



C A L I F O R N I A

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# DEPARTMENT OF JUSTICE

## **Report on the Investigation into the Death of Kyle Nicholas Sostek on March 12, 2023**

San Bernardino County AB 1506

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May 2025

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## INVESTIGATION OF OFFICER INVOLVED SHOOTING

### BACKGROUND—ASSEMBLY BILL 1506

Pursuant to California Assembly Bill 1506 (AB 1506), the California Department of Justice is required to investigate all incidents of an officer-involved shooting (OIS) 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. DOJ investigates and reviews, for potential criminal liability, all such incidents covered under AB 1506, as enacted in California Government Code section 12525.3. Where criminal charges are not appropriate, DOJ is required to prepare and make public a written report, like this one, communicating:

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

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

## PRIVACY STATEMENT

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

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

- Witness 1 (“W-1”), Mr. Sostek’s significant other
- Witness 2 (“W-2”), W-1’s brother
- Witness 2 (“W-3”), Mr. Sostek’s mother

## INTRODUCTION

On March 12, 2023, at the San Bernardino County Sheriff’s Department’s (SBSD) night shift briefing at Big Bear Station, it was reported that Kyle Nicholas Sostek had an outstanding parole warrant and that he was armed and dangerous. During the briefing, it was also reported that Mr. Sostek was driving a white Honda sedan registered to Mr. Sostek’s father. Photographs of Mr. Sostek and the vehicle he was suspected of driving were shown to deputies at the briefing. A briefing packet, containing further information about the vehicle and Mr. Sostek’s physical description and criminal history, was passed to the deputies.

At approximately 1:57 AM on March 12, 2023, a SBSB deputy transporting a prisoner to the hospital observed the white Honda described in the briefing, at the Circle K on Big Bear Boulevard in Big Bear, California. This observation was relayed to dispatch and SBSB Deputy Samuel Fuller conducted an area check and located the white Honda near the Circle K. Deputy Fuller broadcast a traffic stop of the white Honda and, roughly ten seconds after the traffic stop, the white Honda accelerated away, and a vehicle pursuit ensued. SBSB Sergeant John Everman joined the pursuit. These events occurred during the daylight savings time change on March 12; 2 AM became 3 AM due to the time change.

At 3:03:40 AM, the white Honda stopped at the South end of Vista Avenue in Sugarloaf, California. A foot pursuit was immediately broadcast. At 3:03:54 AM a broadcast of shots fired was made. Deputy Fuller and Sergeant Everman immediately began lifesaving measures. At 3:04:10 AM medical aid was requested. Big Bear Fire Department paramedics arrived at 3:16 AM and found Mr. Sostek unresponsive, not breathing and without a pulse. At 3:27 AM Mr. Sostek was declared dead. Mr. Sostek was not found to be in possession of a deadly weapon which made the OIS incident an Assembly Bill 1506 qualifying event.

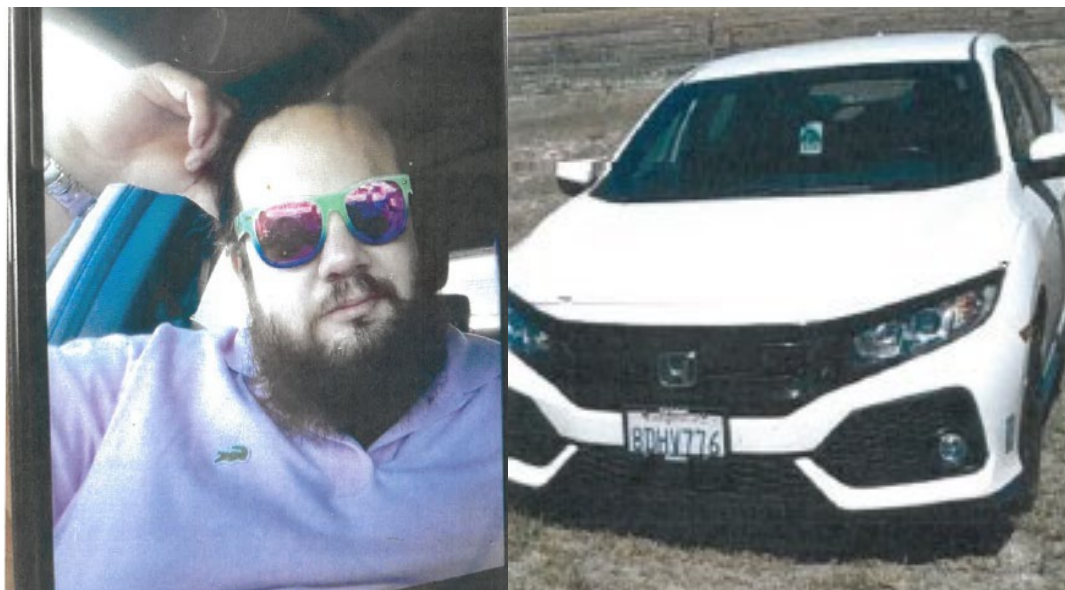
DOJ investigated and reviewed the OIS pursuant to Government Code section 12525.3 (enacted by Assembly Bill 1506 (2019-2020 Reg. Sess.)). This report is the final step in DOJ’s review of the fatal OIS of Mr. Sostek and is limited solely to determining whether criminal charges should be brought against the involved deputy, and possible policy and practice recommendations. The review does not encompass or comment on any potential administrative or civil actions. It does, however, include

policy and practice recommendations, as required by Government Code section 12525.3, subdivision (b)(2)(B)(iii). Upon thorough examination, and as discussed in detail below, we conclude that no criminal charges will be filed because the evidence is insufficient to prove beyond a reasonable doubt that the involved deputy committed a crime.

