man was on a porch, and he took “took maybe a half a step” and Officer Jimenez then saw a “long black weapon ... a Tommy style gun - firearm” pointed downward with his left hand. The gun had a circular drum magazine which Officer Jimenez understood to be a high-capacity magazine that can hold about “100, 150 rounds.” Officer Jimenez stated, “I know it’s a machine gun fully auto weapon,” and that all the man had to do was “hold the trigger down and it just sprays an unlimited amount of rounds until the magazine is run dry.”⁷

Officer Jimenez’ his first thoughts were that he was scared. Officer Jimenez yelled “gun” and took cover behind the rear passenger tire of the civilian SUV at the curb in front of 220 Crescent Way. Officer Jimenez knew that he needed to get behind some “hard cover” because based on his training, firearms can go through almost anything including a car. So, he moved from behind the rear passenger tire to behind the engine block and right front passenger tire. Officer Jimenez stated that at some point he had dropped the 40-millimeter less-lethal launcher but he did not know when. He had considered using the 40-millimeter less-lethal launcher, but with a 40-millimeter less-lethal launcher and Mr. Barnett “pointing a firearm at [him and the other officers],” “[Officer Jimenez] would be the one getting killed or hurt – [Officer Jimenez’] partners or anybody else.”

When Officer Jimenez came up from behind the engine block, he saw that Mr. Barnett had “advanced” in his and the other officers’ direction. Officer Jimenez drew his pistol and “looked down the sights.” He commanded Mr. Barnett two to three times to “stop.” At this point, Mr. Barnett was already off of the front porch and had taken three or four steps in the officers’ direction, looking at the officers, “yelling very ... angry, aggressive.” Officer Jimenez did not know what Mr. Barnett was saying. Mr. Barnett was not listening to Officer Jimenez’ commands to stop. Mr. Barnett’s sword was still raised and his firearm was “starting to sway in [the officers’] direction.” When Officer Jimenez saw Mr. Barnett’s firearm “start swaying in [his and the other officers’] direction,” Officer Jimenez discharged his firearm. If Officer Jimenez had not fired, he (Jimenez) believed that Mr. Barnett would have shot him and the officers resulting in death or serious injury.

⁷ Officer Jimenez described the lighting during the incident to consist of a “little night light” just above 216 Crescent and that it was “pretty dark” and some of the patrol vehicles still had their red and blue lights on.

When Officer Jimenez saw Mr. Barnett “going to the” ground, he (Jimenez) stopped shooting but kept his weapon aimed at Mr. Barnett. Several officers “covered” the house and moved up and handcuffed Mr. Barnett. Sergeants Anthony Parker and Abel Gonzalez requested additional officers to enter and clear 216 Crescent Way to make sure nobody was injured inside and that there were no other suspects inside, and Officer Jimenez and other officers responded and cleared the residence.

SPD Officer Jordy Urrutia

On July 15, 2022, SPD Officer Jordy Urrutia was interviewed by DOJ Special Agent J. Vignau. Officer Urrutia’s attorney, Nicole Pifari, and MCDAO Investigator Rachel Maldonado were also present. Officer Urrutia stated that he did not review any audio or video recordings or reports about the incident prior to the interview. At the time of the OIS, Officer Urrutia was 28 years old and had been in law enforcement for approximately five years and six months, all with SPD as a patrol officer.

On the day of the incident, Officer Urrutia started his shift at 2:30 PM as a patrol officer. Officer Urrutia stated that he “was on a different call” when he heard dispatch report that there was a victim of a stabbing on Crescent. He and Officer Rios left for the scene of the stabbing. En route, Officer Urrutia heard over dispatch that the victim was going to be at a different address and that medical was going to be staging to provide aid. He also heard over the radio, officers asking questions. He heard dispatch stating that one of the reporting parties mentioned a machine gun being involved along with a sword. When Officer Urrutia arrived on scene, Officers Macias and Rios were there. (The officers had arrived in police vehicles with lights on and some of the police vehicle lights stayed on and were flashing throughout the incident). Officer Urrutia immediately got out of his vehicle and started setting up his 40-millimeter less-lethal launcher. He then saw that Officer Garcia already had a 40-millimeter less-lethal launcher with him. Officer Urrutia then locked his 40-millimeter less-lethal launcher back in his police vehicle and walked back towards where Officer Macias was with the stabbing victim, W-2.

While walking back, Officer Urrutia saw Mr. Barnett coming out of the front door of 216 Crescent Way. Officer Urrutia estimated that Mr. Barnett was approximately 15 yards away from him and approximately 20-25 yards from W-2. Officer Urrutia saw a sword, at least 3 feet in length, in Mr. Barnett’s right hand raised above shoulder height and what appeared to be a drum magazine in Mr. Barnett’s left hand. Officer Urrutia understood a drum magazine to fit “a lot more rounds than a normal duty magazine would.” At this point, Officer Urrutia ran to where Officers Garcia and Jimenez were, which was behind the engine block of a civilian SUV parked curbside in front of 220 Crescent Way. At this point, Officer Urrutia could see the sword in Mr. Barnett’s right hand was in an upward position. He could also still see the drum magazine and something that looked like a wooden stock in Mr. Barnett’s left hand. Officer Urrutia believed this was a firearm that Mr. Barnett was holding in his left hand along his left side at about 30 degrees. Officer Urrutia immediately yelled at Mr. Barnett to “drop it, drop it!” and he (Urrutia) heard other officers saying the same thing. Mr. Barnett did not comply and “was walking at a fast pace, pretty aggressive” while saying, “fuck you, fuck you!” “That’s when [Officer Urrutia] knew that ... [] ... some type of force was going to have to be used in order to stop him.” Mr. Barnett kept walking “over all the commands that were given to him.” Officer Urrutia knew that Officer Bejarano was to his (Urrutia’s) left with the victim. Mr. Barnett “quickly closed the distance on [the officers].” Officer Urrutia had seen when people want to “bring the fight to you” and that was what Mr. Barnett looked like. Officer Urrutia stated, “He wasn’t going to stop. You could tell he wasn’t going to stop. Some type of force was going to have to be used in order to – to stop him and – overcome his resistance.” When Officer Urrutia saw Mr. Barnett’s left hand “start[] motioning in the

upwards position,” Officer Urrutia knew that Mr. Barnett was a deadly threat to himself, the officers next to him, and anyone else in the area, and he fired his duty weapon at Mr. Barnett.

