



C A L I F O R N I A

DEPARTMENT OF JUSTICE

Report on the Investigation into the Death of Victor Marquez on December 17, 2022

Tulare County AB 1506

February 2025

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INVESTIGATION OF OFFICER INVOLVED SHOOTING

ASSEMBLY BILL 1506 BACKGROUND

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

AB 1506, signed into law on September 30, 2020, and effective July 1, 2021, provides the California Department of Justice (DOJ) with an important tool to directly help build and maintain trust between law enforcement and the communities they serve by creating a mandate for an independent, statewide prosecutor to investigate and review officer-involved shootings of unarmed civilians across California.

The DOJ investigates and reviews, for potential criminal liability, all incidents covered under AB 1506, as enacted in California Government Code section 12525.3. Where criminal charges are not appropriate, the DOJ is required to prepare and make public a written report, like this one, communicating:

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

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

PRIVACY STATEMENT

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

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

- Witness 1 (W-1), domestic violence victim, girlfriend of Mr. Marquez
- Witness 2 (W-2), friend of W-1
- Witness 3 (W-3), driver of gray Toyota Camry
- Witness 4 (W-4), passenger of gray Toyota Camry
- Witness 5 (W-5), male driver of gray Hyundai Sonata
- Witness 6 (W-6), female driver of a vehicle in left turn lane on eastbound Highway 198
- Witness 7 (W-7), niece of Mr. Marquez
- Witness 8 (W-8), aunt of Mr. Marquez
- Witness 9 (W-9), mother of Mr. Marquez

INTRODUCTION

On December 17, 2022, at approximately 10:50 AM, Woodlake Police Department (WPD) police officers heard over radio dispatch that Tulare County Sheriff's Office was trying to locate a domestic violence suspect, later identified as Victor Marquez, who was armed with a nine-millimeter firearm. At approximately 11:30 AM, WPD Police Officer Christopher Kaious located Mr. Marquez's vehicle, a high-speed pursuit of Mr. Marquez ensued, and other law enforcement officers joined the pursuit including WPD Police Officer Juan Gonzalez. The pursuit ended when Mr. Marquez's vehicle collided with two other vehicles and came to a stop. Officers Kaious and Gonzalez exited their police vehicles, and approached Mr. Marquez's vehicle while issuing commands, "Show me your hands!" and "Don't do this!" The officers would later describe Mr. Marquez as holding what they believed to be a firearm in a small black bag and raising the firearm at Officer Kaious. Officers Kaious and Gonzalez then fatally shot Mr. Marquez. After the shooting, the officers discovered that Mr. Marquez's right hand, which was hidden inside the small black bag, did not hold a firearm, and that there were no firearms the vehicle.

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). This report is the final step in the DOJ's review of the fatal shooting of Mr. Marquez. and the scope of this report is limited to determining whether criminal charges should be brought against the shooting officers and offering 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. Based on the criminal investigation, review of evidence, and evaluation of the case, we have determined that there is insufficient evidence to support the filing of criminal charges against Officers Kaious and Gonzalez.

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

SUMMARY OF INCIDENT

On December 17, 2022, at approximately 10:44 AM, Tulare County Sheriff's Office (TCSO) Dispatch (Dispatch) received a 911 call from W-1 stating that she needed an officer at a house on Beechwood Avenue in Ivanhoe, California. W-1 said that her boyfriend, Victor Marquez, put a nine-millimeter firearm to her head and choked her, and that Mr. Marquez was leaving in a red 2003 GMC Envoy. Later in the call, W-1 stated that Mr. Marquez was parked at the side of the Beechwood residence and that she (W-1) was sitting in her friend's car with her friend, W-2. W-1 stated that Mr. Marquez had the firearm with him and was pointing it at her (W-1). After several seconds, W-1 stated that Mr. Marquez "just left." After several more seconds, W-1 stated, "Oh my God, he came back." Someone other than W-1 can be heard yelling something indiscernible, W-1 can be heard saying "lock the doors," and then knocking sounds can be heard during W-1's call. Then, W-1 can be heard saying several times, "I have the police on the phone." W-1 then told Dispatch, "[Mr. Marquez] pulled in the alley" The following are pertinent excerpts of Dispatch's communication over the radio to officers and deputies during this time:

- At 10:46:06 AM, Dispatch relayed over the radio to local law enforcement, "I have a 273 5 in Ivanhoe. [house number] Beechwood. Still getting further ... 273 5 and a firearm used as well. Code 4 to start 60 Adam."
- At 10:46:45 AM, Dispatch advised, "... [W-1's name], [house number] Beechwood, the male Victor Marquez is going to be in a red, GMC Envoy. Apparently, he is still armed with a 9-millimeter. Still getting further ... can you start towards Ivanhoe?"
- At 10:47:58 AM, Dispatch advised, "... per the RP, the male is still sitting in his vehicle and pointing the firearm at the victim ..."
- At 10:48 AM, an officer asked for a description of the vehicle and Dispatch repeated, "... red GMC Envoy, red GMC Envoy."
- At 10:50:07 AM, Dispatch advised, "... they're going to be in the alley, and he's still there blocking the vehicle. 2003 red GMC Envoy."
- At 10:50:36 AM, Dispatch advised, "... the female's pointing towards the direction where the male's at." TCSO Deputy Luke Hamilton then advised over the radio, "... male's taking off westbound on Beechwood."

Deputy Hamilton had arrived at the Beechwood residence, and the male individual later identified as Mr. Marquez was parked in the alleyway. As Deputy Hamilton approached the residence, Mr. Marquez began to drive away. Deputy Hamilton attempted to follow him but quickly lost Mr. Marquez due to dense fog present at that time. At 10:51:31 AM, Deputy Hamilton advised over the radio, "... I believe he went northbound on 156 heading towards 328. I do not have a visual at the moment." Pertinent excerpts of Dispatch's subsequent communication over the radio to officers and deputies are as follows:

- At 10:51:43 AM, Dispatch repeated, "... northbound, possibly 156 towards 328 ..."
- At 11:01:12 AM, Dispatch advised, "... going to be a red GMC Envoy per the RP, possible plate that we might have located is 8, [indiscernible], Victor, Victor, 6, 7, 3."
- At 11:01:46 AM, Dispatch advised, "... it's going to be 2002 GMC registered to Victor Marquez."

At 10:54:22 AM, Dispatch reported that W-1 had left the Beechwood residence because she was afraid. Deputy Hamilton then contacted W-1 at the parking lot of a Family Dollar store in Ivanhoe to interview her. At 11:00 AM, WPD Officer Kaious arrived at the parking lot to see if Deputy Hamilton needed assistance. Deputy Hamilton requested that Officer Kaious patrol the area in case Mr. Marquez returned to the Beechwood residence. Deputy Hamilton then resumed his interview of W-1 at the fire station nearby to get W-1 away from an open area where Mr. Marquez might see W-1.

At 11:30:45 AM, Officer Kaious advised over the radio, "failure to yield of that suspect vehicle ... approaching Road 172."

At 11:30:55 AM, Dispatch responded, "872 you're on digital. I copy you have the suspect vehicle, failure to yield."

In the approximately ten minutes that followed, Officer Kaious continued to advise over the radio regarding the status of his pursuit of Mr. Marquez's vehicle. At various times, Officer Kaious reported Mr. Marquez's vehicle was speeding at 100 miles per hour, only had one occupant, was "attempting to swerve all over the roadway," "just blew the stop sign," and "trying to ram vehicles off the roadway."

At 11:36:10 AM, Officer Kaious asked over the radio, "... confirming he was armed with a 9-millimeter, correct?" and at 11:36:16 AM, Dispatch responded, "That's affirmative."

Traveling westbound on Highway 198, Mr. Marquez's GMC Envoy entered the intersection with Road 196, against his red light and collided into the rear of a gray Toyota Camry that had just moved from the number one lane of westbound Highway 198 into the center median to get out of the way of the oncoming high-speed pursuit. Upon impact, both Mr. Marquez's GMC Envoy and the gray Toyota Camry spun 180 degrees and came to a standstill on Highway 198 facing eastbound, with the gray Toyota Camry partially under the rear of Mr. Marquez's red GMC Envoy. Two male individuals, W-3 and W-4 were in the driver and front passenger seat of the gray Toyota Camry.

Both Officer Kaious and Officer Gonzalez arrived on scene within seconds of the collision, pulled their police vehicles over, and moved quickly on foot to the driver's window of the GMC Envoy with their firearms pointed at Mr. Marquez. As Officer Kaious approached the GMC Envoy, he saw Mr. Marquez move from the driver's seat to the front passenger seat. Both the driver and front passenger windows of the GMC Envoy were rolled up. Officers Kaious and Gonzalez repeatedly ordered Mr. Marquez, "Show us your hands! Show us your hands!" Mr. Marquez did not comply with these orders.

During this time, Exeter Police Department (EPD) Sergeant Curtis Hayes, Cal Fire Police Officer Chris Fox, and California Department of Fish and Wildlife (Fish and Wildlife) Officer Daniel Torres arrived on scene, pulled their vehicles over, and approached the scene on foot. EPD Sergeant Hayes approached the Toyota Camry and checked on the two occupants. Cal Fire Police Officer Fox drew his weapon and walked toward the front of the GMC Envoy, to the left of the WPD officers, and then Officer Fox moved to where Sergeant Hayes was located while assisting the passengers of the Toyota Camry behind the GMC Envoy. Fish and Wildlife Officer Torres arrived on scene and positioned his vehicle to block off traffic. Officer Torres then positioned himself behind the engine block of a WPD police vehicle.

Officers Kaious and Gonzalez continued to order Mr. Marquez, "Show us your hands!" In his later interview, Officer Kaious stated that he then saw Mr. Marquez reach down to the floorboard area and pop back up with his right hand inside of a black bag which he (Mr. Marquez) laid on his lap. In his

interview, Officer Gonzalez stated that he saw Mr. Marquez keep his right hand in a black bag that was placed on Mr. Marquez's right thigh/hip area. Officers Kaious and Gonzalez then started ordering Mr. Marquez, "Don't do it! Don't do it!" In their interviews, both officers stated that they saw Mr. Marquez then raise his right hand, which was still located inside the black bag, towards Officer Kaious. In response, Officers Kaious and Gonzalez fired gunshots at Mr. Marquez from their positions at the driver side of the GMC Envoy. This lethal fire occurred from approximately 11:52:13 AM through 11:52:17 AM, a span of about four to five seconds. Officer Kaious stated that it appeared as if Mr. Marquez was moving around in the front seat during the lethal fire. Officer Kaious continued firing until he saw Mr. Marquez's body slump back in the seat and his head tilt back towards the head rest. Officer Kaious then saw Mr. Marquez's right hand still inside the black bag, come up slowly towards his head. Officer Gonzalez stated that he saw Mr. Marquez fall back into his seat and his body jerk two times.

Officers Kaious and Gonzalez stopped firing and continued to keep their firearms pointed at Mr. Marquez while ordering him, "Show us your hands!" After approximately one minute, Officer Kaious moved along the front of the GMC Envoy to the front passenger side while keeping his firearm aimed at Mr. Marquez and ordering, "Show us your hands." At this time, TCSO Deputy Michael Askew arrived on scene and on foot approached the driver's window of the GMC Envoy with his firearm drawn. While officers including Deputy Askew kept their firearms aimed at Mr. Marquez, Deputy Askew attempted to open the driver's door and driver side rear passenger door but was unable to open either door. He then used his firearm to knock down the shattered glass of the driver's window, reached in, unlocked the vehicle doors, and opened the driver's door. He then opened the driver side rear door, removed a bag of gifts, and advised that he did not see "any gun down." Deputy Askew then moved behind the GMC Envoy and the Toyota Camry over to the passenger side of the GMC Envoy. Sergeant Hayes had opened the passenger side rear door, and through the opening, Deputy Askew reached over Mr. Marquez's right shoulder from behind and removed a small black bag that was resting on Mr. Marquez's upper right chest area. Deputy Askew removed the bag by pulling it out of the vehicle through the space between Mr. Marquez's right shoulder and the vehicle ceiling.

As Deputy Askew removed the small bag, Mr. Marquez's right hand, which had been in the bag, fell out of the bag. Deputy Askew immediately searched the black bag for a firearm and found none. Deputy Askew advised the assisting officers that he did not find a firearm in the black bag.

Next, the officers slowly opened the passenger side front door, removed Mr. Marquez from the vehicle, and laid him on the ground facing up. The officers searched Mr. Marquez for weapons and found none. They began to render medical aid, and Deputy Askew checked and found a pulse on Mr. Marquez at 11:57:51 AM. When Deputy Askew checked again at 11:59:23 AM, he found no pulse. Another officer checked for a pulse at this time and found none. Then, Officer Kaious performed CPR on Mr. Marquez. During this time, Deputy Askew again checked the interior of the vehicle for a firearm and found none.

Officer Kaious continued to perform CPR until Exeter District Ambulance arrived. At 12:03 PM, Exeter District Ambulance Paramedic Brian McCoy pronounced Mr. Marquez deceased at the scene.

Officers Kaious and Gonzalez were directed to remain in their respective patrol vehicles while the scene was processed. EPD Police Chief John Hall then transported Officers Kaious and Gonzalez together in the same vehicle from the scene to WPD, where the officers waited until TCSO deputies and DOJ CaPSIT agents arrived.