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

## SUMMARY OF INCIDENT

On March 12, 2023, SBSO Sergeant John Everman conducted a night shift briefing at the Big Bear Station. During the briefing, Sergeant Everman told deputies, including Deputy Samuel Fuller, that Mr. Sostek had a no-bail parole warrant and that he was reported to be armed and dangerous. Sergeant Everman also stated that Mr. Sostek was driving a white Honda sedan (license plate #8DHV776) which was registered to Mr. Sostek's father. Photographs of Mr. Sostek and the vehicle he was suspected of driving were shown by Sergeant Everman to the SBSO deputies at the briefing. A packet of information was passed to the assembled deputies containing Mr. Sostek's criminal history, physical description and the Computer Aided Dispatch (CAD) printout of a recent domestic disturbance call naming Mr. Sostek as the suspect. The packet included the following information about Mr. Sostek: "Caution: Armed and Dangerous. Known to abuse drugs." The warrant information stated that Mr. Sostek had a no bail warrant and noted "weapon/explosives." The description of Mr. Sostek included the following information: "Mentally disturbed, history of firearms, weapons." It described Mr. Sostek as having tattoos including "Fuck Cops" on his stomach. It stated that the offense he was on parole for was "criminal threat causing great bodily injury or death."<sup>1</sup>



Photographs of Mr. Sostek and his white Honda distributed at the night shift briefing.

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<sup>1</sup> Mr. Sostek had been previously convicted and sentenced to three years in prison for criminal threats involving a firearm. At the time of the OIS, Mr. Sostek had been arrested ten times for parole violations and had an outstanding warrant for a parole violation.

On March 12, 2023, SBSB Deputy Kyle Gober was transporting a prisoner to Arrowhead Regional Medical Center when he saw the white Honda described in the briefing at a Circle K on West Big Bear Boulevard. Deputy Gober broadcast the information over the police dispatch radio.

Surveillance video from the Circle K showed that Mr. Sostek arrived at 1:44 AM. He got out of the Honda and entered the Circle K at 1:46 AM. Mr. Sostek walked up to the checkout counter at 1:49 AM, left the store at 1:52 AM, got in his car at 1:52 AM, and drove away at 1:55 AM.<sup>2</sup>



Surveillance photograph of Mr. Sostek's white Honda at the Circle K in Big Bear.

Meanwhile, Sergeant Everman and Deputy Fuller were at a traffic collision scene at Big Bear Boulevard and Mount Doble Drive. Sergeant Everman estimated the traffic collision scene to be about a quarter mile from the Circle K. Deputy Fuller left the traffic collision scene to conduct an area check and located the white Honda at the Circle K.

At 1:57:57 AM, Deputy Fuller notified dispatch that he was making a traffic stop on the white Honda. The traffic stop was at the same location as the traffic collision scene that Deputy Fuller had just left. Sergeant Everman was still at that scene, where SBSB Deputies had set up a roadblock. The white Honda yielded briefly to Deputy Fuller, then drove through a parking lot, bypassing the roadblock. Deputy Fuller pursued the Honda with his patrol vehicle's lights and siren activated. Sergeant Everman joined the pursuit and took over broadcasting the pursuit.

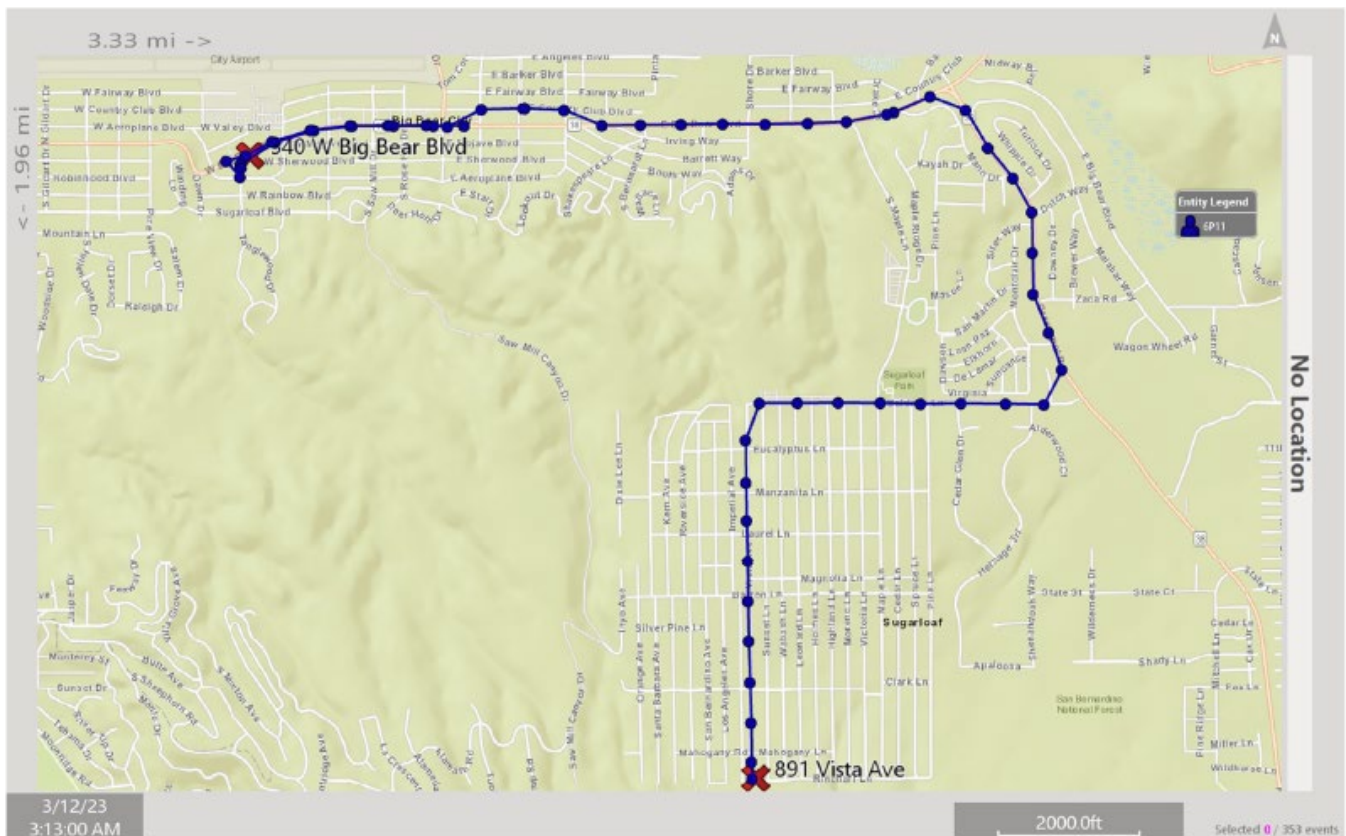
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<sup>2</sup> The cited times in this paragraph are those reflected on the Circle K video and may not be entirely in conformity with those recorded in the SBSB dispatch logs.