Mr. Barnett fell to the ground and was “motioning” toward where the sword and Tommy submachine gun had fallen. Officer Urrutia did not fire at this time because he did not see Mr. Barnett as a threat since he (Mr. Barnett) “was down.” Officer Urrutia ordered Mr. Barnett not to reach for the weapons, but Mr. Barnett “continued motioning as if he was.” An arrest team quickly assembled to Officer Urrutia’s right and said “hey, we’re going to go up there, handcuff him.” The arrest team tried to make a quick plan and was asking for a shield, which was not available at the time. The arrest team moved in and handcuffed Mr. Barnett. Other officers proceeded to conduct a protective sweep of 216 Crescent Way to make sure there were no other victims or suspects. Fire personnel was not going to move into the scene to render aid to Mr. Barnett until the scene was secure. So, the officer who handcuffed Mr. Barnett “had to drag him out, out of the scene.” When Officer Urrutia saw this, he (Urrutia) grabbed Mr. Barnett’s right arm and other officers grabbed Mr. Barnett’s legs and picked him up and quickly rushed him to where fire personnel were located for them to start rendering aid to Mr. Barnett.

Officer Urrutia stayed with Mr. Barnett so fire personnel and AMR could render aid. Then, Officer Urrutia noticed a kitchen knife on the ground and asked AMR where they found it. AMR said they found it in Mr. Barnett’s sock. Officer Urrutia stood by until CSI secured and photographed the knife. After the knife was secured, Officer Urrutia was transported back to the police department.

During a break in the interview, Officer Urrutia was given the opportunity to review his BWC footage, and he did not have anything to add to his statement after viewing the BWC.

SPD Officer Richard Macias

SPD Officer Richard Macias prepared a report regarding the incident. The following is a brief summary of his report. On July 13, 2022, at 10:30 PM, Officer Macias was dispatched to 216 Crescent Way “in reference to” a victim of a stabbing. En route, Officer Macias heard 911 dispatch give an update that the stabbing suspect was still inside the residence of 216 Crescent Way armed with a long sword and “possibly a firearm.” As Officer Macias arrived on scene, he positioned his vehicle in front of 220 Crescent Way facing east. As he exited his patrol vehicle, he saw W-2 walking down the driveway of 220 Crescent Way. He saw that W-2 was bleeding heavily from his left hand. Officer Macias escorted W-2 to the curb in front of 220 Crescent Way, had W-2 take a seat on the curb, and advised 911 dispatch to have medical “stage” for W-2’s injury.

W-2 stated that his friend later identified as Mr. Barnett had stabbed him with his (W-2)’s sword over an argument. W-2 stated that Mr. Barnett was still inside “the house” and was armed with a baseball bat and long sword with a wooden handle. W-2 described Mr. Barnett as a White, male adult wearing camo-colored pants and a brown or tan shirt. W-2 advised Officer Macias that there were no firearms in his (W-2’s) residence. “This information” gathered by Officer Macias “was relayed” to 911 dispatch.

As Officer Macias continued to gather more information from W-2, “other officers” began to arrive on scene. While communicating with W-2, Officer Macias kept his attention on the front door of 216 Crescent Way. In a short time, Officer Macias observed Mr. Barnett exit the “front of the residence” of 216 Crescent Way. Mr. Barnett “was armed with a type of dark colored long rifle and a long sword” and was yelling in an aggressive manner. Officer Macias stated that it was unclear what Mr. Barnett was yelling at “officers,” but Mr. Barnett “continued to walk towards officers pointing the rifle and

sword in there [sic] direction.” Officer Macias reported that “[a]t this point,” he quickly told W-2 to “get up the driveway to 220 Crescent Way to the front door.” Officer Macias got behind a parked white sedan in the driveway of 220 Crescent Way and “immediately drew [his] department issued handgun at [Mr.] Barnett.” At this time, Officer Macias and “other officers” on scene were yelling at Mr. Barnett to “drop both weapons.” Officer Macias was positioned facing east towards Mr. Barnett, who was walking south, away from the front door “of the residence towards officers at the street.”

Mr. Barnett continued “yelling and walking towards officers who were in front of him holding both weapons at the officers.” At this time, Mr. Barnett was not “fixated” on Officer Macias “but at the officers in the street.”

Officer Macias reported that “[s]hortly after,” W-2 had “now walked down” the driveway of 220 Crescent Way and was no longer “in cover and not in a safe area to be.” Officer Macias immediately yelled at W-2 to “get back to the front of the house and out of danger which he did.”

Officer Macias then turned his attention back to Mr. Barnett who was still refusing to drop both weapons and who was still pointing the “long rifle at officers on the street.” Officer Macias reported that Mr. Barnett continued “walking towards officers and not listening to commands to drop both weapons.” Officer Macias then reported that “[s]hots were fired” at Mr. Barnett, which led him to fall to the ground on his back.