INVESTIGATION

Overview

On December 17, 2022, the DOJ Division of Law Enforcement (DLE) California Police Shooting Investigation Team (CaPSIT) received notification of an AB 1506 qualifying event in the area of State Route 198 and Road 196 near the City of Exeter, California, in Tulare County. The incident involved Woodlake Police Department (WPD) officers.

CaPSIT Supervising Special Agent (SAs) A. Romero and other CaPSIT Special Agents responded to the notification and received a briefing from the Tulare County Sheriff's Office (TCSO) of the incident and the initial investigative steps taken by TCSO per county protocol. The steps included the execution of a search warrant to search Mr. Marquez's vehicle, the GMC Envoy, interviews of percipient law enforcement and civilian witnesses, the processing of the shooting officers including their firearms, and the processing of the incident scene.

WPD Officers Kaious and Gonzalez provided voluntary statements to DOJ CaPSIT agents. Statements were taken from percipient witnesses, including other law enforcement officers and civilian witnesses. The DOJ team reviewed body worn camera (BWC) footage, 911 calls and dispatch/radio recordings, written reports of law enforcement officers, physical evidence, and the autopsy and toxicology reports.

Evidence Reviewed

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

- The incident scene at the area of Highway 198 and Road 196,¹ near the City of Exeter, California;
- Body worn camera (BWC) footage from EPD and TCSO;
- Surveillance video from a nearby gas station;
- Cell phone video from a civilian percipient witness;
- Photographs of the incident scene and of the shooting officers;
- 911 call recording;
- Dispatch and radio recordings and CAD logs;
- Interviews of the shooting officers;
- Interview of witness officers;
- Interviews of civilian witnesses;
- Physical evidence recovered from the scene of the incident;

¹ Also referred to as State Routes 198 and 65 respectively.

- Autopsy and toxicology reports; and
- Firearms and ballistic analysis by DOJ's Bureau of Forensic Services (BFS).

Incident Scene Description

This incident took place in a rural area just west of the intersection of Highway 198 and Road 196, within an unincorporated area of Tulare County, near Exeter, California. Highway 198 was an eastbound/westbound highway with two lanes in each direction separated by two double yellow lines and a paved median. At the intersection, there were dedicated left turn lanes in each direction of Highway 198. The left turn lanes were controlled with dedicated red arrow signals.

Road 196 was a northbound/southbound roadway consisting of one lane for each direction. Road 196 terminated within the intersection at Highway 198 and continued south as Route 65. The intersection of Highway 198 and Road 196 was controlled by traffic signal lights in all four directions, which were functioning properly at the time of the vehicle collision preceding the OIS. At the time of the collision, fog was observed in the area, which reduced visibility to approximately 600 feet. In the northwest corner of the intersection was a Chevron gasoline station and convenience store called The Barn.

At the time of the OIS, the red GMC Envoy was located within the westbound lanes of Highway 198, west of the intersection with Road 196, facing a southeasterly direction. All windows were closed except the driver side rear window, which was partly open. The rear hatch of the vehicle was open. The gray Toyota sedan was located within the westbound lanes of Highway 198, partially under the rear of the GMC Envoy, facing a northeasterly direction. The gray Toyota had sustained major damage to its front and rear end. At the time of the OIS, a gray Hyundai Sonata was located within the left turn lane of eastbound Highway 198 just west of the intersection with Road 196 and partially within the crosswalk. The Hyundai was facing a northeasterly direction.

The OIS occurred during the late morning hours on a Saturday in December. Traffic at the intersection of Highway 198 and Road 196 appeared to be moderate. Fog was observed in the area.

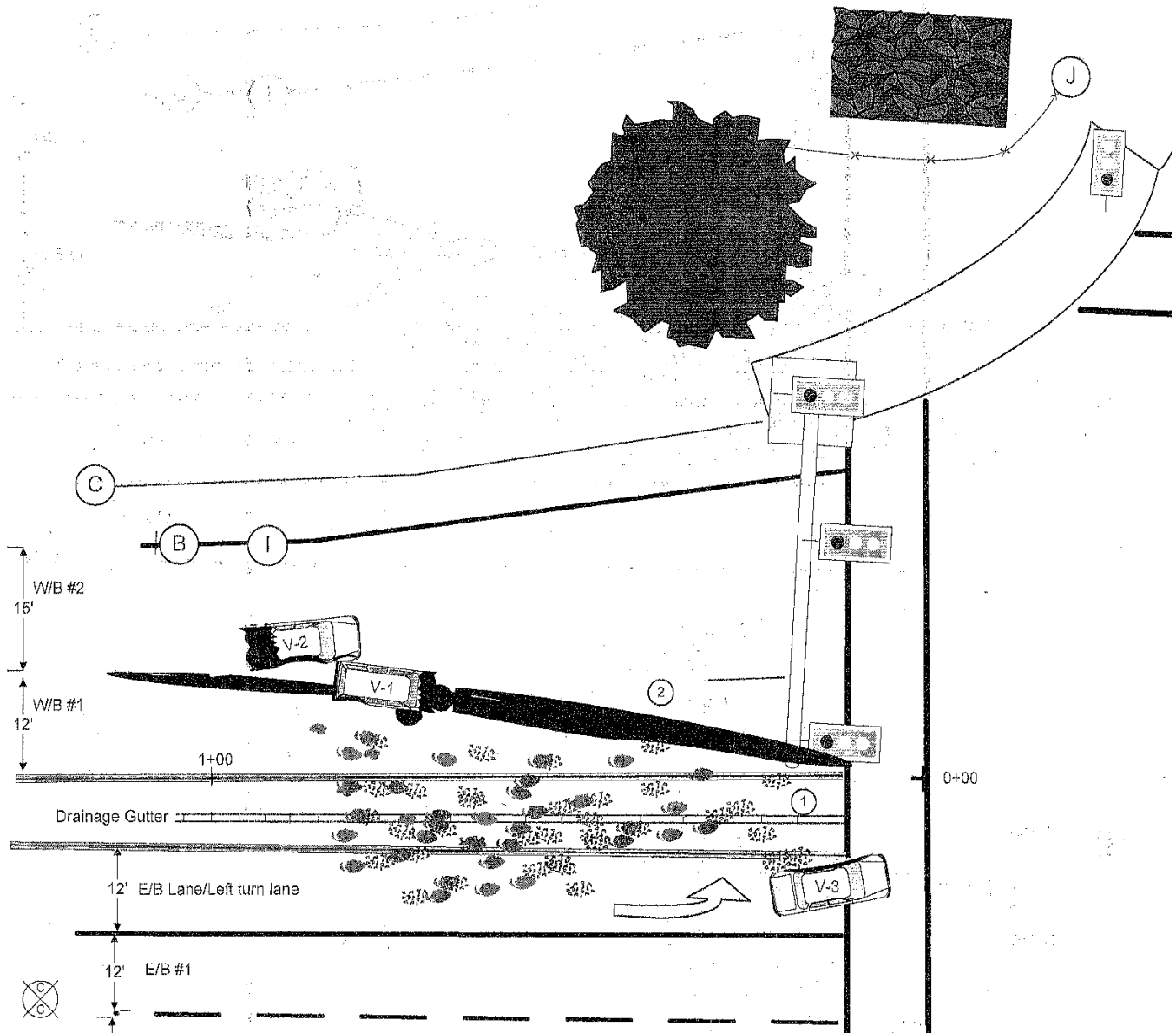


Diagram of incident area in westbound lanes of Highway 198, at time of OIS. Positions of the vehicles are depicted after the collision, at their points of rest. Locations, directions, and distances are approximate. V-1 indicates location of Mr. Marquez's red GMC Envoy. V-2 indicates location of gray Toyota Camry. V-3 indicates location of gray Hyundai Sonata.



Google Earth overview map of the area where OIS occurred. Red circle approximately indicates incident area.

Incident Scene Evidence Recovery

TCSO deputies and TCSO Crime Scene Unit personnel responded to the incident scene and processed the scene (photographing, scanning and collecting evidence) prior to DOJ CaPSIT's arrival. An initial processing of the red GMC Envoy was conducted on scene, after which the vehicle was towed to the TCSO Crime Scene Unit Office in the City of Tulare for additional processing.

California Highway Patrol (CHP) Officer Ben Howell arrived on scene between 11:49 AM and 12:00 PM. Officer Howell investigated the vehicle collision and made the following conclusions: When the gray Toyota Camry pulled into the median of Highway 198 west of the intersection to avoid the oncoming pursuit, the Toyota Camry came to a stop parallel to a gray Hyundai Sonata that was in the left turn lane of eastbound Highway 198. The red GMC Envoy failed to stop at the red light, crossed the intersection, and crashed into the right rear of the gray Toyota Camry. This impact pushed the left rear of the Toyota Camry to the left, where the Camry collided into the left side of the gray Hyundai Sonata. The GMC Envoy and Toyota Camry subsequently traveled into the westbound lanes of Highway 198, rotating approximately 180 degrees. Both vehicles came to rest on their wheels within the roadway, with the GMC Envoy facing southeast and the Toyota Camry facing northeast and propelled partially under the rear of the GMC Envoy. The Hyundai Sonata came to rest within the left turn lane, partially within the crosswalk on its wheels facing in a northeasterly direction.

Civilian witnesses and non-shooting law enforcement officer witnesses were interviewed, and a search warrant for Mr. Marquez's red GMC Envoy was executed and uncovered no weapons. Mr. Marquez was searched for weapons on his person, and none was located. Surveillance video from the Chevron gas station at the corner of the intersection and a cell phone video from civilian witness, W-6, were obtained.

A TCSO detective and evidence technicians processed the shooting officers, WPD Officers Kaious and Gonzalez, and collected their firearms, magazines, and ammunition. The firearms collected from Officers Kaious and Gonzalez were subsequently released to DOJ CaPSIT agents and DOJ's BFS personnel for examination.

Black Belt Bag

The small black bag in which the shooting officers saw Mr. Marquez conceal his right hand and which Deputy Askew pulled away from Mr. Marquez after the shooting was examined by Deputy Askew on scene. Deputy Askew found that the black bag contained no firearms and contained a black wallet with credit cards. The credit cards were in the same slot of the wallet and each credit card had the same bottom corner shattered in a manner consistent with if each card had been struck with a bullet.



Evidence Item KRM 716 – Photo of black bag with bullet holes located at incident scene.

The black bag was processed and examined by TCSO Crime Lab technicians and DOJ's BFS personnel and was recognized to be a belt bag or fanny pack typically worn around the waist.

Firearms and Ballistics Evidence

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

- Fourteen of the nine-millimeter Luger cartridge cases were fired from Officer Kaiious' semiautomatic pistol.
- Four of the nine-millimeter Luger cartridge cases were fired from Officer Gonzalez' semiautomatic pistol.

DOJ's BFS examined and analyzed eight projectiles collected from the autopsy of Mr. Marquez. DOJ's BFS determined that:

- Regarding seven of the projectiles, it was inconclusive if these seven projectiles were fired from Officer Kaious' semiautomatic pistol. However, these seven projectiles were eliminated as being fired from Officer Gonzalez' semiautomatic pistol.
- Regarding one of the projectiles, it was inconclusive if this particular projectile was fired from Officer Kaious' or Officer Gonzalez' semiautomatic pistol.

Body-Worn Camera Footage

At the time of the OIS, neither WPD Officer Kaious nor Officer Gonzalez was equipped with a BWC, and neither of their police vehicles was equipped with a dash camera. At that time, WPD officers were not assigned BWCs, and their police vehicles were not equipped with dash cameras.

EPD Sergeant Hayes' BWC

Of the law enforcement officers on scene at the time of the OIS, only EPD Sergeant Hayes was equipped with a BWC. However, his BWC footage captured only an audio and not a video recording of the OIS due to Sergeant Hayes' body positioning.

The following can be heard from the audio recording from Sergeant Hayes' BWC. The timestamps are from Sergeant Hayes' BWC:

- At 11:48:39 AM – Officer yelling, "Don't fucking do it!"
- At 11:48:57 AM – Officer yelling, "Don't do it!"
- At 11:48:58 AM – Officer yelling, "Don't do it!"
- At 11:49:00 AM – Officer yelling, "Don't do it!"
- At 11:49:06 AM – Officer yelling, "Don't do it!"
- At 11:49:17 AM – Officer yelling, "Don't do it!"
- At 11:49:27 AM – Officer yelling, "Don't do it!"
- At 11:50:29 AM – Officer yelling, "Don't fucking do it!"
- At 11:52:13 AM to 11:52:17 AM – shots fired from the OIS.

Following are screenshots from Sergeant Hayes' BWC. These screenshots depict Officers Kaious and Gonzalez' positions in the moments before the OIS. These screenshots also depict the location of the gray Toyota Camry where W-3 and W-4 were located.



Screenshot from Sergeant Hayes' BWC time-stamped 11:48:48 AM, approximately four minutes before the OIS. Officer Kaious can be seen at the driver's window of the red GMC Envoy with Officer Gonzalez to his right. The gray Toyota Camry with W-3 and W-4 still inside is circled in blue.