Mr. Sostek drove north on Mount Doble Drive and then east on Country Club Boulevard, with Deputy Fuller in pursuit. Sergeant Everman lost sight of them and regained observation of them at the intersection of Big Bear Boulevard and Paradise Way. According to Sergeant Everman, Mr. Sostek was driving at speeds as high as 60 miles per hour. The road conditions were dangerous in that there were patches of ice on the road.

Mr. Sostek turned south on Greenspot and west on Baldwin Lane while continuing to drive at an estimated 50 to 60 miles per hour. At the intersection of Baldwin Lane and Maple, Mr. Sostek drove through a four-way stop sign without stopping and continued westbound on Baldwin Lane. Mr. Sostek then turned south on Vista Avenue, an extremely narrow street with houses in close proximity to the roadway.



Route of pursuit using GPS coordinates from SBSD Deputy Fuller's vehicle.

Mr. Sostek stopped at the end of Vista Avenue, which was a dead end street, and Deputy Fuller stopped right behind him. Sergeant Everman stopped his patrol vehicle approximately 30 to 50 feet behind Deputy Fuller's patrol vehicle. Before he could put his patrol vehicle into park, Sergeant Everman saw Deputy Fuller's and Mr. Sostek's car doors open "almost simultaneously." Mr. Sostek "looked huge" and "towered over" Deputy Fuller. Mr. Sostek immediately ran towards Deputy Fuller, who was at the open door of his patrol vehicle. Sergeant Everman saw that Deputy Fuller had his handgun drawn. He could hear Deputy Fuller yelling something as Deputy Fuller retreated behind the rear bumper of his patrol vehicle. He also heard Mr. Sostek yelling something. Sergeant Everman could not hear what was said because his patrol vehicle's siren was still activated. During his later interview, Sergeant Everman said, "Five seconds from the moment those doors opened to Fuller retreating

behind his rear bumper [a distance of approximately ten feet], Kyle [Mr. Sostek] had already passed the open driver's door of the patrol car and was within arm's reach of Deputy Fuller."

Deputy Fuller repeatedly ordered Mr. Sostek to "Back up!" A footprint was found in the snow at the open driver's side door of Deputy Fuller's patrol vehicle; the print was compared with Mr. Sostek's shoe and was found to match. Deputy Fuller fired five shots in the course of approximately two seconds. Sergeant Everman saw Mr. Sostek reaching towards Deputy Fuller at the same time he (Mr. Sostek) was falling. Blood was found on the snow near the rear of Deputy Fuller's patrol car.

Sergeant Everman was behind Deputy Fuller. He touched Deputy Fuller's shoulder and moved him to the side. Sergeant Everman grabbed Mr. Sostek and saw that he did not have anything in the hand that had been reaching towards Deputy Fuller. He guided Mr. Sostek to the ground behind Deputy Fuller's patrol car. Deputy Fuller searched Mr. Sostek, and he and Sergeant Everman turned Mr. Sostek face-up so that they could begin first aid. Mr. Sostek stopped breathing, and they began CPR.

The call history documented broadcasts at 03:03:33 AM,<sup>3</sup> of "approach dead end," followed at 03:03:40 AM by a "foot pursuit." At 03:03:54 AM, the call history documented, "shots fired." Deputy Fuller and Sergeant Everman began CPR and requested medical aid at 03:04:10 AM. At 03:16:38, Big Bear Fire Department paramedics arrived.

Firefighter/Paramedic Huether determined that Mr. Sostek was in cardiac arrest; due to this and the extent of Mr. Sostek's injuries, lifesaving measures ceased. Mr. Sostek was declared dead by Firefighter/Paramedic Huether at 3:27 AM.



Drone Photograph of the OIS Scene taken during daylight hours.

<sup>3</sup> Due to the daylight savings time change, which occurred on March 12, 2023, at 2:00 AM, the time became 3:00 AM.





Photograph of Mr. Sostek's Honda (to the left in photo) and Deputy Fuller's patrol vehicle.

## INVESTIGATION

### Overview

At approximately 7:30 AM on March 12, 2023, Special Agent Supervisor (SAS) Sam Richardson with the California Department of Justice (DOJ), Division of Law Enforcement, Bureau of Investigation, California Police Shooting Investigation Team (CaPSIT), Southern California Region, was notified by SBSD Captain Joe Janowicz of a possible AB 1506 qualifying event.

At approximately 8:15 AM, CaPSIT agents were directed to respond to the scene of the officer-involved shooting (OIS). At approximately 11:35 AM, the California Bureau of Forensic Services (BFS) arrived at the OIS scene. At approximately 12:30 PM, CaPSIT agents arrived at the OIS scene.

At approximately 12:43 PM, SBSD Detective Malcolm Page gave CaPSIT agents and BFS personnel a briefing of the OIS incident. At approximately 1:07 PM, CaPSIT agents and BFS personnel were given a walkthrough of the OIS scene. They were accompanied by SBSD Criminalists Mike Russ, Madeline Rivera, and Andrea Guerrero. During the walkthrough, SBSD Detective Page stated that SBSD Deputy Fuller gave a public safety statement in which said he had shot in a southerly direction. Detective Page said the public safety statement was taken by Sergeant Everman and relayed to Deputy Bush.