Officer Macias reported seeing the “black rifle lay by his left arm and commands were still [being given to Mr. Barnett] to not reach for the rifle.” A short time later, officers moved up to Mr. Barnett using a “mobile shield” for cover and placed him in handcuffs. Mr. Barnett was taken away from the front of 216 Crescent Way and across the street where officers began to perform CPR on Mr. Barnett.

Officer Macias assisted officers in “clearing” 216 Crescent Way. When it was safe to do so, medical personnel arrived on scene and began to treat W-2 for his injuries. After W-2 received medical treatment, Officer Macias obtained a detailed statement from W-2 (summarized below).

Interviews of Civilian Witnesses

Numerous civilian witnesses, including W-2 (the stabbing victim), were interviewed by DOJ, SPD and MCDAO investigators. The following are summaries of the relevant civilian witness interviews, which describe the incident from the point of view of each person. The interviews contain facts relayed by the witnesses that may be inaccurate or inconsistent with the facts of this incident as they are currently understood. Also included below are summaries of the interviews of Mr. Barnett’s daughter and ex-wife.

W-2

On July 13, 2022, Officer Macias spoke with W-2 just before the incident, outside of 220 Crescent Way, and conducted a more formal interview after the incident. On July 14, 2022, at 2:22 AM, SPD Detectives Alejandro Fernandez- Zamora and Yolanda Rocha and SMCDAO Investigator Sarah Jackson interviewed W-2 inside 220 Crescent Way. On July 21, 2022, Det. Fernandez-Zamora conducted a follow up interview of W-2 outside of 216 Crescent Way. On July 26, 2022, W-2 was interviewed by DOJ Special Agents V. Rotberg and Special Agent Supervisor Romero at 216 Crescent Way. Following is a summary based on all of the interviews.

On the date of the incident, W-2 was 64 years old and lived at 216 Crescent Way, Salinas. He had lived at this address his entire life. W-2 had known Mr. Barnett since junior high school. Mr. Barnett was a couple of years older than W-2, but they knew each other from racing motorcycles. They had kept in touch through the years. W-2 described them saying, "we were like brothers."

In 2007, W-2's mother, who lived with him, passed away. At that point, Mr. Barnett moved in rent free for at least 2 ½ years from 2007 to 2009 in exchange for his labor in remodeling the kitchen for W-2. Mr. Barnett was a union carpenter. After 2009, W-2 and Mr. Barnett would see each other at "recovery" meetings two or three times a week. They had seen each other at these meetings since the late 90s. Since approximately 1996, Mr. Barnett would live with W-2 on and off in exchange for buying groceries and paying the power bill. About 4 months before the OIS, while Mr. Barnett had been staying with W-2, Mr. Barnett brought alcohol into the house and W-2 told Mr. Barnett "he had to go."

The next time W-2 saw Mr. Barnett was "two days before the incident happened." W-2 came out of his house to go to McDonalds, and Mr. Barnett was in his driveway. W-2 asked Mr. Barnett what he was doing and Mr. Barnett did not really say. They went to McDonalds and W-2 bought Mr. Barnett breakfast, and then they went back home and talked and watched television. W-2 stated, "then [Mr. Barnett] came ... he was here that Friday." W-2 had some kitchen cabinet hinges that were broken, and Mr. Barnett wanted to fix them. They went to Home Depot and got a bag of hinges, which were fifty-five dollars. W-2 had fifty dollars and borrowed five dollars from Mr. Barnett to pay for them. It was common for them to borrow money from each other if they were short money, and they would pay each other back. Mr. Barnett spent the night, and they fixed the cabinet doors. W-2 stated, "... that night, [Mr. Barnett] ... started talking about the five dollars and he said "... all these years, I've been doing this work for you and you ripped me off." W-2 stated that Mr. Barnett asked him why he did not pay him (Barnett) back for the five dollars. W-2 said that all he had was a fifty dollar bill, and Mr. Barnett said he would get change. W-2 then went to his bedroom to get the fifty dollar bill and did not realize that Mr. Barnett had followed him with W-2's baseball bat. Mr. Barnett then "rammed" the baseball bat into W-2's right side rib cage, told W-2 to give him the money, and told W-2 that he was going to kill him. W-2 stated that Mr. Barnett "had a real far-away look in his eye." W-2 thought Mr. Barnett had been "messing around" and did not see this coming from Mr. Barnett. W-2 pulled out the fifty dollar bill from his jacket in the bedroom, and Mr. Barnett grabbed it and took two other fifty dollar bills that W-2 had.

W-2 could tell, based on Mr. Barnett's behavior, that he (Mr. Barnett) was not taking his medication. Mr. Barnett would "fly off the handle" at times. W-2 said that Mr. Barnett was supposed to take medication daily for depression, and when he did, he would "level out." W-2 could see the difference in Mr. Barnett's personality when he did and when did not take medication.

W-2 continued describing the night of the OIS. After Mr. Barnett took the fifty dollar bills from W-2, W-2 walked down the hall and was trying to leave the house through the front door. Mr. Barnett followed him with W-2's "cheap" metal sword. Mr. Barnett stabbed W-2 with the sword saying, "I'm going to kill you." W-2 believed he was serious. W-2 described Mr. Barnett's demeanor again saying that he had a "different look in his eye." W-2 thought, "I need to get out of this house." W-2 grabbed the metal blade to stop it from stabbing him, and it cut his fingers. The blade had also cut W-2's shirt. Mr. Barnett had never threatened to kill W-2 before. W-2 stated that the blade "wasn't real, real sharp, but it was sharp." W-2 got the front door unlocked, walked out, yelled "Help! Help!," crossed the yard to go next door (220 Crescent) and knocked. Mr. Barnett did not follow W-2.