Screenshot from Sergeant Hayes' BWC time-stamped 11:50:14 AM, approximately two minutes before the OIS. Officers Kaious can be seen at the driver's window of the red GMC Envoy with Officer Gonzalez to his right. The gray Toyota Camry with W-3 and W-4 still inside can be seen in the foreground of this screenshot.



Screenshot from Sergeant Hayes' BWC time-stamped 11:50:54 AM, approximately two minutes before the OIS. Officer Kaious can be seen at the driver's window of the red GMC Envoy with Officer Gonzalez to his right at the driver side rear window. The gray Toyota Camry can be seen as indicated with W-3 and W-4 still inside.

TCSO Deputy Askew's BWC

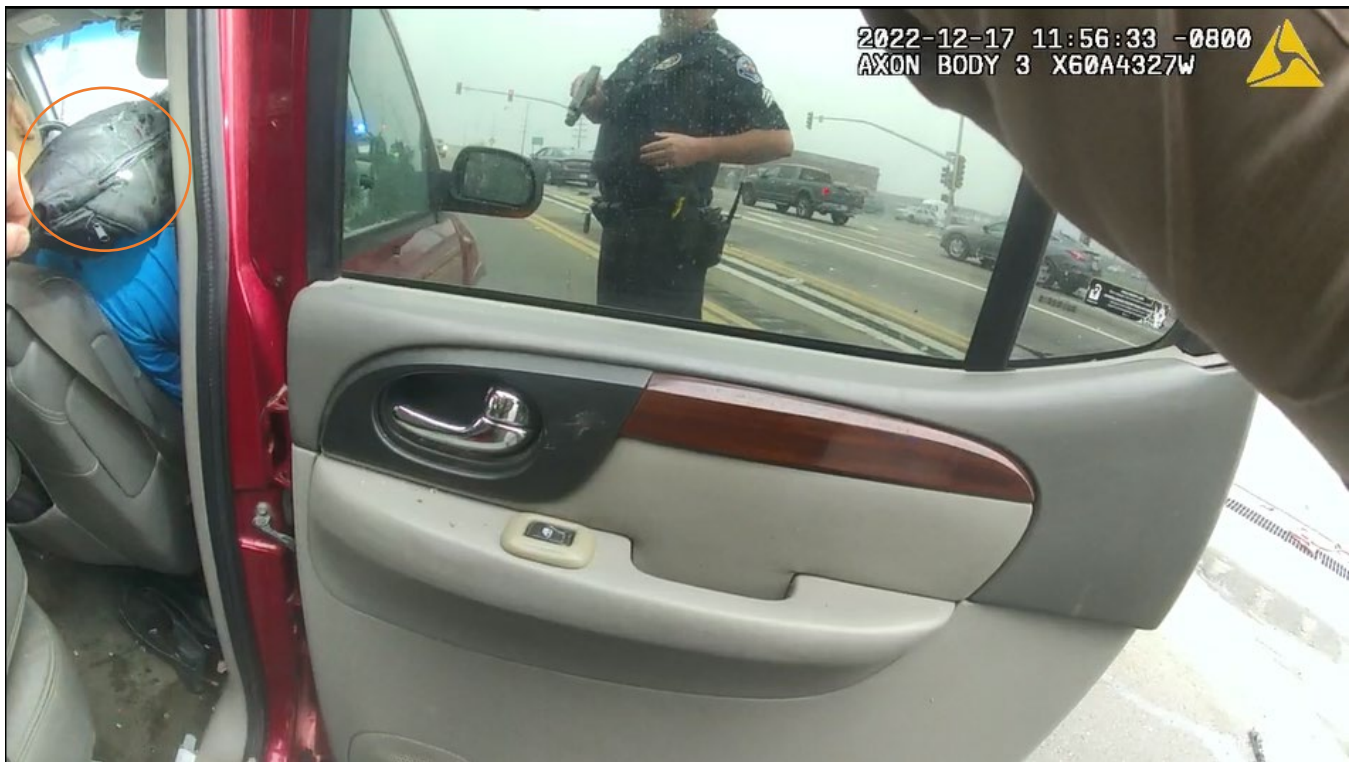
TCSO Deputy Askew arrived at the incident scene shortly after the OIS occurred. He was equipped with a BWC, which showed Deputy Askew moving on foot towards the red GMC Envoy. Once Deputy Askew arrived at the GMC Envoy, someone off camera is heard advising "this door's locked." Deputy Askew reported that he "observed the front driver side window to be cracked from apparent gunfire." Deputy Askew used his duty firearm to knock the glass down. Deputy Askew then tried to open the driver's door and the driver side rear door, but both doors were locked. Deputy Askew kept his duty firearm aimed at Mr. Marquez. Mr. Marquez can be seen seated in the front passenger seat with his left hand at his side near the center console and a black item resting on the right side of his chest. Deputy Askew appeared to reach inside and unlock the vehicle doors, and then he opened the driver's door. Deputy Askew then opened the driver side rear door and removed a bag of gifts located in the rear seat. Deputy Askew then announced, "I don't see any gun down." He then moved around the rear of the GMC Envoy and the gray Toyota Camry to get to the passenger side of the GMC Envoy. When Deputy Askew got to the passenger side rear door, Sergeant Hayes already had that door opened. Through the opening, Deputy Askew then reached over Mr. Marquez's right shoulder and grabbed and pulled the black item away from Mr. Marquez, out of the vehicle, and onto the ground. As he did this, the black item appeared to be a small, black bag. Mr. Marquez's right hand could be seen located in the small bag and then falling out of the bag as Deputy Askew grabbed and pulled the black bag from Mr. Marquez. No firearm was located in Mr. Marquez's hand, and no firearm was located in the small black bag or in the GMC Envoy.



Screenshot from Deputy Askew's BWC [redacted] time-stamped 11:55:06 AM taken from outside of the driver's door. Mr. Marquez is seated in the front passenger seat with left hand near console and a small black item (circled in orange) is resting on the right side of Mr. Marquez's chest.



Screenshot from Deputy Askew's BWC time-stamped 11:56:29 AM taken from outside of the passenger side rear door. Mr. Marquez can be seen seated in the front passenger seat with the small item (circled in orange) on right side of his chest.



Screenshot from Deputy Askew's BWC time-stamped 11:56:33 AM taken from outside the passenger side rear door. Mr. Marquez can be seen seated in the front passenger seat with the black item now appearing to be a black belt bag (circled in orange) on right side of his chest. Deputy Askew's left hand can be seen pulling the black belt bag away.



Screenshot from Deputy Askew's BWC time-stamped 11:56:35 AM taken from outside of the passenger side rear door. Mr. Marquez can be seen seated in the front passenger seat. Mr. Marquez's right hand (indicated by red arrow) can be seen in the black belt bag (circled in orange) as Deputy Askew is pulling the black bag away.

Deputy Askew searched the black belt bag and found a wallet inside of it. The wallet contained credit cards in the same slot, and each credit card appeared to have been shattered in the same corner.

Chevron Gas Station Surveillance Video Footage

Surveillance video footage from the Chevron gas station at the northwest corner of the intersection captured an obscured view of the red GMC Envoy's collision with the other vehicles, police vehicles arriving, and Officers Kaious and Gonzalez quickly getting out of their vehicles and approaching the red GMC Envoy with their firearms drawn. The OIS was not captured on the video due to obstruction by a large tree.

W-6's Cell Phone Video Recording

W-6 was in her vehicle in the left turn lane of eastbound Highway 198 when the gray Toyota Camry moved from the number one lane of Highway 198 westbound into the median in an attempt to get out of the way of the oncoming red GMC Envoy and pursuit. When the GMC Envoy crashed into the gray Toyota Camry, the Toyota Camry in turn, collided with W-6's vehicle. The Toyota Camry then spun 180 degrees before coming to a standstill. W-6 remained in her vehicle and turned on her cell phone video recorder. W-6 subsequently captured some of the officers' commands to Mr. Marquez. W-6's cell phone video shows both Officers Kaious and Gonzalez pointing their firearms at the driver's side of the GMC Envoy and ordering, "Get your hands up!" multiple times and, "Don't do it!" multiple times. The video recorded by W-6 at one point shows the entire front side of the GMC Envoy, but Mr. Marquez cannot be seen due to the darkness of the vehicle's interior. W-6 stopped recording before the OIS occurred.

Communications

Copies of W-1's 911 call and the radio communication between Dispatch and the deputies and officers were obtained and reviewed. The following are pertinent excerpts of the communication. Deputy and officer communication are in bold. Ellipses indicate omitted segments:

10:46:06 AM Dispatch: "I have a 273 5 in Ivanhoe. [house number] Beechwood. Still getting further ... 273 5 and firearm used as well ... "

10:46:45 AM Dispatch: "... [W-1] [house number] Beechwood. The male, Victor Marquez, is going to be in a red, GMC Envoy. Apparently, he is still armed with a 9-millimeter. ... Can you start towards Ivanhoe?"

10:51:31 AM Deputy Hamilton: "... I believe he went northbound on 156 heading towards 328. I do not have a visual at the moment."

Dispatch then communicated over the radio that Mr. Marquez's vehicle was a red, GMC Envoy and provided its license plate information. At 11:30:45 AM, Officer Kaious communicated over the radio that he located Mr. Marquez's vehicle.

11:30:45 AM Officer Kaious: "Failure to yield of that suspect vehicle. ... Approaching Road 172."

11:30:55 AM Dispatch: "872 you're on digital. I copy. You have the suspect vehicle. Failure to yield."

- 11:31:02 AM Officer Kaious: "... Going up Millwood, approaching Avenue 336 now. Speeds are 100."**
- 11:32:01 AM Officer Kaious: "... crossing Road 194. Still going up Millwood. Speeds are 100. No traffic. And he's the only occupant in the vehicle."**
- 11:32:42 AM Officer Kaious: "... He's attempting to swerve all over the roadway."**
- 11:33:11 AM Officer Kaious: "... Eastbound 344, crossing 196, speeds are 70. Just blew the stop sign at Road 196."**
- 11:33:33 AM Officer Kaious: "... He's trying to ram vehicles off the roadway."**
- 11:34:47 AM Officer Kaious: "Just went through the roundabout wrong way driving still eastbound on Naranjo."**
- 11:35:15 AM Officer Kaious: "... Speeds are about 75. Traffic is light. No right rear tire."**
- 11:36:10 AM Officer Kaious: "... confirming he was armed with a 9-millimeter, correct?"**
- 11:36:16 AM Dispatch: "That's affirmative."**

At 11:37:00 AM, Officer Kaious asked Officer Gonzalez to start calling the pursuit, which he did.

- 11:38:26 AM Officer Gonzalez: "Continuing 216. Speed of 60. No traffic and he's still all over the roadway."**
- 11:47:54 AM Officer Gonzalez: "... Start medical, code 3."**
- 11:50:05 AM WPD Police Chief Mike Marquez:² "Suspect in the vehicle is refusing commands and will not comply. Refusing to show hands."**
- 11:50:14 AM Dispatch: "861, 10-4. Suspect refusing to comply. Not showing his hands. Still in the vehicle. What's the line of fire?"**
- 11:50:20 AM An officer: "Line of fire is to the south west, south west."**
- 11:52:17 AM Sergeant Hayes: "815, shots fired, shots fired."**

² WPD Police Chief Mike Marquez is not related to Victor Marquez.

Autopsy

On December 21, 2022, certified forensic pathologist Sam Andrews, M.D., conducted an autopsy of Mr. Marquez at the Tulare County Coroner's Office. Dr. Andrews was employed by NAAG Pathology, and the Tulare County Coroner's office contracted for his services. The cause of death was determined to be gunshot wounds and the manner of death determined to be homicide. The autopsy report did not indicate which bullet(s) caused the fatal gunshot wound(s). The report noted that the body was re-examined on December 22, 2022, to clarify wound tracks but did not indicate any resulting finding.

The toxicology test of Mr. Barnett's blood collected during the autopsy detected a "fatal" level of methamphetamine.

Interviews of Shooting 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 Kaious and Gonzalez each provided voluntary statements.

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

WPD Officer Christopher Kaious

On January 10, 2023, WPD Officer Christopher Kaious was interviewed by DOJ Special Agent A. Samano. Officer Kaious' attorney, Robert Baumann, and TCSO Detective Mike Torres were also present. Officer Kaious stated that on December 23, 2022, he viewed the video of the OIS from the BWC of EPD Sergeant Hayes. At the time of the OIS, Officer Kaious was 38 years old and had been in law enforcement for approximately nine years with TCSO and then about five years with WPD. At TCSO, he was assigned to the jails, and at WPD, he worked primarily as a patrol officer.

On the day of the incident, Officer Kaious was assigned to work from 7:00 AM to 7:00 PM, and his call sign was 872. His police vehicle was a Chevrolet Tahoe, fully marked, black and white with an overhead light bar. The vehicle door had an WPD badge. He drove his vehicle alone and his partner in the field was Officer Gonzalez. On the day of the OIS, Officer Kaious was armed with his firearm, a Sig Sauer P320 nine-millimeter, which was the only firearm on his person during the OIS. Officer Kaious did not have his taser on his person or in his police vehicle and he was not issued a 40-millimeter less-lethal launcher. Officer Kaious stated that he did not have pepper spray.