BFS criminalists initially identified four fired cartridge cases. Following the walkthrough, BFS Criminalists assumed control of the OIS scene and subsequently located a fifth fired cartridge case.

DOJ Victim Services Unit was notified of the incident and was provided with contact information for Mr. Sostek's family. Subsequently, Mr. Sostek's next of kin were contacted and provided with information and resources.

DOJ investigation into the death of Mr. Sostek was comprehensive, thorough, objective, and independent. This report represents hundreds of hours of investigation conducted by DOJ, BFS, and SBSD.

## Evidence Reviewed

DOJ received and reviewed extensive investigation materials regarding this incident, including reports from the investigating officer; interviews with witnesses; forensic analysis reports; the Coroner's report; the belt worn audio recordings from the SBSD Deputies; Mr. Sostek's prior criminal history; crime scene photos; and autopsy photos.

## Incident Scene Description

The OIS occurred in Sugarloaf, which is an unincorporated residential community in the San Bernardino County mountains, less than a mile south of Big Bear City. Specifically, the OIS occurred at the southern end of Vista Avenue, where the street dead ended into the San Bernardino National Forest. The OIS occurred shortly after 3:00 AM. The area of the OIS had no streetlights and was illuminated only by the headlights and overhead emergency lights of the deputies' patrol vehicles.

Vista Avenue is a north/south Avenue with homes on the east and west sides of the narrow black asphalt roadway. The roadway was mostly clear of snow; however, there was mounded snow on the ground in the area. The OIS scene was cordoned off with yellow tape and the perimeter was maintained by SBSD Deputy Gossweiler.



Approximate area at the end of Vista Avenue where the OIS occurred.



## Incident Scene Evidence Recovery

SBSD deputies went over the path of the pursuit three times looking for any evidence that might have been tossed out of Mr. Sostek's vehicle, but no evidence was found. Additionally, no weapons were located on Mr. Sostek's person.

SBSD Deputy David Bush canvassed the neighborhood for witnesses and surveillance camera video. In addition to the canvassing done by SBSD, DOJ Special Agents Tony Baca and Alan Oratovsky canvassed for witnesses on Vista Avenue. It was determined that no civilian witness saw the shooting and there was no surveillance camera video of the shooting.



Overview of the OIS location and crime scene perimeter.

On March 12, 2023, at approximately 8:13 AM, SBSD Crime Scene Specialists Mike Russ and Madeline Rivera, along with Detective Malcom Page, contacted Deputy Fuller at the Big Bear Sheriff's Station to process Deputy Fuller's uniform and firearm for possible forensic evidence. Deputy Fuller was photographed in the same uniform and with the same equipment he had at the time of the OIS. The number of rounds remaining in Deputy Fuller's firearm were counted and photographed. After his uniform and firearm were processed, Deputy Fuller was allowed to go home.

Deputy Fuller was in full uniform at the time of the OIS. He carried a Smith & Wesson M&P, nine-millimeter caliber handgun, pepper spray, and a Taser. His handgun had a capacity for 18 rounds, consisting of one round in the chamber plus a magazine capable of carrying 17 rounds when fully loaded. There was one round in the chamber of his handgun and 12 cartridges remained in the magazine. The head stamp on all of the cartridges was "Win 9mm Luger +P." Deputy Fuller carried three additional fully loaded 17-cartridge magazines on his belt.



On March 12, 2023, at approximately 9:00 AM, SBSD Crime Scene Specialist Mike Russ and Detective Justin Carty contacted Sergeant Everman in a conference room at SBSD's Big Bear Station to process the sergeant's uniform and equipment. Sergeant Everman witnessed the OIS. He did not discharge his firearm during the OIS.



SBSD photo of Deputy Fuller's vehicle. Mr. Sostek's body is in the foreground covered by a white sheet.

BFS Senior Criminalist Humphreys collected evidence from within the OIS scene, including five fired cartridge cases from the ground, a projectile which was on Mr. Sostek's body, and a Motorola cell phone and Samsung Verizon tablet from within Mr. Sostek's vehicle. A search warrant was obtained for the tablet and cell phone, and these items were examined and found to hold nothing of evidentiary value.



Fired cartridge cases with evidence markers at the OIS scene.

The vehicle driven by Mr. Sostek, a white Honda Civic, was parked facing southeast at the dead end of Vista Avenue. There appeared to be damage to the front portion of the vehicle.<sup>4</sup> Deputy Fuller's marked SBSD patrol vehicle, a white Chevrolet Tahoe SUV, was parked north of Mr. Sostek's vehicle also facing in a southeast direction.

There were several footprints in the snow just east of Deputy Fuller's marked SBSD patrol vehicle. Mr. Sostek was on the ground, in a supine position, with his head to the north and his feet to the south, near the driver's side rear bumper of Deputy Fuller's patrol vehicle. Criminalist Ramirez completed ten FARO scans of the OIS scene and Senior Criminalist Dernoncourt took photographs of the OIS scene.



Mr. Sostek's body after being moved by Paramedics (covered with sheet, lower left of photograph). Deputy Fuller's patrol vehicle is in the center of the photograph; the rear of Mr. Sostek's Honda is visible behind the patrol vehicle.

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<sup>4</sup> Some damage to this portion of the white Honda was visible in the Circle K surveillance videos; it is not known whether further damage to this portion of the Honda occurred during the pursuit.





Mr. Sostek's body in relationship to the evidence markers for fired cartridge casings.