The neighbor next door at 220 Crescent was W-1. W-1 opened the door and W-2 told him, "I'm sorry for waking you up but my old roommate's over there and ...[] ... he just cut me with a knife. Can I – can you give me some help?" W-1 said "yes," invited W-2 in, and they went to the kitchen to wash off W-2's injury. W-1 dialed 911 from his cell phone and told 911 dispatch that W-2 had been stabbed and that they needed help. W-2, W-1, and W-1's mom were cleaning the injury and the blood that had dripped when they noticed the flashing lights of the police. There was no siren. W-2 and W-1 went out to the driveway of 220 Crescent Way. The officers were "standing about five or six" "almost shoulder to shoulder." The officers had arrived about 3 minutes after the 911 call was made. In the front yard of 216 Crescent Way, there were about 4 to 6 officers, who ordered, "come out with your hands up" to Mr. Barnett or to whoever was in the house since they did not know who was in there. There was a car in the driveway of 220 Crescent parked facing the garage. W-2 was standing near the front driver side of the car. W-1 was standing further down the driveway closer to the curb.

W-2 saw Mr. Barnett come out of 216 Crescent Way with a BB gun that W-2 had previously bought. W-2 said the BB gun "looks really real." W-2 stated that the BB gun "looked pretty original" and did not have the red or orange "thing on the tips like they do nowadays." W-2 said he could see Mr. Barnett from where he was standing because the area was "lit up like daytime from the cars in the driv – in the street. They had on bright lights." W-2 saw Mr. Barnett step off the porch and walk toward the officers and "make a loud, big old yell, 'ahhhhh!'" Mr. Barnett held the BB gun in his left hand pointing towards the ground and the sword in his right hand pointing towards the ground also. Officers told Mr. Barnett to "put it down" "put it down" but Mr. Barnett did not. Mr. Barnett took another step and then W-2 saw the officers fire 9 to 12 shots at Mr. Barnett. Mr. Barnett dropped to his knees and then fell forward. The officers handcuffed Mr. Barnett and then "drug him out into the street." And then "EMTs got here pretty quick because they were – they were working on him."

On July 21, 2022, SPD Det. Zamora conducted a follow up interview of W-2. Det. Zamora recited a phone number, and W-2 confirmed that the phone number was his landline phone number at 216 Crescent Way. Det. Zamora played a recording of the 911 call made by the second reporting party on the evening of July 13.

W-2 immediately identified the caller's voice in the recording as Mr. Barnett's voice saying, "That's Curt! That's Curt! Why the fuck did you do that?" W-2 stated that Mr. Barnett had tried to commit suicide many times including slitting his wrist and putting a knife in his stomach. W-2 stated that Mr. Barnett had been on medication and that when he did not take it, "he would get all crazy." Det. Zamora told W-2 that "it seemed like he (W-2) had recognized [Mr. Barnett's] voice right away," and W-2 responded, "that was Curt." Det. Zamora asked W-2 if he was 100 percent sure, and W-2 responded "100 Percent." W-2 stated that he felt that what Mr. Barnett did on July 13, 2022, was "suicide by cop."

On July 26, 2022, during his interview of W-2, DOJ Special Agent V. Rotberg played the recording of the 911 call by the second reporting party, and W-2 stated, "Yeah, That's Curt. That's Curt." W-2 believed that the OIS was a "suicide by cop" by Mr. Barnett based on listening to this 911 call.

W-2 showed Agent Rotberg a packaging box, which previously contained the airsoft Thompson submachine gun held by Mr. Barnett when he was shot by SPD officers. The box indicated it was sold by HobbyTown, and had a retail price of \$249.99. W-2 stated he had this Thompson airsoft gun for

many years and kept it in one of the bedrooms at his residence. The photo of the Thompson submachine gun on the box did not contain a red or orange tip on the gun barrel.



Packaging box which previously contained the airsoft Thompson submachine gun held by Mr. Barnett during the OIS.

W-1

On July 14, 2022, at approximately 8:35 AM, MCDAO Inv. P. Andrade interviewed W-1 at 220 Crescent Way. On July 26, 2022, DOJ Special Agent V. Rotberg and SAS Romero interviewed W-1.

W-1 lived at 220 Crescent Way, Salinas, with his mother and brother. His brother was not at home at the time of the incident. He had known W-2 for 25 years.

On July 13, 2022, W-1 heard a knock on his front door sometime between 10:30 PM and 11 PM. He asked who it was and heard, "It's (W-2), I've been stabbed." W-1 opened the door and saw his neighbor, W-2, appearing scared and shaking and bleeding from his hand. W-1 invited W-2 inside the residence, and W-2 said, "Curt just fucken stabbed me." W-1 called 911 to report W-2 being stabbed by Mr. Barnett. Minutes later, the police arrived, and W-1 and W-2 went outside. There was a white car parked in the front driveway of 220 Crescent, and W-1 walked along the driver's side of the car toward the street until he reached the trunk area of the car and looked left towards W-2's residence. W-1 saw a rifle sticking out of W-2's front door and "maybe" a hand holding the gun. (During the July 26, 2022, interview, W-1 stated that the rifle did not look like a real gun to him because the barrel looked really thin). W-1 estimated he was about 50 feet away from the front door of 216 Crescent Way, and it was dark outside. He then heard the officers say, "put it down, put it down," and less than a second later, W-2 told the officers that it was "just a pellet gun." W-1 then said that W-2 told the officers the gun was a pellet gun before the officers gave the "put it down" commands. W-1 then reverted back to his initial statement that officers gave the "put it down commands" and then W-2 stated, "it's just a pellet gun." Less than a second after W-2 said "it's just a pellet gun," W-1 heard between 10 to 20 gunshots.