Officer Kaious stated that a call came in from the town of Ivanhoe, which was covered by TCSO. Officer Kaious stated that the call was from a female who said that her boyfriend had "just choked her and put a gun to her head." Officer Kaious recalled that the female described the firearm to Dispatch as being a nine-millimeter handgun. As the call was being broadcast, Dispatch continued to say that the male was outside the house, sitting in his vehicle, still in possession of the firearm and that the female was afraid to exit the house because she was afraid of what the male might do. Dispatch sent one deputy. Officer Kaious started to drive towards Ivanhoe in case assistance was needed.

Ivanhoe was less than five miles away from Woodlake. WPD officers routinely left Woodlake to assist TCSO deputies on calls for service because WPD's call volume can be low enough so that the officers

can assist other agencies. Officer Kaious stated that the “primary deputy” communicated on the radio that he (primary deputy) saw the suspect vehicle and there was a very short pursuit. The primary deputy then advised that he lost sight of the vehicle and was going to go back to contact the victim who had called Dispatch. Officer Kaious contacted the primary deputy, who asked Officer Kaious to search the area for the suspect vehicle. Officer Kaious searched the area for the vehicle for approximately twenty to thirty minutes. Officer Kaious then advised Dispatch that he was unable to locate the vehicle and was going back to the City of Woodlake. Officer Kaious started to drive on Millwood Drive, which was the most direct way to get from Ivanhoe to Woodlake.

As he was driving on Millwood Drive, Officer Kaious looked to his left down a side street and, he saw a burgundy SUV, which matched the physical description of the suspect vehicle. Officer Kaious made a U-turn and drove back to the road where he saw the vehicle, and at that time, the vehicle pulled up. Officer Kaious could see the license plate and it matched the suspect vehicle. Officer Kaious stated that “as soon as he saw me, he pretty much gunned it” and drove at a high rate of speed up Millwood towards Woodlake. Officer Kaious turned on his lights and advised Dispatch that he was in pursuit of the suspect vehicle. Officer Kaious believed he had broadcasted that they had reached 105 miles per hour. Officer Kaious stated that it was evident that even with lights, sirens, and Officer Kaious behind Mr. Marquez’s vehicle, Mr. Marquez was attempting to flee.

Officer Kaious heard Officer Gonzalez advise over the radio that he (Officer Gonzalez) was going to set up a “stop stick” at Millwood Drive and Avenue 344.³ Officer Kaious continued to pursue Mr. Marquez’s vehicle, which was “all over the roadway” passing cars to try to get away from Officer Kaious. When Mr. Marquez’s vehicle got to the intersection of Millwood Drive and Avenue 344, Officer Gonzalez threw out the stop stick, and Officer Kaious believed the right rear tire of the red GMC Envoy “got hit.” Officer Kaious said he started to go eastbound on Avenue 344 towards the city limits of Woodlake. Officer Kaious observed that there was traffic and Mr. Marquez started to weave across the lanes. Officer Kaious could not tell if Mr. Marquez was trying to hit the other vehicles or get them “out of the road.”

At some point, WPD Police Chief Marquez, in his police Tahoe, got behind Officer Kaious as he was pursuing Mr. Marquez who was driving at a high rate of speed and weaving all over the roadway. Officer Kaious saw Mr. Marquez’s vehicle go through a roundabout traffic circle at a high rate of speed and in the opposite way from the flow of traffic. Officer Kaious believed Mr. Marquez did this in attempt to get away from him (Officer Kaious). At this point, Officer Gonzalez had caught up to Officer Kaious and was the second police vehicle in the pursuit behind Officer Kaious.

Mr. Marquez’s vehicle continued to drive all over the roadway, and its right rear tire started to come apart and fling rubber pieces. Officer Kaious contacted Dispatch for confirmation that Mr. Marquez was armed with a firearm, and Dispatch confirmed that Mr. Marquez was armed with a firearm. Officer Kaious told Officer Gonzalez to take over providing updates on the pursuit over the radio. At WPD,

³ Officer Gonzalez used a stop stick in attempt to stop Mr. Marquez’ vehicle. (In their interviews, Officers Kaious and Gonzalez referred to the stop stick as “spike strips.”) A stop stick is a device used to slow down and stop the movement of a vehicle by puncturing its tires. To use a stop stick, an officer positioned on the side of the road would throw the strip onto the road. After the vehicle runs over the strip, the officer would remove the strip from the road by pulling a cord attached to the strip. Typically, the strip is composed of metal spikes pointing upward. When the vehicle runs over the strip, the spikes puncture and embed in the tire, causing the tire to deflate at a slow rate.

standard procedure assigned the number two police vehicle in a pursuit to be responsible for providing updates over the radio on the pursuit.

As the pursuit continued, Officer Kaious saw EPD Sergeant Hayes join the pursuit. Officer Kaious was aware that Officer Gonzalez, WPD Chief Marquez, and other officers were also behind him.

The pursuit went “straight ... onto ... Highway 198 westbound and crossed ... Road 196” where the collision occurred. Officer Kaious stated, “[Mr. Marquez’s] vehicle end[ed] up getting ... turned around ... so he’s facing eastbound in the westbound lane. And ... one of the vehicles that [Mr. Marquez] hit was behind [Mr. Marquez’s] vehicle also ... facing eastbound. So, I didn’t ... know what their condition was.”

Officer Kaious then stopped and immediately exited out of his police vehicle. Officer Kaious drew his firearm because of the information that Mr. Marquez had been armed with a firearm. Officer Kaious approached Mr. Marquez and Mr. Marquez’s vehicle at a diagonal angle because Officer Kaious was trying “to use the A-pillar and ... some of the front fender ... of the vehicle for either concealment or cover if ... he did try to fire out.”

As he approached Mr. Marquez, Officer Kaious saw Mr. Marquez “start to move from the driver’s side to the front passenger side.” Officer Kaious believed Mr. Marquez was trying to get away. So, Officer Kaious moved more quickly to the driver’s door.

At the driver’s window, Officer Kaious “saw [Mr. Marquez] try to open the door and it didn’t work ... “So [Mr. Marquez] pretty much just sat down in the seat and ... faced [Officer Kaious] at the window.”

Officer Gonzalez joined Officer Kaious at the driver’s window facing Mr. Marquez, and Mr. Marquez was in the front passenger seat facing Officers Kaious and Gonzalez. Mr. Marquez had oriented his body so that he was facing Officers Kaious and Gonzalez. When Officer Kaious was moving up to the driver’s window, Officer Kaious was yelling, “Hands up! Hands up! Hands up! Put your hands up!” Mr. Marquez did not comply. Officer Kaious could see Mr. Marquez mouthing words, but Officer Kaious did not know what Mr. Marquez was saying. Officer Kaious said the driver’s door was locked. Officers Kaious and Gonzalez were yelling at Mr. Marquez, “Hands up! Hands up! Hands up!” Officer Kaious then saw Mr. Marquez reach down to the floorboard area and “pop [] back up with ... his hand inside of a black bag ... and just ... lays it in his lap.” Officer Kaious stated, “... we were at the window. ... [T]he first time that I actually thought that I might have to fire is when he (Mr. Marquez) popped back up with the bag.” Officer Kaious estimated the bag to be “maybe ... eight to ten inches ... maybe five wide,” big enough for Mr. Marquez to have his whole hand in possession of a firearm inside the bag.

Officer Kaious stated, “... it was his right hand ... he lays it in his lap still facing us and ... at that point, it went from hands up to ... don’t do it ... because what my mindset was ... that’s where the firearm is that he (Mr. Marquez) had used on the female in Ivanhoe. ... [T]he firearm’s in the bag and he (Mr. Marquez) ... has his hand on the firearm.” Both Officers Kaious and Gonzalez were yelling, “Don’t do it!” Officer Kaious remembered Officer Gonzalez yelling at Mr. Marquez, “It’s not worth it! It’s not worth it!” while Officer Kaious was yelling, “Don’t do it! Don’t do it!” Officer Kaious stated, “we were pretty much ... begging him ... not to do it.”

Officer Kaious then saw that Mr. Marquez had a cigarette in his hand. Officer Kaious did not know how Mr. Marquez got this cigarette, because Officer Kaious had been focused on the bag and trying to figure out what Mr. Marquez had in the bag. Mr. Marquez put the cigarette in his mouth, lit it, and

took a long drag on the cigarette. Mr. Marquez then put the cigarette down somewhere in the vehicle. Mr. Marquez's right hand was still in the bag on his lap and Mr. Marquez was still facing Officers Kaious and Gonzalez. Officer Kaious then saw Mr. Marquez reach up with his left hand, lean forward, and kiss the rosary that was hanging from the mirror. Officer Kaious stated, "my mind is he – he's pretty much coming to peace with himself. Like ... this is the end." Officers Kaious and Gonzalez were still at the driver's window yelling at Mr. Marquez, "Don't do it! Don't do it!" Officer Kaious stated that as Mr. Marquez was sitting in the seat, "it was almost like he ... was shifting ... towards me or Officer Gonzalez, like which one can ... I possibly get first ... before they get me." Officer Kaious remembered thinking that Officer Gonzalez was younger than him and married with two children. So, Officer Kaious motioned for Officer Gonzalez to move because Officer Kaious did not want Officer Gonzalez to be the primary target. Officer Gonzalez then moved to the rear door, to create some distance so that if Mr. Marquez did fire, it would be harder for Mr. Marquez to hit both Officers Kaious and Gonzalez.

Officers Kaious and Gonzalez were still yelling at Mr. Marquez, "Don't do it! It's not worth it! Don't do it!" Officer Kaious then saw Mr. Marquez settle into the seat. Officer Kaious observed that Mr. Marquez's torso and shoulders were facing Officer Kaious. Mr. Marquez looked at Officer Kaious, smiled, and raised his right hand, which was still in the bag, tilted at an angle and with the area where the palm would be facing down, towards Officer Kaious. Officer Kaious stated, "it was like a direct angle up towards where my body would have been in the window." Officer Kaious stated that Mr. Marquez's elbow stayed put and Mr. Marquez raised his right hand about one foot upwards from his lap. Officer Kaious saw this through the driver's window. Officer Kaious stated that he thought he was going to get shot by Mr. Marquez, and so, he started firing.

Officer Kaious' initial shots shattered the driver's window, but Officer Kaious could see Mr. Marquez's "body silhouette in his shirt." So, Officer Kaious continued firing. As Officer Kaious was firing, "it was like [Mr. Marquez] was ... actively ... moving around in the front seat ... almost ... pretty much trying to ... evade ... any rounds coming at him." Officer Kaious added, "Whatever rounds were hitting [Mr. Marquez] ... weren't having ... the intended effect." Officer Kaious did not know if there were rounds coming back "toward us." So, Officer Kaious continued firing until Mr. Marquez's body "went from ... evasive ... trying to avoid the gunfire" to when Officer Kaious saw Mr. Marquez's entire body slump back in the seat and his head slowly tilt back towards the head rest. Officer Kaious then saw Mr. Marquez's "right hand with the bag still covering it ... start to come up slowly towards [Mr. Marquez's] head." Officer Kaious stated, "... we had stopped firing by then so I was yelling at him like don't ... like drop your hand, pretty much drop your hand, because I didn't know if he would do some sort of last-ditch effort to ... just pivot and boom at ... towards one of us." Officer Kaious stated, "... it was ... all one motion, like slump, head back, like mouth open, and then his hand ... came to the ... side of his head ... that's where he stayed."

Officer Kaious eventually moved over to the passenger side where Mr. Marquez was sitting. Officer Kaious stated he was trying to let the officers and deputies on the passenger side of the vehicle know that Mr. Marquez's hand was still in the bag. The passenger doors were opened, and an officer pulled the bag off Mr. Marquez's hand. At that point, Officer Kaious saw that there was no firearm. The officers pulled Mr. Marquez out, and an officer tried but could not feel a pulse. So, Officer Kaious started CPR on Mr. Marquez. Someone put a tourniquet on Mr. Marquez's left arm, and someone else put a chest seal (a type of occlusive dressing designed specifically to treat chest wounds that could cause a collapsed lung) on Mr. Marquez. Officer Kaious stated that he continued with CPR and then EMS arrived.

WPD Officer Juan Gonzalez

On January 10, 2023, WPD Officer Juan Gonzalez was interviewed by DOJ Special Agent A. Samano. Officer Gonzalez' attorney, Robert Baumann, and TCSO Detective Mike Torres were also present. Officer Gonzalez stated that he viewed a video from the BWC of "Exeter PD's" on December 23, 2022. At the time of the OIS, Officer Gonzalez had been in law enforcement for approximately ten months with TCSO and for three years with WPD. For both agencies, he worked as a patrol officer. On the day of the incident, Officer Gonzalez was working his normal shift and patrol assignment, and his call sign was 868. Officer Gonzalez drove his vehicle alone, but his partner was Officer Kaious. On the day of the OIS, Officer Gonzalez was armed with his firearm, a Sig Sauer P320. Officer Gonzalez did not have a 40-millimeter less-lethal launcher.