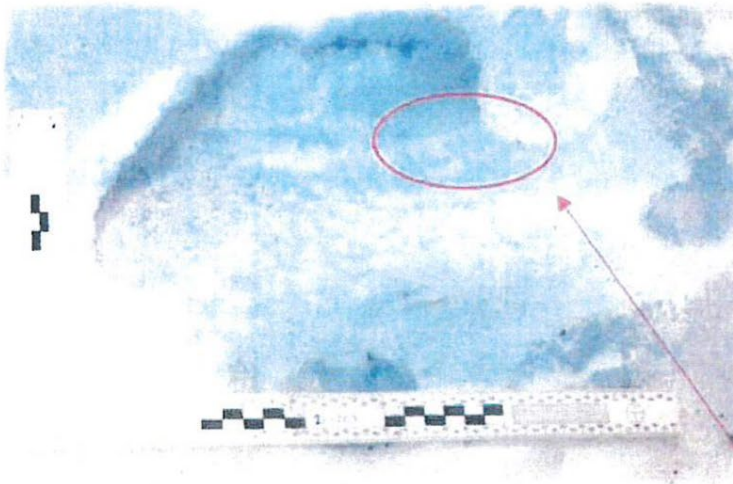
Close up of one of the fired cartridge casings and evidence marker



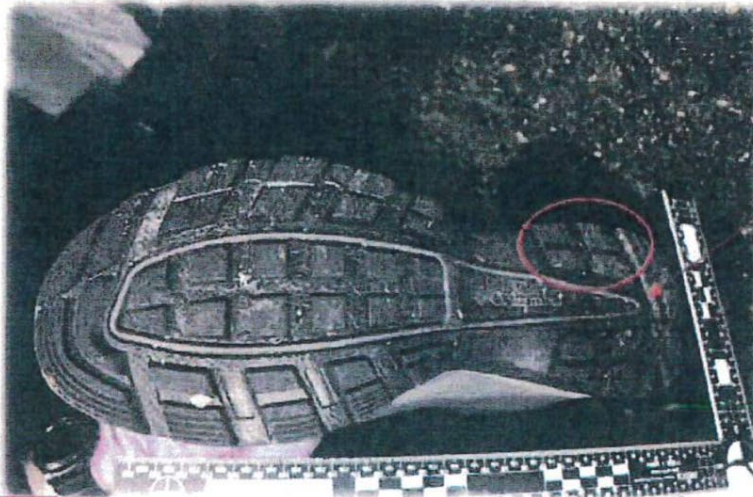
There was a shoe impression in the snow under the driver's door of Deputy Fuller's patrol vehicle. This impression was compared to the bottom of the shoes worn by Mr. Sostek. The shoe impressions were consistent with Mr. Sostek's shoe bottoms and were pointed away from Mr. Sostek's Honda.

**SCENE CONTINUED:**

The shoe impression in the snow, located under the driver's door of Fuller's patrol vehicle, was later compared to the bottom of the shoes Sostek wore. The bottom of Sostek's shoes and the shoe impression in the snow were consistent. The shoe impression in the snow appeared to travel north, away from Sostek's Honda Civic.