W-1 expressed his frustration that Mr. Barnett had been shot and was left there for about 10 minutes until officers decided to handcuff him and drag him "like a dog" across the street.

As soon as he heard gunshots, W-1 walked back up the driveway toward the house. He saw at least 2 officers and 6 police vehicles. After the gunshots, W-1 told W-2, “they killed him,” and W-2 responded, “good.” The officers were then walking around the front of W-2’ residence. W-1 reiterated that it took too long for officers to check on Mr. Barnett. Eventually, officers handcuffed Mr. Barnett and took him across the street. W-1 then went back inside his residence to sleep because he had to be at work at 1:00 AM. W-2 remained outside.

W-1 stated that he knew Mr. Barnett and that Mr. Barnett had been living on-and-off at W-1’s residence for the past three to five years. W-1 said that he and Mr. Barnett would wave and say hello to each other when they would cross paths. W-1 said that about a year and a half ago, W-2 told him that Mr. Barnett had overdosed on heroin. W-2 told W-1 that Mr. Barnett was in and out of drug rehab. On July 13, 2022, W-2 told W-1 that Mr. Barnett had been off his psychiatric medication. W-1 said that about five minutes before W-2 knocked on his door, W-1 heard “unusual yelling” by a man, which woke him up.

On July 26, 2022, DOJ Special Agent V. Rotberg played the recording of the 911 call by the second reporting party made on July 13, 2022, and W-1 stated immediately and definitively, “That’s Curt. That’s Curt.”

W-3

On July 15, 2022, Mr. Barnett’s daughter, W-3, was interviewed by Special Agent E. Coats. W-3 stated that her father had been dealing with addiction to heroin, methamphetamines, and alcohol his entire life and had been in-and-out of jail and prison, as well as mental health hospitals. W-3 said, at one point, her family had a restraining order against her father, and he was not allowed to be at their residence. W-3 said the restraining order did not stop him from showing up at the house. W-3 recalled an incident where he was found on the property crawling on the ground. She said the police were called, and he was detained for a mental health evaluation.

W-3 said the last time she physically saw her father was around six months ago. W-3 said that on July 13, 2022, the day of the OIS, her father called her house and her cellular phone from W-2’s phone. W-3 did not pick up her phone, and Mr. Barnett did not leave any messages. W-3 stated her mother had heard that Mr. Barnett had been evicted from a rehab center where he was staying. W-3 said every time he got kicked out of a rehab center, he would do something drastic. W-3 said she believed her father had called her to say goodbye, or something along those lines. W-3 said her father had a history of attempted suicides but did not provide specific details of any past incidents. W-3 stated her father did something similar when he got kicked out of a different program, and he was in an eight-hour standoff with the police department. W-3 said during that incident, her father had a handgun and the SWAT team was called-in.⁸

⁸ Between July 2013, and November 2021, Mr. Barnett had five mental health related contacts involving law enforcement. On July 5, 2013, SPD contacted Mr. Barnett for a mental health evaluation based on a suicidal statement he made to a Pacific Gas and Electric employee. On July 10, 2013, Mr. Barnett attempted to commit suicide while in custody as an inmate at the Monterey County Jail. On June 26, 2015, an MCSO deputy sheriff contacted Mr. Barnett to evict him from a property in accordance with a Monterey County Superior Court Judicial Order. Mr. Barnett was distraught and threatened to shoot himself rather than be evicted. This resulted in an hours-long stand-off with Monterey County Sheriff Office (MCSO) deputies and SPD officers. On April 14, 2019, Mr. Barnett attempted to hurt himself while in custody at the Monterey County Jail. On November 18, 2021, Mr. Barnett was detained on a mental health hold as a danger to himself.

W-4

On October 11, 2022, W-4, Mr. Barnett's ex-wife and mother of W-3, was interviewed by Special Agents E. Coats. W-4 was married to Mr. Barnett from 1998 until 2004, when their divorce was finalized. W-4 had a restraining order against Mr. Barnett when the two initially divorced, due to his erratic behavior. The last time W-4 physically saw Mr. Barnett was around the time he got arrested outside her house. Mr. Barnett had been in-and-out of mental health facilities the whole time W-4 knew him. Mr. Barnett had made numerous suicide attempts during his lifetime. Mr. Barnett would also call W-4 and claim he was going to commit suicide. W-4 said the phone calls were very frequent, and she would not answer the phone.

Mr. Barnett used heroin and drank alcohol every day. Mr. Barnett was diagnosed with mental health disorders, but W-4 was unsure of the exact diagnosis. Mr. Barnett would not take his medications because he did not like the way they made him feel.

Regarding the OIS incident, W-4 had heard Mr. Barnett was the one who called 911 on himself. W-4 said she received a phone call from Mr. Barnett on the day of the OIS, but she did not answer his calls anymore. W-4 said Mr. Barnett left a voicemail with suicidal ideations, but W-4 said Mr. Barnett did this all the time.

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. (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; *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.5th 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 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 a person 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. Moyer* (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 that 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.* sets 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

DOJ has completed an independent investigation and review of the facts and circumstances that led to the death of Mr. Barnett. This analysis is based on all of the evidence provided to DOJ in this matter including witness interviews, law enforcement reports, analyses of firearms and ballistics, physical evidence, the autopsy and toxicology reports, BWC camera footage, photographs, and communication evidence.