Officer Gonzalez stated that on December 17, 2022, sometime between 10:00 and 11:00 AM, he was at WPD when he heard over the radio a dispatch call for TCSO deputies to respond to "a domestic violence" in Ivanhoe. Over the radio, Dispatch advised that "the boyfriend had choked the victim" and that the boyfriend had pointed a firearm at the victim. Officer Gonzalez heard, on the radio, the deputy who responded, and his partner, Officer Kaious, responded to assist the deputy. Officer Gonzalez then heard over the radio that the TCSO deputy arrived on scene and the boyfriend later identified as Mr. Marquez, had "taken off" in a red, GMC Envoy. The TCSO deputy had lost sight of Mr. Marquez. Officer Gonzalez grabbed a stop stick, left WPD, and headed towards the perimeter edge of Woodlake city limits near the intersection of Avenue 344 and Millwood Drive. Officer Gonzalez drove to that intersection and parked "on the side" and watched the traffic.

Officer Gonzalez heard Officer Kaious on the police radio and believed Officer Kaious was assisting in searching for Mr. Marquez's vehicle. Officer Gonzalez stayed at the intersection of Avenue 344 and Millwood Drive. Officer Gonzalez asked Dispatch for a description of Mr. Marquez's vehicle, and he was told it was a red GMC Envoy. Eventually, Officer Gonzalez heard Officer Kaious broadcast, with his siren going, that he was in pursuit of the suspect vehicle. Further, Officer Kaious was heading toward Officer Gonzalez's location.

Officer Gonzalez immediately drove up closer to the intersection and prepared the stop stick for placement. Officer Gonzalez waited for Mr. Marquez's vehicle to approach his location. Officer Gonzalez then saw the red GMC Envoy approaching and Officer Kaious' lights, and Officer Gonzalez heard the siren. Officer Gonzalez pulled the spikes to try to stop the suspect vehicle. Officer Gonzalez believed he was only able to successfully "spike" the right rear tire of the GMC Envoy, and Officer Gonzalez updated Dispatch on the "partial successful spike." Officer Gonzalez got in his police vehicle with his lights and sirens on to assist Officer Kaious heading into Woodlake.

Officer Gonzalez eventually passed WPD Chief Marquez, became the secondary pursuing officer behind Officer Kaious, and started "calling the pursuit." Officer Gonzalez said Mr. Marquez nearly collided with other vehicles. Officer Gonzalez stated that during the pursuit, Officer Kaious "asked us ... confirming that there was a 9-millimeter or a firearm involved. Um – that, yeah, it was – it was involved." Officer Gonzalez stated that at this point, "I know, he, this guy, you know, he's armed and ... dangerous – because he's obviously trying to flee from – flee from us."

Officer Gonzalez stated that Mr. Marquez's vehicle nearly collided with several civilian vehicles that were traveling in the opposite direction. Officer Gonzalez said that the pursuit at times involved driving the wrong way on roadways into oncoming traffic and that the other vehicles had to swerve to avoid

getting hit. Eventually, the pursuit ended at the intersection of Highway 198 and Road 196. Officer Gonzalez said Mr. Marquez's vehicle collided into another vehicle and then collided into a second separate vehicle.

Officer Gonzalez and Officer Kaious got out of their vehicles and quickly approached Mr. Marquez's vehicle on the driver side. Officers Gonzalez and Kaious were yelling at Mr. Marquez, "Get your hands up! Get your fucking hands up!" Officer Gonzalez stated that at this time, Mr. Marquez had moved over to the passenger side of the vehicle. The driver's door was locked and the window was up. Officer Kaious was positioned to the left of Officer Gonzalez. Officers Gonzalez and Kaious continued yelling, "Hey, get your fucking hands up! Get your hands up!," and Mr. Marquez was not complying with the orders. Officer Gonzalez believed that a couple of minutes elapsed where they were giving Mr. Marquez orders, and Mr. Marquez was not complying. Officer Gonzalez did not see Mr. Marquez try to get out of the vehicle. Officer Gonzalez was standing at the driver's door and saw that Mr. Marquez kept his right hand in a black bag that was located on Mr. Marquez's right thigh/hip area. Officer Gonzalez could see Mr. Marquez's right arm down to approximately two inches above his wrist; however, Officer Gonzalez said the rest of Mr. Marquez's right hand was inside the black bag located on Mr. Marquez's right thigh/hip area. Officer Gonzalez did not recall where the black bag came from. Officer Gonzalez estimated the black bag to be approximately 12 inches by 6 inches. Officer Gonzalez said that he believed a firearm was in the black bag.

Officer Gonzalez stated that Mr. Marquez eventually lit a cigarette with his left hand and kept his right hand in the black bag located on his thigh. Officer Gonzalez stated that Mr. Marquez looked over at Officers Gonzalez and Kaious and then looked back at the black bag. Then, Officer Kaious "kind of told [Officer Gonzalez] ... [Mr. Marquez's] going to angle" and Officer Kaious indicated to Officer Gonzalez that Mr. Marquez's "hand with the ... bag inside" was pointing to where Officer Gonzalez was located. So, Officer Gonzalez moved over to the driver side rear door, and as a result, Officer Gonzalez, Officer Kaious, and Mr. Marquez "were ... at a triangle." At this point, Officer Gonzalez had an unobstructed view of Mr. Marquez from the driver side rear window. Officer Gonzalez could still see Mr. Marquez keeping his right hand in the black bag located on his thigh. Officer Gonzalez was trying to talk to Mr. Marquez by saying, "Hey, it's not worth it. It's not worth it." Mr. Marquez was shouting something that Officer Gonzalez could not hear because of the sirens that were "going off."

Officer Gonzalez stated that Officer Kaious was yelling, "Don't do it! Don't do it! Just get your hands up!" and Mr. Marquez "was uncooperative ... to the point where [Mr. Marquez] ... eventually ... raises his hand that has the bag in it ... towards where Officer Kaious ... was facing." Officer Gonzalez stated, "And I thought [Mr. Marquez] was going to shoot and kill my partner, so I discharged my firearm. ... I discharged my firearm four times. ... [A]fter that fourth time, I stopped because I saw him kind of like fall back into his seat ... giving me reason to think ... that the threat was stopped."

Officer Gonzalez kept his firearm aimed at Mr. Marquez because Mr. Marquez's right hand was still in the black bag. Officer Gonzalez saw Mr. Marquez "jerk [] up." So, Officer Gonzalez did not approach Mr. Marquez. Officer Gonzalez stated, they continued to watch Mr. Marquez who then "jerked" a second time. No additional shots were fired by any officers. After that second movement by Mr. Marquez, other officers or deputies assisted and took Mr. Marquez out of the vehicle and removed the black bag off Mr. Marquez's right hand. Then, the officers placed Mr. Marquez in hand cuffs and medical aid was provided to Mr. Marquez. Officer Gonzalez stated that Officer Kaious performed CPR, and Mr. Marquez was pronounced deceased by medical staff.

Interviews of Non-Shooting Police Officers

The following are summaries of relevant interviews of the non-shooting police officers, who were present at the incident scene during this OIS. The summaries describe the incident from the point of view of the individual officers. The interviews contain facts relayed by the officers that may be inaccurate or inconsistent with the facts of the incident as they are currently understood.

EPD Sergeant Curtis Hayes

On December 17, 2022, EPD Sergeant Curtis Hayes was interviewed by TCSO Detective Nicholas Sandoval, and on December 22, 2022, EPD Sergeant Curtis Hayes was interviewed by DOJ Special Agents A. Samano and T. Lewis. At the time of the incident, Sergeant Hayes had been with EPD for approximately seven years. On December 17, 2022, Sergeant Hayes was on patrol and heard over the radio the TCSO dispatching deputies to a residence in Ivanhoe regarding a domestic violence incident. Sergeant Hayes heard from Dispatch that a male individual, later identified as Mr. Marquez, had choked a female individual victim twice and held a firearm to the back of the female individual's head. Dispatch then provided an update that the male individual was sitting in a car in the driveway and pointing the firearm at the female individual. A TCSO deputy had arrived at the scene and reported that Mr. Marquez had fled. The deputy lost sight of Mr. Marquez and returned to the residence. According to Sergeant Hayes, a short time later, WPD Officer Kaious "picked up the vehicle."

Sergeant Hayes recalled hearing over the radio reports of "high speeds and the car's coming apart." Sergeant Hayes said he caught up with the pursuit of Mr. Marquez's vehicle at Highway 198 and in between Yokohl Drive and Mehrten Drive. When Sergeant Hayes caught up with the pursuit, he saw Mr. Marquez's vehicle with one occupant in the driver's seat being pursued by two WPD police vehicles, CalFIRE, and the Woodlake Chief. Sergeant Hayes saw the pursuit of what he described was a burgundy GMC Envoy pass by his location. Sergeant Hayes then made a U-turn, joined the pursuit, and advised Dispatch that he was with the other police units in the pursuit. As the pursuit approached the intersection of Highway 198 and Road 196, Mr. Marquez's vehicle went into the number one lane of westbound Highway 198. Sergeant Hayes observed traffic traveling northbound through the intersection and then a collision involving Mr. Marquez's vehicle. Sergeant Hayes next saw two WPD officers pull up and begin running to Mr. Marquez's vehicle. Since the dispatch call involved firearms, Sergeant Hayes grabbed his service rifle. By the time Sergeant Hayes got up to where Officer Gonzalez had parked his police vehicle, both WPD officers had run up to the driver's window of Mr. Marquez's vehicle and were yelling commands. Sergeant Hayes did not have a "good shot", so he moved over by where Officer Kaious had parked. Sergeant Hayes said that he assumed that at this point, the driver was still in the driver's seat of Mr. Marquez's vehicle.

Sergeant Hayes still did not have a "good shot." So, Sergeant circled behind Mr. Marquez's vehicle to where a gray Toyota Camry involved in the collision was located next to the GMC Envoy. Sergeant Hayes checked on the two occupants in the Toyota Camry and saw that the two occupants were alive, moving, and awake. Sergeant Hayes told them to stay down. Sergeant Hayes noticed that the rear hatch of the GMC Envoy was open. Sergeant Hayes believed that the GMC Envoy's rear seat was up in a normal seated position, and he recalled that the GMC Envoy had a front seat and a rear seat. Sergeant Hayes could see Mr. Marquez's upper torso in the front passenger seat of the GMC Envoy. So, Sergeant Hayes pointed his rifle at Mr. Marquez located in the front of the GMC Envoy. Mr. Marquez looked back at Sergeant Hayes, and then Mr. Marquez looked down and dug around the front passenger floorboard directly in front of him. Sergeant observed a center console area in the GMC Envoy. Mr. Marquez moved back and forth between searching the floorboard and the center console

area. Sergeant Hayes said he did not see the Mr. Marquez lift anything up, and he said Mr. Marquez was reaching for “a bunch of stuff.” Mr. Marquez looked back at Sergeant Hayes again, and then Sergeant Hayes observed Mr. Marquez “go[ing] back down to digging for something.” Sergeant Hayes said Mr. Marquez looked over his left shoulder at Sergeant Hayes about two or three times.

Sergeant Hayes noted that when Mr. Marquez was down “digging,” he was looking for something and “very adamant on finding it.” From observing Mr. Marquez’s body position, Sergeant Hayes believed that when Mr. Marquez was digging for something in the floorboard, Mr. Marquez was using one hand at times, while also using both hands at times. Sergeant Hayes said when Mr. Marquez was digging, Mr. Marquez was mainly looking down at where he was digging and at the officers positioned at the driver side of the vehicle. Sergeant Hayes stated that Mr. Marquez did not appear to find any particular item. Sergeant Hayes expressed that he believed that Mr. Marquez was looking for his firearm.

Sergeant Hayes stated, “I’m thinking he’s looking back at me. I don’t know if [he’s] got a gun.” He wanted to get the occupants in the gray Toyota Camry “[o]ut of harm’s way,” so he ran to his patrol vehicle and moved it forward. Sergeant Hayes then asked the gray Toyota Camry occupants if they could move, and one of the occupants said yes. Sergeant Hayes got the driver out and took him towards his car when shots were fired.

After shots were fired, Sergeant Hayes approached the driver side of the GMC Envoy and saw the shattered window. Sergeant Hayes recalled that someone had opened the driver’s door of the GMC Envoy, and Sergeant Hayes looked inside the GMC Envoy. An officer then opened the rear door on the driver side and pulled out some gifts that were on the back seat. Sergeant Hayes looked in. Officer Kaious had moved “to the front at that point.” Sergeant Hayes stated, “As we’re making our way around the rear of the vehicle to the passenger side ... me and ... I think it was the deputy slowly approached. Officer Kaious says, the gun’s in his right hand, be careful. He’s not – or he’s moving. Um – then he says he’s not really moving.” Sergeant Hayes said that at this point, Officer Kaious was standing on the passenger side in front of the GMC Envoy. Sergeant Hayes stated, “[Mr. Marquez]’s somewhat moving. Um – he looks unresponsive. He’s – but he doesn’t look – he’s – there’s still a little bit of movement.”

Sergeant Hayes stated that “the deputy” then opened the passenger side rear door and there was a black “almost like a duffel bag or fanny pack or a pencil bag” encompassing Mr. Marquez’s hand. Mr. Marquez was “kind of slouched down in the seat.” Sergeant Hayes believed that Mr. Marquez’s right hand that was encompassed by the black bag was above Mr. Marquez’s abdomen in the upper chest area. The deputy removed the black bag and said there was no firearm. Sergeant Hayes then moved to the passenger side front door. Sergeant Hayes and the deputy pulled Mr. Marquez out of the GMC Envoy onto the ground. Sergeant Hayes realized that he still had the service rifle slung, which was getting in the way. Sergeant Hayes then secured his rifle, and when he returned, Officer Kaious was performing CPR on Mr. Marquez.