Shoe impression under the driver's door of Fuller's patrol vehicle



Bottom of Sostek's shoes

SBSD Detective Travis Gagne's 8/10/2023 Crime Report, page 9

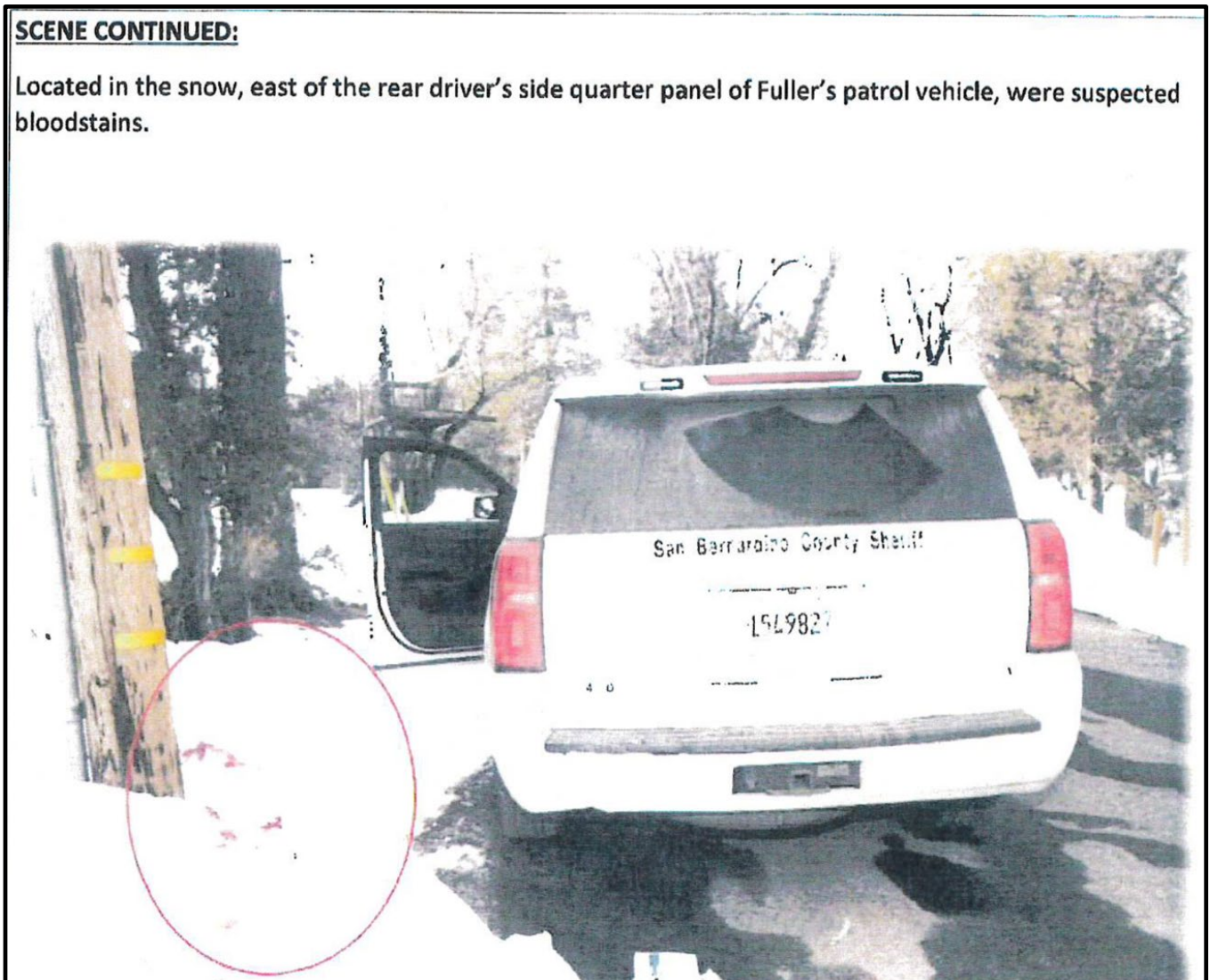


Ruler marking footprint in the snow, Deputy Fuller's open driver's side door is to the right.

Blood was found on the snow near the rear of Deputy Fuller's patrol vehicle.

**SCENE CONTINUED:**

Located in the snow, east of the rear driver's side quarter panel of Fuller's patrol vehicle, were suspected bloodstains.



SBSD Detective Travis Gagne's 8/10/23 crime scene report, page 10

## Recordings

At the time of this incident, SBSB deputies were not equipped with body worn cameras (BWC) and their patrol vehicles did not have dash cameras. Consequently, there were no such recordings available for review in this case. However, SBSB does utilize belt-worn audio recorders (“belt recorders”).

Sergeant Everman’s belt recorder was not activated until after the shooting occurred. Deputy Fuller’s belt recorder was activated during the OIS. As a result of background noise, many parts of the audio recording were unintelligible. The recording captured this exchange immediately prior to the OIS:

:06<sup>5</sup>      **Deputy Fuller:** (Unintelligible) fucking hands  
:07      **Mr. Sostek:** (Unintelligible)  
:08      **Deputy Fuller:** Back up!  
:08      **Mr. Sostek:** (Unintelligible) jail.  
:09      **Deputy Fuller:** Back up!  
:10      **Male:** (Unintelligible) weapons.  
:10      **Deputy Fuller:** Back up!  
:12      (Siren stops)  
:13      **Mr. Sostek:** I just (Unintelligible)  
:13      **Deputy Fuller:** Back up, Turn around!  
:14      **Mr. Sostek:** You, I just (Unintelligible)  
:15-:16      (Sound of five gunshots)  
:21      **Deputy Fuller:** Let me see your fucking hands.  
:54      **Sergeant Everman:** Roll him over.  
:56.      **Sergeant Everman:** Got to check (unintelligible)  
1:06.      **Deputy Fuller:** This side’s clear  
1:12      **Sergeant Everman:** Alright, go get a trauma kit.  
1:13.      **Deputy Fuller:** Yup  
1:15.      **Deputy Fuller:** 6-Paul-11, subject has multiple gunshot wounds.  
1:27.      **Dispatch:** 10-4

On March 12, 2023, SBSB canvassed the immediate area of the OIS for witnesses and surveillance video. Other than the SBSB personnel, no witness saw the OIS. No video or audio recordings other than Deputy Fuller’s captured the OIS.

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<sup>5</sup> Times noted are from the beginning of the recording, as SBSB belt recorders do not note the times of the events recorded.



## Interviews of Involved 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.) Public employees, including police officers, may be compelled by an employer to answer questions for administrative purposes, but the use of such statements in criminal proceedings is prohibited. (*Lybarger v. City of Los Angeles* (1985) 40 Cal.3d 822, 827-828, citing *Lefkowitz v. Turley* (1973) 414 U.S. 70, 77-79, and *Garrity v. State of New Jersey* (1967) 385 U.S. 493, 500.) Accordingly, no compelled statements were considered as part of this investigation.

SBSD Deputy Samuel Fuller, the shooting officer, was represented by attorney Steven Alvarado. Deputy Fuller, through his attorney, declined to give a voluntary statement.

Sergeant Everman provided a voluntary statement. The following statement is a summary of his interview, which describes the incident from his individual point of view. Please note that the interview contains facts relayed by the Sergeant that may be inaccurate or inconsistent with the facts of this incident as they are currently understood.

Sergeant Everman was interviewed on May 26, 2023, at the SBSD Homicide Office in San Bernardino by DOJ Special Agent (SA) Jon Genens. Also present were SBSD Detective Malcolm Page and Sergeant Everman's attorney Steven Alvarado. The interview was audio recorded.

Sergeant Everman had been employed by the SBSD for 19 years at the time of his interview. He was assigned to the Big Bear Station. Sergeant Everman explained that the Big Bear Sheriff's Station could have anywhere between three and ten deputies on patrol on the night shift, plus one deputy covering the jail and one supervisor. They cover a large, mountainous area in San Bernardino County. If backup is needed, it can take over an hour for additional personnel to arrive.

At the time of the OIS, Sergeant Everman was the night shift supervisor for the Big Bear Station. He was in full uniform. He had a belt-worn audio recording device which he activated "moments after" the OIS. He drove a white Ford Expedition SUV which was marked with the SBSD's logos on the side door panels. The vehicle was equipped with emergency lights and a siren.

On March 11, 2023, Sergeant Everman and Deputy Fuller's shift started at 7:00 PM. The shift started with Sergeant Everman briefing the deputies. During the briefing, they discussed a matter that was on their briefing board regarding Kyle Sostek. Sergeant Everman read the information in a packet regarding Kyle Sostek to the deputies, and passed around the packet containing Mr. Sostek's picture, a photograph of the white Honda sedan Mr. Sostek had been seen in, and a copy of the warrant describing Mr. Sostek as "armed and dangerous." The Honda had a red, teardrop-shaped sticker or emblem on its left side near the gas cap. Sergeant Everman also noted during his briefing that the briefing packet described Mr. Sostek as "armed and dangerous," and that he had a no-bail warrant. Officer safety was discussed, and the deputies were advised that if they saw Mr. Sostek or his vehicle, they should call for a second unit before engaging with him based on that information.