The issue presented in this OIS is whether Officers Bejarano, Garcia, Jimenez, and Urrutia acted in lawful self-defense or defense of others. 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 serious bodily injury to the officers or others. Therefore, the shooting was justified, and a criminal prosecution is unsupported by the evidence.

I. Shooting officers reasonably believed that deadly force was necessary to defend against imminent threat of death or serious bodily injury to the officers or others.

The shooting officers reasonably believed based on the totality of the circumstances that deadly force was necessary to defend against an imminent threat of death or serious bodily injury to the officers or others.

A. Present ability and opportunity to immediately cause death or serious bodily injury to the officers or others

A reasonable officer in the same situation as the shooting officers would have believed that Mr. Barnett had the present ability to immediately cause death or serious bodily injury to the officers or others. First, each of the shooting officers while driving to the scene in response to the dispatch of a stabbing “at Crescent,” heard dispatch further advise that the suspect had a “firearm” or a “submachine gun” or that “there’s a possible machine gun involved.” Specifically, Officer Bejarano stated he heard 911 dispatch report that “somebody else had called in saying the suspect had a firearm.” Officer Garcia stated he heard “an update saying that ... there was a ... mention of a submachine gun, that the suspect ... has a submachine gun.” Officer Jimenez stated, “I hear there’s a victim of stabbing. And then that there’s a possible machine gun involved.” Officer Urrutia stated he recalled “dispatch mentioning ... one of the ... reporting parties have mentioned a machine gun being involved, along with a sword.” 911 dispatch had relayed this information over the radio to the officers at 10:32:58 PM as a result of Mr. Barnett’s anonymous 911 call where he reported, “At 216 Crescent Way. There is a guy in it. He’s got a machine gun and a sword and he is going crazy. At 216 Crescent Way.”

Second, when Mr. Barnett emerged from the front door of 216 Crescent Way, each shooting officer saw Mr. Barnett holding an item with a drum magazine (signifying a large number of rounds and a lot of firepower) or holding a submachine gun or a “Tommy style gun,” and each officer responded as if Mr. Barnett was holding a real firearm. Specifically, Officer Bejarano stated, “the subject [Mr. Barnett]

exits the residence [216 Crescent] ... and that's when I ... could hear him screaming and he was moving his arms a lot. ... I immediately saw the submachine gun on his left hand ... and the sword, he was holding it up on his right hand." Officer Bejarano knew that a submachine gun "could send rounds towards him or his partners very quickly." Officer Bejarano immediately yelled, "gun!" and positioned himself behind a trash can and aimed his firearm at Mr. Barnett.

Officer Garcia stated he saw Mr. Barnett holding what he (Officer Garcia) believed was a "Tommy gun" in his left hand and that the drum magazine caught his (Officer Garcia's) attention and that he saw "the stock." Officer Garcia stated that he knew that a drum magazine had the capacity to hold a lot of bullets and "those can be automatic guns ... and a lot of bullets." Officer Garcia yelled "put it down!" as he took cover behind the engine block of a parked civilian SUV and aimed his firearm at Mr. Barnett.

Officer Jimenez stated that he saw a "long black weapon ... a Tommy style gun – firearm." He yelled "gun!" and took cover behind the rear tire of a parked civilian SUV. Officer Jimenez knew he still needed "to get behind some hard cover ... because I know, just on my training, that firearms can go through almost anything ... a car, especially, a car." So he moved behind the engine block and right passenger tire.

Officer Urrutia stated, "I see as the suspect is coming out of the front door of the house. I could see two items in his hand ... sword in his right, and the in his left hand he another ... item. And at the time, all I was able to see was a ... what appeared to be a drum magazine." Officer Urrutia understood a drum magazine to fit "a lot more rounds than a normal duty magazine would." He drew and aimed his firearm at Mr. Barnett and then moved closer to where Officers Garcia and Jimenez were positioned. At this point, he (Officer Urrutia) could "still see the drum magazine and something that looked like a wooden stock in his left hand." Officer Urrutia believed the wooden stock was a firearm.

When Mr. Barnett emerged from the front door of 216 Crescent Way, Officer Macias, not a shooting officer, immediately drew and aimed his weapon at Mr. Barnett while he (Officer Macias) moved quickly up the driveway to take cover alongside the house at 220 Crescent Way. At the same time, Officer Macias ordered W-2 and W-1 to "get inside the house!" in attempt to protect them from Mr. Barnett's firearm.

A reasonable officer would understand that a submachine gun would allow for the automatic firing of a large number of lethal rounds and thus, the capacity to not only immediately cause death or serious bodily injury but to do so rapidly over a large physical area with the potential to cause death or serious injury to many individuals in a matter of seconds.

Third, the airsoft gun compared with a real firearm, the Tommy submachine gun, looked just like the real gun.

A reasonable officer in the same situation as the shooting officers would have believed that Mr. Barnett also had the present opportunity to immediately cause death or serious bodily injury to the officers. Each shooting officer saw Mr. Barnett emerge from the front door holding an item with a drum magazine (signifying a large number of rounds and a lot of firepower), holding a submachine gun or a "Tommy style gun," and walking at a steady pace toward the officers. There was nothing preventing Mr. Barnett from raising the gun's muzzle, pulling the trigger, and firing bullets at the officers, the witnesses, and the surrounding neighborhood. No one was within reach of Mr. Barnett to

physically stop or disarm him. The shooting officers were the closest ones to Mr. Barnett and they were at least 33 feet away. No one had effective cover from the spray of submachine gun bullets. W-2 was approximately 50 feet away from Mr. Barnett at the curb with no cover to protect himself from any lethal rounds that Mr. Barnett would fire. The officers were either positioned behind trash cans or vehicles neither of which provided effective cover from submachine gun fire. Officer Jimenez stated based on his training, “firearms can go through almost anything ... especially, a car.”