Regarding the time period immediately preceding the shooting incident, Sergeant Hayes recalled both Officers Kaious and Gonzalez yelling, “Don’t make us do this! Don’t make us do this! Show us your hands! Show us your hands! Don’t make us do this! Don’t make us do this!”

Cal Fire Department Officer Chris Fox

On December 17, 2022, Cal Fire Department Officer Chris Fox was interviewed by TCSO Detective Sandoval, and on January 9, 2023, Officer Fox was interviewed by DOJ Special Agents A. Samano and T. Lewis. At the time of the incident, Officer Fox had been with Cal Fire for approximately 29 years, and he had been a police officer for Cal Fire since June of 2021.

On December 17, 2022, Officer Fox was on patrol and heard over the dispatch radio information about a possible domestic violence incident in Ivanhoe. During his interview, Officer Fox tried to remember if over the radio, “they talked about a gun then or not.” Officer Fox stated, “I want to say, yes. That the ... suspect ... held a gun to his girlfriend’s head ... was choking her and then got into his vehicle. And then when SO arrived, the subject, later identified as Mr. Marquez, took off.”

Officer Fox later heard on the dispatch radio that a WPD officer spotted the vehicle, attempted a stop, and the subject failed to yield. Officer Fox said he then listened to the dispatch radio to see which direction the pursuit was going, and when Officer Fox heard Mr. Marquez “coming the 198,” Officer Fox turned on his lights. Officer Fox saw Mr. Marquez’s vehicle drive through a stop sign and moving “real slow. The guy only had three wheels. One of the rear wheels was blown out.” Officer Fox started following. Officer Fox estimated Mr. Marquez’s speed to be between 50 and 60 miles per hour. Officer Fox stated, “[Mr. Marquez was] just all over the road. Real erratic ... continuing down 198.” Officer Fox saw the light turn red for westbound 198 at the intersection with Road 196. Mr. Marquez’s vehicle (which Officer Fox described as a red or maroonish Chevy Envoy) went through the intersection. He saw Mr. Marquez “slam on his brakes, try[ing] to avoid a vehicle going northbound and that’s when they ended up T-boning in the intersection.” Officer Fox was the third vehicle in the pursuit behind WPD Officers Kaious and Gonzalez. After he saw the collision, Officer Fox pulled up, and he saw the two WPD officers already at the driver’s door of Mr. Marquez’s vehicle with their firearms drawn. Officer Fox “jumped out,” drew his weapon, and walked toward the front of Mr. Marquez’s vehicle and to the left of the WPD officers. Officer Fox could only see parts of the inside of the vehicle because the windshield was “pretty busted.” Officer Fox saw Mr. Marquez in the front passenger seat and stated, “I can kind of see his face ... he was jumping around a lot.” Officer Fox recalled that the WPD officers were yelling at Mr. Marquez. Officer Fox said Mr. Marquez was looking at the WPD officers, shaking his head, and “saying something.”

Officer Fox then saw Mr. Marquez light and smoke a cigarette, which Officer Fox thought was odd. Officer Fox then saw Mr. Marquez look at the WPD officers and then Mr. Marquez looked at Officer Fox while nodding his head at Officer Fox. To Officer Fox, it looked like Mr. Marquez was “confirming” Officer Fox’s presence. Officer Fox could not see Mr. Marquez’s hands. At this point, Officer Fox looked to his right and saw the civilians in the gray Toyota sedan. Sergeant Hayes was trying to get them out of the Toyota sedan. Officer Fox then went to assist Sergeant Hayes with the civilians. From this position, Officer Fox saw the back of Mr. Marquez’s vehicle and the back of Mr. Marquez’s head. Officer Fox saw Mr. Marquez “moving around a lot” and Officer Fox heard “the officers yelling, don’t do it, don’t do it.” At this point, Officer Fox looked at the Toyota passenger and asked if he was alright. Officer Fox then heard gunshots, and he looked up.

Officer Fox then finished getting the occupant of the Toyota sedan out. Officer Fox then went back to where the WPD officers were located, at the driver’s door of the GMC Envoy. Officers were trying to open the driver’s door of the GMC Envoy, but the door was locked. Officer Fox went around to the passenger side of the Envoy where “we got the door open,” and Mr. Marquez was not moving. Officer

Fox saw a black fanny pack up by Mr. Marquez's shoulder, on the right side of Mr. Marquez's upper chest, and Mr. Marquez's hand was in the black fanny pack. Officer Fox stated, "... that's what I thought for sure that he had a gun in [the bag]."

Officer Fox stated, "somebody had grabbed the bag and said, was there a gun in there? And somebody said, no, there's no gun in there." Officer Fox and Sergeant Hayes then moved Mr. Marquez out of the vehicle. Officer Fox said one of the WPD officers checked Mr. Marquez for a pulse and then started CPR.

Interviews of Civilian Witnesses

Numerous civilian witnesses were interviewed by DOJ and TCSO 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 the incident as they are currently understood.

W-1

On December 17, 2022, TCSO Deputy Hamilton contacted W-1, the domestic violence victim and reporting party, near a Family Dollar store. Deputy Hamilton began an interview of W-1, which was then moved to a nearby fire station office to protect W-1 from being spotted by Mr. Marquez. Following is a summary of W-1's interview.

W-1 and Mr. Marquez had been living together since August 2022. When W-1 woke up around 7:00 AM in the morning of December 17, 2022, Mr. Marquez "was just going off." W-1 stated that Mr. Marquez was bipolar and schizophrenic. W-1 stated that Mr. Marquez was "just going off about random stuff" and told her that he was not going to take her to see her children, which she had planned to do that day. In response, W-1 said that she would call her friend, W-2. Mr. Marquez then stated that W-1 wanted Mr. Marquez's grandfather to die. W-1 told Mr. Marquez that maybe it was better for Mr. Marquez to go back to Puerto Rico. W-1 stated that Mr. Marquez then started choking her and pulling out a firearm. Mr. Marquez pointed the firearm at the back of W-1's head. W-1 felt a little dizzy when Mr. Marquez was choking her. W-1 wanted to leave, but Mr. Marquez would not let her. At some point, Mr. Marquez told W-1 that he would shoot anyone who came and picked up W-1.

W-1 said that Mr. Marquez first choked W-1 when they were inside the house, and Mr. Marquez then choked her a second time when her friend, W-2, was present. Then, W-1 went outside of the house and sat inside W-2's car. Mr. Marquez asked W-1 who she was talking to, and W-1 told Mr. Marquez she was talking to the police. Mr. Marquez then went and sat in the red GMC Envoy parked in the driveway and pointed his firearm at her. W-1 said she then told the woman on the phone [Dispatch] that she (W-1) felt like she had to leave because Mr. Marquez was just sitting there and pointing the firearm at her.

W-1 stated that Mr. Marquez had been "kind of ... going off" since Thanksgiving. W-1 stated that Mr. Marquez had a firearm in the house. She stated that she was scared of Mr. Marquez, tried to ignore him and do her own thing, and tried not to provoke him. W-1 stated that Mr. Marquez had, in the past, also threatened her nieces and nephews.

W-1 stated that Mr. Marquez had a nine-millimeter “ghost gun.”⁴ W-1 stated that Mr. Marquez had previously fired his firearm many times inside the house when she tried to leave. W-1 stated that there were holes in the ceiling and in the wall from these previous firings. W-1 stated that Mr. Marquez would act like he was going to shoot her but then he would shoot at the space next to her. W-1 stated that Mr. Marquez had been doing this since Thanksgiving Day in 2022. W-1 stated that Mr. Marquez choked her on Thanksgiving Day and that Mr. Marquez had previously taken her phone and not allowed her to go outside, leave the house, or talk to anyone. W-1 stated that Mr. Marquez had said that he would have the police kill him before he went back to jail.

On December 17, 2022, after the OIS occurred, W-1 was interviewed further by TCSO Detectives Jeremy McMillan and Sarah Mendes. W-1 stated that she was in her bedroom when Mr. Marquez pointed the firearm at her that morning. So, W-1 called W-2. W-1 stated that Mr. Marquez had the firearm with him when he left the residence that morning and that Mr. Marquez never came back to the residence.

W-1 stated that when she exited the house and went and sat inside her friend W-2’s car, Mr. Marquez went to “[W-2]’s window saying things like, ‘Are you serious? You’re gonna betray me?’”

W-1 stated that Mr. Marquez usually kept his ammunition in his “black fanny pack” and that he did not usually keep his firearm in the fanny pack. W-1 stated that Mr. Marquez normally kept his firearm tucked away under his right armpit without a holster. W-1 stated that she did not know where Mr. Marquez would have gone when he left the residence earlier that day. She stated that she was sure Mr. Marquez left the house with the firearm because he had been sitting in the GMC Envoy parked in the alley and pointing the firearm at her while she was in W-2’s car prior to Deputy Hamilton arriving. Mr. Marquez never went back into the residence.

W-1 stated that Mr. Marquez understood English but did not speak English very well. W-1 stated that Mr. Marquez was from Puerto Rico and spoke “Puerto Rican ... which is like Spanish.” W-1 stated that earlier that day, Mr. Marquez said that if W-1 “called the cops on him,” “he was gonna shoot [W-1] and then he was gonna have the cops shoot him because he can’t shoot himself, he don’t have the balls to kill himself.”

W-2

On December 17, 2022, at 5:35 PM, after the OIS, TCSO Detectives Mendes and McMillan interviewed W-2. W-2 stated that she had received a message from W-1 indicating that W-1 needed to call the police. W-2 then went to the residence as fast as she could. W-2 stated that she knew that Mr. Marquez “was crazy” and that she needed to be there for W-1.

When W-2 arrived at Beechwood Avenue, Mr. Marquez was upset because he wanted to visit W-1’s children, and W-1 did not want him to go. Mr. Marquez and W-1 were arguing. W-2 stated, then “[Mr. Marquez] put [W-1] against the wall and then ... I said, ‘No let’s not do that. Let’s not do that.’ And I stood up ... I got in between them [Mr. Marquez and W-1] and it gave [W-1] time to get out the door ... and we [W-1 and W-2] started to put the presents (that W-1 had for her children) in the car and that’s when [Mr. Marquez] was pointing the gun at [W-1].”

⁴ Ghost guns are firearms constructed by private citizens that do not have a serial number and thus are not registered.

Later in the interview, W-2 said she did not actually see Mr. Marquez point the firearm at W-1. But while they were in the car, “[Mr. Marquez] was going to break the window of the car. [Mr. Marquez] was like ‘Are you serious? You’re on the phone with the cops?’ ... He was going to break the window.” W-2 stated that Mr. Marquez had been hitting the window of the passenger side of the car with a “black end thing.” W-2 believed Mr. Marquez had been hitting the window with the magazine portion of his firearm. W-2 stated, however, that she did not have a clear visual of the firearm. Then, W-2 said Mr. Marquez ran to get in his car and drove away.

W-2 said that when Mr. Marquez had W-1 up against the wall, Mr. Marquez was choking W-1 with both of his hands around W-1’s throat, and W-1’s entire face turned red.

W-3

On December 17, 2022, at 12:25 PM, after the OIS, W-3 was interviewed by TCSO Detectives McMillan and Mendes. W-3 was driving the gray Toyota Camry that was struck by Mr. Marquez’s red GMC Envoy near the intersection of Highway 198 and Road 196. W-3 stated that he was on Road 196 northbound and was in the process of turning westbound onto Highway 198 when his brother (W-4) informed him there was a high speed chase heading toward them. W-3 observed the pursuit behind him and re-directed his vehicle toward the center median of Highway 198 in an attempt to avoid a collision. Then, W-3’s vehicle was struck in the rear by Mr. Marquez’s vehicle and spun around.

W-3 stated that after the collision, two police officers approached his vehicle to check on him and his brother. W-3 saw two other police officers point their firearms toward the red GMC Envoy. W-3 stated that he stayed low and laid down to take cover.

W-3 said there was approximately three to five minutes of commands given by officers to Mr. Marquez. W-3 recalled officers giving commands of “Don’t do it! Show me your hands” and “It’s not worth it.”

W-3 was then instructed by a police officer to exit his vehicle and take cover behind an EPD patrol vehicle parked on the north side of Highway 198. W-3 exited the driver’s side of his vehicle, and while running, he heard approximately ten to twelve shots fired. After the firing stopped, W-3 attempted to return to his vehicle to check on his brother, but police officers instructed W-3 to stay behind cover and informed W-3 that his brother was not harmed. W-3’s brother then exited the vehicle and moved to W-3’s location for cover.