Once the deputies were on patrol, Sergeant Everman and "a couple" of deputies were at the scene of a collision in which one car had overturned, blocking the road. The deputies were preserving the collision scene until the CHP arrived and were making sure that those injured in the collision received medical treatment. While they were at the collision scene, another SBSD deputy saw Kyle Sostek's white Honda



at a nearby Circle K gas station. The deputy was transporting a prisoner and could not stop, so he relayed the information over the police radio. Deputy Fuller approached Sergeant Everman and asked what they should do because they were at the traffic collision. Sergeant Everman told Deputy Fuller that he could head to the gas station, which was a quarter mile from the collision scene, to see if he could confirm that Kyle Sostek was the driver of the Honda. Sergeant Everman told Deputy Fuller “to be cautious, again based on our briefing, not get himself in over his head.” Deputy Fuller drove off.

Sergeant Everman said that “[t]he next thing I knew, at this traffic collision roadblock, here comes Deputy Fuller following the car and does a T-stop [a traffic stop] right in front of our roadblock.” Sergeant Everman “was immediately concerned because I had civilians in the road...So I grabbed everybody I could and we moved behind a vehicle, try to take cover. I didn’t know what was going to happen.... It wasn’t five seconds later after they had both stopped that the white Honda took off. He kind of bypassed our roadblock through a parking lot and took a side street. And I lost sight of him and Deputy Fuller. Knowing the information that I knew about – with this briefing packet – I decided it was more prudent to leave the traffic collision and go assist [Deputy] Fuller because I was concerned for his safety if something did happen.”

By the time Sergeant Everman was able to get into his patrol vehicle and turn, Mr. Sostek and Deputy Fuller had turned down a side street and were out of sight. They returned to the main road a block later and were several hundred yards away from Sergeant Everman. He could see that Deputy Fuller’s emergency lights were on and could hear his patrol car’s siren. Sergeant Everman activated his patrol vehicle’s lights and siren. Deputy Fuller broadcast the failure to yield at 1:58 AM on March 12.

The roads were icy, and there was water and cinders on the road. Mr. Sostek was driving at 50 or 60 mph, through a residential area, and a lot of debris was being “kicked up.” Sergeant Everman saw Mr. Sostek’s vehicle “sliding through corners” due to his speed and was concerned that Mr. Sostek might lose control of his vehicle: “He was swerving all over the road.” Sergeant Everman had to maintain a safe distance of 100 to 200 yards behind Mr. Sostek and Deputy Fuller. The sergeant took over primary radio traffic and began calling out the pursuit. Based on Mr. Sostek’s speed and driving behavior, Sergeant Everman “was becoming more and more concerned that this may not end well.” He requested the assistance of the SBSD helicopter.

The pursuit continued eastbound on Big Bear Boulevard to Highway 38, west on Baldwin, and headed towards a residential area called Sugarloaf. When they got to Sugarloaf, there were a number of stop signs that Mr. Sostek “blew through” without stopping. Sergeant Everman knew that Mr. Sostek was heading to a dead end. As they approached the dead end on Vista Avenue, Sergeant Everman was 50 to 100 yards behind Deputy Fuller’s patrol vehicle. He saw the white Honda stop at the dead end, and Deputy Fuller immediately stopped right behind the Honda.

The area was dark. It was the middle of the night. The emergency lighting was activated on both patrol vehicles. Nonetheless, it was fairly dark in the area. Mr. Sostek’s actions caused Sergeant Everman concern: “I mean, best case scenario, he stops on the initial traffic stop and complies with all the commands. But that didn’t happen. So, yeah, every time he made a choice to continue the pursuit, every time he chose to make another turn, every time he chose to blow through another stop sign and put the public at risk and my deputies at risk. Yeah, my concern continued to elevate.”

Sergeant Everman drove to within 30 to 50 feet behind Deputy Fuller and stopped. “Before I could even put my car into park, both Fuller and the Honda’s driver’s doors opened almost simultaneously and I saw the driver, which turned out to be Kyle [Sostek]. I saw Kyle [Sostek] get out and immediately – he looked huge. I don’t know how big this guy is, like statistically wise, but he looked huge.<sup>6</sup> Fuller is big. And he [Mr. Sostek] was towering over Fuller. I don’t know if it was something to do with, like, the road or something like that, but this guy looked huge. He got out and he took – immediately took almost a run towards Deputy Fuller at his patrol vehicle. I saw [Deputy] Fuller had his handgun out, and I could hear Fuller yelling something, but I don’t know what he was saying. I couldn’t hear what he was saying. My siren was still kind of kicking off. I also could hear Kyle [Mr. Sostek] yelling something, but I couldn’t tell you what he was yelling.” Sergeant Everman described Deputy Fuller’s tone: “It sounded like some sort of order to me.” Sergeant Everman described Mr. Sostek’s tone: “I can’t tell you what he was saying, but he was yelling at him [Deputy Fuller]. He was mad. It sounded mad. Angry.”

Mr. Sostek was approximately 20 feet away from Deputy Fuller when both first got out of their vehicles. Mr. Sostek closed the distance between them “within seconds. Three, five seconds max. And he was within arm’s reach. So you know, he closed that distance within that few amount of seconds.”

“Based on Kyle’s [Mr. Sostek’s] action, my thought initially was Kyle was going to run into the forest, but he ran at Fuller. Again, my level of discomfort went up significantly. Five seconds from the moment those doors opened to Fuller retreating beyond his rear bumper, Kyle had already passed the open driver’s door of the patrol car and was already within arm’s reach of Deputy Fuller.” Sergeant Everman saw that Deputy Fuller had his handgun out, and the sergeant drew his Taser. By the time he brought the Taser up to firing position and turned it on, he could only see Deputy Fuller’s back. Mr. Sostek was in front of Deputy Fuller, running towards him. Sergeant Everman ran towards Deputy Fuller.