B. Apparent intent to immediately cause death or serious bodily injury to officers or others

A reasonable officer in the same situation as the shooting officers would believe that Mr. Barnett had the apparent intent to immediately cause death or serious bodily injury to the SPD officers in the moment before the OIS.

Each of the shooting officers arrived on scene having been informed that Mr. Barnett had stabbed W-2 just moments earlier, demonstrating an intent kill or seriously injure, and each of the shooting officers on arrival at the scene, saw W-2 at the curb bleeding from the injury. Each of the shooting officers saw Mr. Barnett emerge at the front door of 216 Crescent Way, shouting angrily at the officers, “fuck you! fuck you!” as he held a sword in his right hand raised shoulder height and what appeared to be a machine gun with a drum magazine in his left hand at a low 30-degree angle. Each of the shooting officers saw Mr. Barnett continue to shout at the officers, “fuck you! fuck you!” as he stepped off the front porch holding the sword in his right hand and the submachine gun in his left hand and as he walked at a steady pace toward the officers positioned in the street. The officers saw Mr. Barnett refuse to comply with their continuous commands to “put it down!” and continue to walk toward them. The shooting officers ordered Mr. Barnett to put down his weapon at least 9 times in a span of 19 seconds, and Mr. Barnett refused as he walked towards the officers in the street. Each of the shooting officers saw Mr. Barnett quickly closing the distance on them, reaching halfway into the lawn.

The BWC footage shows Officers Bejarano, Garcia, Jimenez, and Urrutia firing lethal rounds. Officer Urrutia stated that Mr. Barnett did not comply with officer commands to drop the gun and “was walking at a fast pace, pretty aggressive” while saying, “fuck you, fuck you!” “That’s when [Officer Urrutia] knew that ... [] ... some type of force was going to have to be used in order to stop him.” Mr. Barnett kept walking “over all the commands that were given to him.” Officer Urrutia knew that Officer Bejarano was to his (Urrutia’s) left with the victim. Mr. Barnett “quickly closed the distance on [the officers].” Officer Urrutia had seen when people want to “bring the fight to you” and that was what Mr. Barnett looked like. Officer Urrutia stated, “He wasn’t going to stop. You could tell he wasn’t going to stop. Some type of force was going to have to be used in order to – to stop him and – overcome his resistance.” When Officer Urrutia saw Mr. Barnett’s left hand “start[] motioning in the upwards position,” Officer Urrutia knew that Mr. Barnett was a deadly threat to himself, the officers next to him, and anyone else in the area, and he fired his duty weapon at Mr. Barnett.

When Mr. Barnett ignored the officers’ orders and advanced on the officers with his weapons, Officer Garcia fired lethal rounds at him. Officer Bejarano fired at Mr. Barnett when he saw Mr. Barnett advance to within 10 to 15 feet of the other officers. Officer Jimenez fired his weapon at Mr. Barnett when he saw Mr. Barnett’s submachine gun begin to sway in the officers’ direction.

A reasonable officer in the same situation as each of the shooting officers observing what each of them observed would believe that Mr. Barnett had the intent to fire his submachine gun at them and immediately cause death or serious bodily injury.

C. Statements of “No firearms” and “It’s a BB gun”

A couple of minutes after he initially arrived on scene and made contact with W-2, Officer Macias communicated to 911 dispatch, “There’s no firearms in there. He just said he has a big, long sword that belongs to the victim. No mention of any uh firearms.” Officer Macias relayed this information at 10:35:55 PM. It is unknown whether the shooting officers heard this information. However, even had the shooting officers heard this information, they had also received competing information from 911 dispatch that a reporting party stated the subject had a machine gun (and a sword). The shooting officers then subsequently observed Mr. Barnett emerge from 216 Crescent Way at 10:37:00 PM, with an item that appeared to be a real machine gun (and a sword). In this circumstance, a reasonable officer would believe that Mr. Barnett had the present ability to immediately cause death or serious bodily injury.

After the officers made repeated commands to Mr. Barnett to “Put it down!,” W-2 stated, “it’s a BB gun. It’s a BB gun. It don’t work.” W-2 made this statement at 10:37:17-18 PM, approximately 1-2 seconds before lethal rounds were fired by the shooting officers at 10:37:19-21 PM. It is unknown whether any of the shooting officers heard this statement of W-2, but it seems unlikely.⁹ None of the shooting officers reported hearing the statement. As noted, it was not audible on the BWC of Officers Garcia, Jimenez, and Urrutia. Although faintly audible on the BWC of Officer Bejarano, W-2 was facing away from Officer Bejarano when he (W-2) made the statement. In addition, W-2’s statement was made in a speaking volume at the same time that that the officers were shouting commands to Mr. Barnett, and focusing their attention on Mr. Barnett.

Even had the shooting officers heard W-2’s statement in sufficient time to take it into consideration, at that moment, they could reasonably conclude that W-2’s statement might be incorrect. They had already been informed by 911 dispatch that a reporting party had reported Mr. Barnett was armed with a machine gun. They were then confronted with Mr. Barnett repeatedly shouting expletives at them while wielding an apparent machine gun and approaching them at an uninterrupted pace against their repeated commands to “put it down!” and advancing to what appeared to be within 10 to 15 feet of them with his left hand “motioning” upwards and his apparent gun “begin[ning] to sway” in their direction. W-2’s statement considered together with the totality of the circumstances confronting the shooting officers in that moment would lead a reasonable officer to believe that Mr. Barnett had the present ability and apparent intent to immediately cause death or serious bodily injury.