W-4

On December 17, 2022, after the OIS, W-4 was interviewed by TCSO Deputy Askew and Detective Mendes. W-4 was the passenger of the gray Toyota Camry. W-4 stated that he and his brother, W-3, were driving northbound on Road 196 and made a westbound turn onto Highway 198. W-4 saw a “chase” heading toward their vehicle. W-4 told W-3 to turn to get out of the way of the oncoming chase, and W-3 drove the Toyota Camry to the center divider. Then, Mr. Marquez’s vehicle collided into the passenger side rear of their Toyota Camry, and their vehicle spun. When the Toyota Camry came to a stop, W-4 stated that he got down in the car. When he picked his head up to see what was happening, W-4 saw two WPD officers with their firearms out. W-4 said that an officer got his brother, W-3, out of the car, and then W-4 heard approximately ten shots. W-4 did not know who fired the shots. After the shots were fired, an EPD Sergeant got W-4 out of the car and had W-4 take cover

behind the EPD Sergeant's patrol vehicle. W-4 stated that he and W-3 stayed behind the patrol vehicle and did not see anything else.

W-5

On December 19, 2022, at approximately 2:49 PM, after the OIS, W-5 was interviewed by TCSO Detective McMillan. W-5 was driving on Highway 198 traveling eastbound and was stopped in the left turn "pocket" to turn northbound on Road 196. W-5 was waiting for a green light and started waking his two children who were in the car with him because they were only a few minutes away from Woodlake. One child was seated in the front passenger seat, and one child was seated in the back seat. W-5 then began to hear sirens and saw the red car, coming from a hill, which was the overpass of Highway 198 between Road 196 and Road 204 east of where W-5 was located. The red vehicle was traveling westbound towards W-5. W-5 said the vehicle was "obviously" looking for an opening near W-5's vehicle. W-5 saw the red vehicle traveling head-on toward W-5's car. At the last second, the red vehicle swerved and collided with a gray Toyota Camry that was turning. The red vehicle collided with the Toyota Camry and both vehicles "pushed up against ... and hit" W-5's car, a gray Hyundai Sonata. Both the red vehicle and the Toyota Camry came to a rest just west of W-5's vehicle.

After the collision, W-5 immediately noticed the police showing up with their firearms drawn. At this point, W-5 realized that the red vehicle had been involved in a police pursuit. An officer in a black SUV then approached W-5 and his children and told them to stay down. W-5 facetimed his wife to let her know that they had been involved in an accident, and while doing so, W-5 heard shots being fired.

W-5 said he heard officers giving "the guy" instructions, "Get out! Get out!" W-5 said that the officer in the black SUV came back to W-5 and his children and told W-5 that the officer was going to get W-5's children away from the scene. The officer carried W-5's children away and placed them in the black SUV. W-5 was unable to get out of his vehicle because his driver's door was stuck. W-5 stated, "I mean, they told the guy so many times to ... get out and he wouldn't get out!" At that point, W-5 started hearing the shooting.

W-5 estimated that the officers had been giving commands for three to five minutes before the shots were fired. W-5 stated, "he just, the guy just wouldn't do it, man. I mean, they kept asking him to get out, get out, get out, get out. He wouldn't do it!"

W-5 stated he was approximately ten feet from the red vehicle, but W-5 could not see "what was going on." W-5 stated that initially, W-5 could see the subject's face, "but then it appeared as if the subject was ducking down and trying to hide." W-5 stated, "Ugh hiding. That's not going to be good. Because I mean, in my mind, I was just thinking if he comes up popping and that he tries to do something, I kind of, in my opinion, you guys, I felt like he wanted to die." W-5 continued, "he was gonna make a move just to be shot because he was, he wasn't going anywhere. And they, they were giving him clear commands and he was like, and I'm telling my wife this guy. I go, he's not ... I think he wants to end it here!"

When asked whether he was able to identify the officers as police officers, W-5 said yes, stating, "It was extremely obvious. By their uniforms, by the shotguns, by the guns drawn, um giving them clear commands."

W-5 estimated he heard thirty shots in total. After the shots were fired, W-5 observed the officers opening the door to the GMC Envoy and a second officer approached W-5 and had W-5 exit his vehicle. W-5 was then placed in the black SUV with his children.

W-6

On December 19, 2022, W-6 was interviewed by TCSO Detective Sandoval. W-6 stated that she was in the left turn lane of Highway 198 at the intersection with Road 196 and there was another vehicle in front of her. W-6 saw a red vehicle speeding and hit a gray car. Both vehicles passed W-6's vehicle. W-6 then observed five to eight police vehicles with lights and sirens and realized that what occurred was not just a car accident. W-6 saw three police cars pull up to the vehicle collision and police officers exit their vehicles with what W-6 thought were Tasers. W-6 then rolled down her window to use her phone to record what was happening. She heard sirens and officers telling the male individual in the red vehicle, "Don't do it. Don't do it," approximately eight to ten times. The officers were in uniform and were all on the driver's side of the red vehicle. W-6 realized she needed to move from that location, but W-6 could not move because the car in front of her was also struck by the red vehicle.

W-6 said that then, the male individual in the red vehicle "opened the door and took a step out." W-6 stated that the male individual was "picking up his pants, like he was ready to run." W-6 stated that the male individual then got back in his car, and a Gatorade bottle fell out. The officers had their firearms pointing, and the officers were yelling, "Don't do it! Don't fucking do it! Don't do it!" W-6 then stopped recording on her phone, ducked down for cover, and heard approximately eight to ten shots. W-6 then heard "the officer" say, "Oh fuck!" after the shots were fired.⁵

W-6 stated that the police officers were in uniform and were clearly police officers by the marked patrol vehicles that were equipped with lights and sirens. W-6 provided the video recording she captured on her cell phone, which she described as leading up to the shooting but not capturing the shooting.

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

⁵ No other witnesses stated that Mr. Marquez exited his red vehicle. W-6's cell phone video recording showed the vehicle during part of the officers' contact with Mr. Marquez. The recording did not show Mr. Marquez exiting the vehicle. EPD Sergeant Hayes' BWC recorded the sound of the shooting and approximately five seconds after the shooting, what sounded like someone shouting, "Fuck!" It is unclear from the BWC video footage, who made the exclamation.

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

The DOJ has completed an independent investigation and review of the facts and circumstances that led to the death of Mr. Marquez. This analysis is based on all the evidence provided to the 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 issues presented in this OIS are whether Officers Kaious and Gonzalez acted in lawful self-defense or defense of others and whether their actions are subject to criminal prosecution. The evidence in this OIS shows that Officers Kaious and Gonzalez fired lethal rounds. The evidence does not show which lethal rounds fired by the shooting officers were fatal to Mr. Marquez.

Because a prosecuting agency would need to affirmatively prove beyond a reasonable doubt that Officers Kaious and Gonzalez did not act in lawful defense of themselves or others, this is the primary issue in determining whether criminal charges should be filed. A detailed analysis of the evidence pertaining to the OIS shows that Officers Kaious and Gonzalez actually and reasonably believed that deadly force was necessary to defend against an imminent threat of death or serious bodily injury to the officers or others. Therefore, the evidence is insufficient to support criminal charges.

1. 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, based on the totality of the circumstances, reasonably believed 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 believe that Mr. Marquez had the present ability and opportunity to immediately cause death or serious bodily injury to the officers or others. Officer Kaious heard over the radio Dispatch’s initial report that the domestic violence suspect, Mr. Marquez, had a nine-millimeter firearm that Mr. Marquez aimed at his girlfriend’s head

and that Mr. Marquez continued to be in possession of the firearm when he sat in the GMC Envoy. Officer Kaious then heard over the radio that Mr. Marquez evaded the responding TSCO deputy, and, approximately thirty minutes later, Officer Kaious located Mr. Marquez's GMC Envoy as confirmed by matching description and license plate. Officer Kaious stayed with the GMC Envoy in the pursuit that ensued until the vehicle crashed and came to a standstill in the lanes of Highway 198. During the pursuit, approximately ten minutes before the vehicle crashed, Officer Kaious sought confirmation from Dispatch that Mr. Marquez was armed with a firearm, "... confirming he was armed with a 9-millimeter, correct?" Dispatch confirmed that Mr. Marquez was armed with a firearm. After the vehicle collision, Officer Kaious' attention continued to stay on the GMC Envoy and Mr. Marquez in the vehicle while Officer Kaious pulled over, hopped out of his police vehicle, and quickly moved on foot to the driver's door of the GMC Envoy.

Officer Kaious saw through the driver's window Mr. Marquez refuse to comply with Officer Kaious' repeated orders, "Hands up!" Officer Kaious saw instead, Mr. Marquez reaching down to the floorboard area and popping back up with his right hand concealed in a black bag that Mr. Marquez then placed on his lap. Officer Kaious watched as Mr. Marquez continue to conceal his right hand in the black bag on his lap. In the moment before the OIS, Officer Kaious saw Mr. Marquez raise his right hand still concealed in the black bag, at a tilted angle towards Officer Kaious with the area where the palm of the hand would be facing downward.

Officer Gonzalez also heard over the radio Dispatch's initial report that the domestic violence suspect, Mr. Marquez, had a firearm that Mr. Marquez pointed at the victim and that Mr. Marquez then fled in a red GMC Envoy. Then Officer Gonzalez heard Officer Kaious say that he (Officer Kaious) was in pursuit of Mr. Marquez's vehicle. Eventually, Officer Gonzalez joined the pursuit in his own police vehicle. When the GMC Envoy crashed, Officer Gonzalez pulled over, hopped out of his police vehicle, and quickly moved on foot to the driver side of the GMC Envoy. During the pursuit, approximately ten minutes before the vehicle crashed, Officer Gonzalez heard over the radio Officer Kaious seek and obtain confirmation from Dispatch that Mr. Marquez was armed with a nine-millimeter firearm.

When Officer Gonzalez was at the driver side of the GMC Envoy, Officer Gonzalez watched as Mr. Marquez refused to comply with his repeated orders, "Get your hands up!" Officer Gonzalez saw that Mr. Marquez concealed his right hand in a black bag on Mr. Marquez's right thigh/hip area. In the moment before the OIS, Officer Gonzalez saw Mr. Marquez raise his right hand still concealed in the black bag towards Officer Kaious.

A reasonable officer in the same situation as Officers Kaious and Gonzalez would believe that Mr. Marquez was concealing a firearm in his right hand held in the black bag and therefore had the present ability and opportunity to immediately cause death or serious bodily injury to the officers. Officers Kaious and Gonzalez were both within six feet of the black bag that Mr. Marquez was holding up towards Officer Kaious

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

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

When Officers Kaious and Gonzalez approached the driver's door of the red GMC Envoy, both were informed that Mr. Marquez was armed with a firearm that he had aimed at his girlfriend about an hour earlier that morning. Both officers had knowledge that Mr. Marquez had fled from the TSCO deputy that responded to the domestic violence location earlier that morning. Both officers personally experienced Mr. Marquez trying to get away from officers by driving at high speeds, blowing through red lights and stop signs, and driving down the wrong way during certain portions of the roadway at a high risk of crashing into oncoming vehicles. Both officers were aware that Mr. Marquez was now "cornered" by the same officers that Mr. Marquez had tried to evade by driving at high speeds and through red lights and stop signs. When Officer Kaious approached the driver's door, Officer Kaious saw Mr. Marquez move "from the driver's side to the front passenger side." Officer Kaious saw Mr. Marquez try unsuccessfully to open one of the doors. When the officers repeatedly ordered, "Hands up! Hands up! Put your hands up!," both officers saw Mr. Marquez fail to comply. Officer Kaious saw Mr. Marquez instead reach down to the floorboard area of the front passenger seat and then pop back up with his right hand concealed in a black belt bag which Mr. Marquez then laid on the right side of his lap. Officer Gonzalez also saw Mr. Marquez's right hand concealed inside the black belt bag laid on the right side of Mr. Marquez's lap.

Both officers then saw Mr. Marquez take a long drag on a cigarette while he (Mr. Marquez) kept his right hand concealed in the black belt bag on his lap. Officer Kaious then watched as Mr. Marquez reached with his left hand, leaned forward, and kissed the rosary that was hanging from the rear-view mirror. Both officers were yelling at Mr. Marquez, "Don't do it! It's not worth it! Don't do it!" Then, Officer Kaious saw Mr. Marquez settle into his seat with his torso and shoulders facing Officer Kaious, smile, and with his elbow remaining in place, raise his right hand still concealed in the black belt bag, tilted and with the palm area facing down, towards Officer Kaious. Both officers saw Mr. Marquez raise his right hand concealed in the black belt bag towards Officer Kaious.

A reasonable officer in the same situation as Officers Kaious and Gonzalez would believe that in the moment before the OIS, Mr. Marquez had the apparent intent to immediately cause death or serious bodily injury to Officer Kaious.

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

In addition, the evidence shows that Officers Kaious and Gonzalez actually believed in the need to defend against imminent peril or great bodily injury. Both officers stated that they fired shots at Mr. Marquez because the officers each believed Mr. Marquez was going to shoot Officer Kaious. Officer Gonzalez stated, "... he (Mr. Marquez) raises his hand that he has the bag in it. He raises it towards ... where Officer Kaious ... was facing. And I thought he was going to shoot and kill my partner, so I discharged my firearm." Officer Kaious stated, "And we're ... still yelling at him don't do it. It's not worth it. Don't do it. ... I saw his body settle ... into the seat and he ... looked at me and smiled ... and brought his right hand up. So, I thought I was going to get shot. So ... I started firing." The officers kept their firearms aimed at Mr. Marquez, the officers repeatedly yelled, "Don't do it! It's not worth it! Don't do it!," and Officer Kaious motioned for Officer Gonzalez to move right and away from the driver's window. Officer Kaious stated, "... we're still at the driver's window ... yelling at him don't ... do it. Don't do it. And I remember thinking my partner ... he's younger than me. He's married with two kids. So, I motioned for him to push right ... out of the window. ... I didn't want him to be a target. ... so, I motioned for [Officer Gonzalez] to ... push right. So, he ... shifted over to the rear ... to cover. Just to

create some distance so that if ... he (Mr. Marquez) did fire like it ... would be a lot harder for him (Mr. Marquez) to hit both of us.”

When viewed in light of the totality of the circumstances, the officers’ statements credibly reflect the officers’ belief that they were defending against imminent peril.

CONCLUSION

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



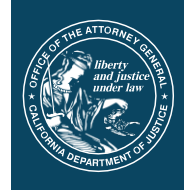
C A L I F O R N I A

DEPARTMENT OF JUSTICE

Policy and Practice Recommendations for the Woodlake Police Department Related to the Officer-Involved Shooting of Victor Marquez on December 17, 2022

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

February 2025



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, on December 17, 2022, at approximately 10:50 a.m., Woodlake Police Department (WPD) officers heard over radio dispatch that the Tulare County Sheriff’s Office was trying to locate a domestic violence subject, later identified as Victor Marquez, who was armed with a nine-millimeter firearm. At approximately 11:30 a.m., WPD Police Officer Christopher Kaious located Mr. Marquez’s vehicle, and Officer Kaious and WPD Officer Juan Gonzalez engaged in a high-speed pursuit of Mr. Marquez. The pursuit ended when Mr. Marquez’s vehicle collided with two other vehicles and came to a stop. Officers Kaious and Gonzalez exited their police vehicles, and approached Mr. Marquez’s vehicle with guns drawn, issuing commands. The officers would later describe Mr. Marquez as holding what they believed to be a firearm in a small black bag and raising the firearm at Officer Kaious. Officers Kaious and Gonzalez then fatally shot Mr. Marquez. After the shooting, the officers discovered that Mr. Marquez’s right hand, which was concealed inside the small black bag, did not hold a firearm, and that there were no firearms in the vehicle.

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 WPD to review and implement the five following recommendations:

RECOMMENDATION ONE: BODY WORN CAMERAS (BWC) POLICY

WPD Policy No. 427.2 provides:

The Woodlake Police Department may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

At the time of the shooting WPD did not equip its officers with BWCs, and neither WPD officer was equipped with a BWC. DOJ has been informed that WPD began equipping its officers with BWCs in March 2023. BWCs benefit both officers and members of the public by providing footage of officers' interactions with the public, including incidents like this one that led to deadly force. BWC footage can assist WPD, the public, and officers in determining administrative violations, civil liability, deficiencies in training, tactics, and equipment, and positive interactions that merit commendation.

WPD policy states that officers "should" activate the camera in specified situations. (WPD Policy No. 427.5.) PPS recommends that WPD revise its policy on body-worn camera footage, to state that the officer "shall" activate their body worn cameras, rather than state that officers "should" activate them. Additionally, PPS recommends: (1) that WPD require that any time an officer does not activate their body-worn camera, the reason for not doing so must be documented and reviewed by a supervisor, to ensure compliance with the policy, and (2) WPD should review, on a regular basis, a random sampling of incidents to determine whether officers are activating their body-worn camera and if not, whether the reason for failing to activate them is documented appropriately.

RECOMMENDATION TWO: DIGITAL IN-CAR VIDEO SYSTEMS (DICVS)

At the time of this event, WPD did not have cameras in its patrol vehicles. Thus, the vehicle pursuit was not captured on video, and the shooting was not captured on video. If WPD patrol vehicles had been equipped with a DICVS, they likely would have captured the officer-involved shooting and would have captured the vehicle pursuit.

In-car video systems work to enhance accountability and transparency to establish a higher level of trust between law enforcement officers and their community. In-car video systems ensure officers are always recording when needed.

In situations where the shooting officers are not equipped with BWC, a DICVS can provide visual and audio recording of what transpires. An accurate timeline and transcript can be accessed and reviewed. DICVS video footage can be used for training, court proceedings, and public transparency. Video from law enforcement vehicles can help the public better understand the complexity police face in various situations. When the public can see what actually happened during an incident, it helps eliminate confusion and misunderstanding.

PPS understands that resources for many law enforcement agencies are limited, but it is invaluable for WPD to undergo the exercise of determining whether it is a viable option to install DICVS in each patrol unit. Therefore, PPS recommends that WPD consider installing DICVS in its patrol units.

RECOMMENDATION THREE: LESS LETHAL WEAPONS POLICY

The facts demonstrate that there were no less lethal weapons used or contemplated at or before the shooting of Mr. Marquez. The interview of Officer Kaious supports that he did not have any less lethal weapons available to him at the time of the shooting. The facts also demonstrate that Officer Kaious was issued a TASER, but his holster was broken on the day of the event, and he did not have the TASER at the time of the shooting. The evidence also clearly indicates that neither Officer Kaious nor Officer Juan Gonzalez was equipped with pepper spray or a 40mm launcher at the time of the shooting.

Further, what is unclear from the evidence is whether WPD did not issue these less lethal weapons to the officers, or whether WPD issued the weapons, but the officers were not carrying them.

Under WPD Policy No. 304.3, officers who are issued a TASER must wear it on their person, and officers are responsible for ensuring that their issued TASER device is properly maintained and in good working order. However, the policy does not address what action an officer should take if their TASER is not working.

PPS recommends that WPD ensure that its officers are equipped with a variety of less lethal options, in addition to TASERS, such as 40mm launchers and pepper spray. If WPD did issue these weapons to its officers, PPS recommends that WPD amend its policies to require that officers have these weapons with them while on patrol.¹

PPS also recommends that WPD revise Policy No. 304.3, to include a requirement to report when or if a piece of equipment is broken or malfunctions.

While the DOJ makes no recommendation regarding the feasibility of the use of less lethal weapons by the officers in this case, in order to reduce the likelihood of death and serious injuries, WPD should nonetheless equip its officers with additional less lethal options and amend its current TASER policy, as explained above.

RECOMMENDATION FOUR: VEHICLE PURSUIT POLICY

At the time of this incident, WPD Policy No. 308, Vehicle Pursuits, provided that “[o]fficers are authorized to initiate a pursuit when the officer reasonably believes that a suspect, who has been given appropriate signal to stop by a law enforcement officer, is attempting to evade arrest or detention by fleeing in a vehicle.” The policy then lists 11 “[f]actors that should be considered in deciding whether to initiate a pursuit.” (WPD Policy No. 308.2.1.)

Similarly, WPD policy also states that, “[p]ursuits should be terminated whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect’s escape.” (WPD Policy No. 308.2.2.) The factors determining when to initiate a pursuit also apply equally to the decision to terminate a pursuit. “Officers and supervisors must objectively and continuously weigh the seriousness of the offense

¹ Advances in less-lethal weapons technology offer the promise of more effective control over resistive subjects with fewer serious injuries. (U.S.D.O.J., Office of Justice Programs, National Institute of Justice Journal, Issue No. 267, pp. 4-5 (2010).) If injury reduction is the primary goal, agencies that deploy pepper spray and electronic control weapons are clearly at an advantage. Both weapons can prevent or minimize the physical struggles that are likely to injure officers and subjects alike. (*Id.* at p. 7.) As a practical matter, the lack of less lethal weapons as a force option could increase the likelihood of a shooting incident, and injuries to officers and subjects.

against the potential danger to innocent motorists, themselves, and the public when electing to continue a pursuit.” (WPD Policy No. 308.2.2.)

In addition to the factors that govern when to initiate a pursuit, WPD officers are directed to consider eight other factors “in deciding whether to terminate a pursuit.” (WPD Policy No. 308.2.2.) Thus, an officer engaged in a vehicle pursuit is directed to consider 19 factors when deciding whether to end the pursuit.

WPD officers engaged in a highly dangerous vehicle pursuit of Mr. Marquez, that resulted in injuries to members of the public that required transport to the hospital. At approximately 11:30 a.m., Officer Kaious saw Mr. Marquez’s vehicle, which failed to yield. In the approximately 10 minutes that followed, Officer Kaious continued to advise over the radio regarding the status of his pursuit of Mr. Marquez’s vehicle. At various times, Officer Kaious reported Mr. Marquez’s vehicle was speeding at 100 miles per hour, only had one occupant, was “attempting to swerve all over the roadway,” was “weav[ing] across both lanes,” “just blew the stop sign,” and was “trying to ram vehicles off the roadway.” During the pursuit Officer Kaious was at times traveling at approximately 105 miles per hour. A spike strip was applied, which deflated the right rear tire of Mr. Marquez’s vehicle.

During the pursuit, WPD Chief Michael Marquez started driving behind Officer Kaious, and then instructed Officer Kaious to terminate the pursuit but to continue to follow Mr. Victor Marquez. A short time later, Chief Marquez directed Officer Kaious to resume the pursuit, and Officer Kaious activated his lights and siren again. Mr. Victor Marquez’s right rear tire started to come apart.

Traveling westbound on Highway 198, Mr. Marquez’s GMC Envoy entered the intersection with Road 196 against his red light and collided into the rear of a gray Toyota Camry that had just moved from the number one lane of westbound Highway 198 into the center median to get out of the way of the oncoming high-speed pursuit. Upon impact, both Mr. Marquez’s GMC Envoy and the gray Toyota Camry spun 180 degrees and came to a standstill on Highway 198 facing eastbound, with the gray Toyota Camry partially under the rear of Mr. Marquez’s red GMC Envoy. Video shows the violent intersection collision.²

The collision occurred in the middle of the day, at a busy intersection, with several bystanders in the area. Three vehicles were involved in the collision, including Mr. Marquez’s vehicle. The drivers of the other two vehicles were taken by ambulance to the hospital, complaining of neck and back injuries. In one of the vehicles, the passengers were two boys, ages ten and eight. The boys were also taken by ambulance to the hospital for evaluation but were fortunate to escape injury. Mr. Marquez’s vehicle sustained major front and rear end damage, including to the grille, hood, front fenders, windshield, roof, right quarter panel, and the wheels and tires. One of the other vehicles sustained major damage to its front end and rear end, consisting of the rear bumper and trunk area, right side rear doors, hood, rear wheels, front bumper, grille, fenders, and windshield. The front and side airbags were deployed.

² In 2020, three police officers and 529 other people died as a result of police vehicle pursuits in the U.S. More than 5,000 bystanders and passengers were killed in police pursuits from 1979 through 2013, and tens of thousands more were injured. From 2015 to 2020, there was an average of 370.5 fatal crashes per year due to police pursuits. (City and County of San Francisco, [National Survey of Vehicle Pursuit Policies](#) (Nov. 1, 2023).)

The third vehicle sustained minor damage to its left side, including its left front fender, left side doors, and the left front wheel.

Police department pursuit policies are often too lengthy, too convoluted, and too difficult to follow, especially during an incident.³ Although vehicle pursuit balancing tests look reasonable when incorporated into departmental policy manuals, it may not be realistic “to expect police officers engaged in high-speed pursuits to be able to fully process these factors and make a rational decision on whether to initiate or continue high-speed pursuits of fleeing criminals.”⁴ Police officers need less complicated and more succinct guidelines to quickly determine when to pursue and when not to pursue. Nebulous pursuit policies with language such as “officers should consider” shift the burden of performing the pursuit risk analysis onto the officer, who is in the middle of a highly stressful situation.⁵

PPS recommends that WPD amend its vehicle pursuit policy, to simplify the criteria for determining when to engage in and terminate a vehicle pursuit. “If police departments eliminate the factor-based cognitive analysis requiring patrol officers to decide whether to initiate or sustain a pursuit and, instead, implement simple clear-cut rules of engagement for police vehicle pursuits, this may eliminate many dangerous high-speed chases and some high-speed crashes.”⁶

RECOMMENDATION FIVE: DE-ESCALATION POLICY

Government Code section 7286, subdivision (b)(1), requires that each law enforcement agency maintain a policy that includes a requirement that officers utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force, when feasible.

WPD Policy No. 300.3.1, Alternative Tactics – De-Escalation states: [officers] **should**: (1) consider actions that may decrease the need for force, and (2) “consider and utilize reasonably available alternative tactics and techniques” including “attempts to de-escalate a situation” when such actions are “feasible.”

This WPD policy language does not clearly require that officers use de-escalation techniques, crisis intervention tactics, and other alternatives to force when feasible, as mandated by Government Code section 7286, subdivision (b)(1). WPD should amend its current policy on de-escalation to make this clear. WPD should further review its other processes, procedures, and training related to de-escalation to ensure those too are consistent with existing law.

While PPS makes no recommendation regarding the feasibility of de-escalation techniques, crisis intervention tactics, and other alternatives to force in this case, WPD should amend its current policy on de-escalation as explained above.

3 Madison, [Time to Change Our Pursuit Policies](#), Police Magazine (Jan. 24, 2024).

4 *Ibid.*

5 *Ibid.*

6 *Ibid.*