II. Shooting officers actually believed in the need to defend against imminent peril.

In addition to showing that the shooting officers reasonably believed that deadly force was necessary to defend against an imminent threat of death or serious bodily injury to the officers or others, the evidence shows that the shooting officers – Officers Bejarano, Garcia, Jimenez, and Urrutia - actually

⁹ Although W-2’s statement was audible on Officer Macias’ BWC video, it’s not clear whether Officer Macias heard the statement as he did not mention hearing the statement in his report.

believed in the need to defend against imminent peril or great bodily injury. Each of the shooting officers stated that they fired lethal rounds at Mr. Barnett because they each believed Mr. Barnett was about to shoot at him or the other officers. The officers yelling “gun!” and immediately trying to take cover when they first saw Mr. Barnett, the officers aiming their firearms at Mr. Barnett, and the officers’ urgent and repeated commands to “Put it down! Put it down!” reflect their actual belief that they were defending against imminent peril.

CONCLUSION

Based on the investigation and review of evidence, along with the applicable statutes, legal principles, and the subsequent analysis, there is insufficient evidence to support a criminal prosecution of Officers Bejarano, Garcia, Jimenez, and Urrutia. As such, no further action will be taken in this matter.



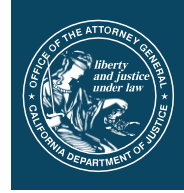
C A L I F O R N I A

DEPARTMENT OF JUSTICE

**Policy and Practice Recommendations for the
Salinas Police Department Related to the Officer-Involved
Shooting of Curtis Barnett on July 13, 2022**

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

November 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 review of the information obtained through the criminal investigation, which may include a review of policies concerning body worn camera footage, interview recordings, video recordings, 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. 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. 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, Salinas Police Department (SPD) officers responded to a report of a stabbing at a residence in Salinas, California. Dispatch advised responding officers that the reporting party indicated the suspect was in possession of a firearm. Responding officers arrived on scene and contacted the victim of the stabbing on the curb in front of a nearby residence. Approximately three minutes later, Mr. Barnett walked out of the residence carrying a sword and what appeared to be a Tommy submachine gun, pointed at officers. Mr. Barnett did not comply with the officers’ orders to put the gun down but walked toward the officers while yelling expletives. SPD Officers Bejarano, Garcia, Jimenez, and Urrutia fired their service weapons at Mr. Barnett, striking and killing him. Officers later discovered that the Tommy submachine gun was, in fact, 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 SPD to review and implement the following two recommendations:

RECOMMENDATION ONE: BODY WORN CAMERA ACTIVATION AND POLICY

During the incident, the responding officers activated their SPD-issued body worn cameras upon arrival at the scene, except Officer Jimenez, who did not activate his body worn camera until after the critical incident. Officer Jimenez was one of the officers involved in discharging his service weapon.

Activation of body worn cameras allows for a more thorough investigation. Body worn cameras benefit both the officers and members of the public by providing footage of officer-public interactions, including incidents like this one that led to deadly force. Body worn camera footage assists the public, and officers in determining administrative violations, civil liability, deficiencies in training, tactics, and equipment, and positive interactions that merit commendation.

PPS commends the responding officers for complying with SPD's current policy by activating their body worn cameras, which allowed for a robust and complete investigation and evaluation of the incident. However, SPD's current policy is unclear and ambiguous regarding the requirement and timing upon which an officer is required to activate their body worn cameras.

SPD Policy No. 449.5 provides:

This policy is not intended to describe every possible situation in which the portable recorder *should* be used, although there are many situations where its use is appropriate. Members *should* activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder *should* be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity in which a member would normally notify County Communications
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording (Emphasis added.)

Therefore, PPS recommends that: (1) SPD revise their policy on body worn cameras to state that SPD officer members **shall** activate their body worn cameras rather than state that officer members **should** activate the cameras; and (2) require activation during critical incidents. This will eliminate any potential ambiguity of the requirement that officers activate their body worn cameras. PPS also recommends that SPD continue to provide training and instruction with regard to the appropriate circumstances for the activation of body worn cameras. Specifically, in instances such as this, where an officer fails to activate their body camera in compliance with SPD policy, the officer should receive supplemental training regarding the appropriate circumstances for the activation of body worn cameras.

RECOMMENDATION TWO: COMMUNICATION BETWEEN OFFICERS

During the incident, responding officers discussed who would deploy the less lethal 40-millimeter launcher, and who would be prepared to use firearms, if necessary. Specifically, Officer Garcia handed Officer Jimenez a 40-millimeter launcher, while Officer Garcia prepared to use his firearm. When Mr. Barnett exited the house with the apparent Tommy submachine gun and sword, Officer Jimenez put down the 40-millimeter launcher and drew his firearm without communicating this to Officer Garcia. As such, Officer Garcia believed that Officer Jimenez still had the 40-millimeter launcher and advised Officer Jimenez to "shoot." Shortly thereafter, Officers Urrutia, Bejarano, Jimenez, and Garcia fired their duty weapons at Mr. Barnett.

SPD Policy No. 308.9 does not provide guidance to officers regarding communication between officers should there be a need to transition from a less lethal launcher to a firearm during an incident.

PPS recommends that SPD review Policy No. 308.9 to determine if the policy provides sufficient guidance when officers need to transition from a less lethal to lethal weapon system when facing a rapidly evolving critical incident.