By the time Deputy Fuller had backed up to the rear bumper of his patrol vehicle, Mr. Sostek was within arm’s reach of the deputy; “his arm was out...it was almost touching Fuller, like that’s how close he was.” Sergeant Everman believed that Mr. Sostek was an imminent threat to Deputy Fuller, and that Mr. Sostek had the present ability, opportunity and apparent intent to cause great bodily injury or death to Deputy Fuller. His belief was based on the information in the briefing packet, Mr. Sostek’s “huge” size, Mr. Sostek’s “extremely reckless” fleeing the traffic stop and driving behavior, and “the most reckless was running straight at Deputy Fuller. And in my opinion, he was going to do anything he could to stop us from taking him into custody...everything he did after he got out of that car, I just don’t know how he could have thought anything else was going to happen.” Sergeant Everman explained further: “If he had remained in the car, he would have been taken into custody peacefully. If he had ran into the forest and hid, we probably would have surrounded him and hopefully taken him into custody. If he would have stopped at the initial traffic stop. I mean, there are so many other options besides this. He, in my opinion, didn’t give Deputy Fuller another option.”

Sergeant Everman believed that Mr. Sostek’s actions did not allow Deputy Fuller to use any force option other than deadly force: “Based on what Kyle [Mr. Sostek] did, how fast he closed the gap to that firearm pointed at him [by Deputy Fuller], Fuller did not have any time to even attempt a transition to another weapon system.... Kyle [Sostek] didn’t give Fuller any time to do that.” Deputy

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<sup>6</sup> Mr. Sostek was six feet tall and weighed 329 pounds. Sergeant Everman described Mr. Sostek as huge, “When I saw him, he looked like, like six-foot seven. Maybe it was the snow.” Footprints were found on an embankment of snow. The embankment was between six inches and a foot high, according to Sergeant Everman.

Fuller attempted to create distance between himself and Mr. Sostek by moving behind his patrol car: “I think he [Deputy Fuller] gave him [Mr. Sostek] about four or five extra steps of time. And he didn’t take them. Kyle [Sostek] didn’t take them.”

Sergeant Everman heard four gunshots in rapid succession. By this time, he was at Deputy Fuller’s back, and he touched Deputy Fuller’s shoulder and moved him to the side. Mr. Sostek was reaching towards Deputy Fuller and falling at the same time. Sergeant Everman grabbed Mr. Sostek’s extended hand and could see that there was nothing in the hand. He guided Mr. Sostek to the ground right behind Deputy Fuller’s patrol car.

Sergeant Everman was concerned that Mr. Sostek had a weapon, and he told Deputy Fuller to search him. Deputy Fuller holstered his gun and searched Mr. Sostek. At that point Sergeant Everman realized that he had failed to activate his audio recorder and turned it on.

Mr. Sostek was rolled over so that CPR could be performed. His arms and body were very rigid. After he was searched and no weapons were found, Mr. Sostek stopped breathing and was coughing and choking; blood was coming from his mouth and chest. Sergeant Everman and Deputy Fuller immediately began CPR and first aid. Sergeant Everman did not feel a pulse and Mr. Sostek was not breathing. He cut Mr. Sostek’s t-shirt with a knife to expose Mr. Sostek’s wounds. He could see that Mr. Sostek had a hole in his chest and two holes in his rib area. He told Deputy Fuller to get a trauma kit so they could try to seal the holes. Sergeant Everman began chest compressions, “it felt like forever”; it was about 15 minutes before paramedics came and took over. While Sergeant Everman performed chest compressions, Deputy Fuller put two chest seals on Mr. Sostek’s wounds. Once the paramedics and another SBSD deputy, Deputy Bush, arrived, Sergeant Everman and Deputy Fuller stepped away from Mr. Sostek. They were covered in blood and attempted to clean themselves up, and then Sergeant Everman made notifications of the OIS to his captain and to homicide. Sergeant Everman asked Deputy Bush to tape off the crime scene while he made the notifications. Once the notifications were made and the OIS scene was secured, he and Deputy Fuller drove towards the Sheriff’s Station. As they drove from the OIS scene, Sergeant Everman saw another SBSD deputy and asked him to drive Deputy Fuller to the station.

## **Interviews of Civilian Witnesses**

SBSD Deputy David Bush canvassed the neighborhood for witnesses and surveillance camera video. In addition to the canvassing done by SBSD, DOJ Special Agents Tony Baca and Alan Oratovsky canvassed for witnesses on Vista Avenue. It was determined that no civilian witness saw the shooting and no surveillance camera video captured the shooting.

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

### **W-1**

The briefing packet that was circulated at the SBSD Big Bear Sheriff’s Station night shift briefing included the call history (CAD log) for an incident that had occurred on February 24, 2023. W-1 called the SBSD at 1:46 PM and reported that “her ex-boyfriend had damaged property at her residence five minutes earlier.” She reported that he had broken the bedroom door, broken glass at the location, and then left in his white Honda Civic. She declined medical treatment but said she had bumps and bruises

from items being thrown. She identified her ex-boyfriend as Kyle Sostek. She provided further information: "He barely has gas in the vehicle, so he probably won't go far...If he leaves the mountain he will go to San Diego...He also destroyed his laptop." She told the operator that Mr. Sostek smoked marijuana. The CAD log added information that Mr. Sostek was "armed and dangerous" and was a parolee at large. SBSB deputies were dispatched to the call. The CAD log showed that W-1 told a deputy that "Kyle broke the inside door, cracked the entry door, and a mirror on the bathroom door" to W-1's RV. W-1 did not want to press charges for vandalism.

W-1 was interviewed in person on March 12, 2023, by DOJ SA John Genens, SA Supervisor Sam Richardson, and SBSB Detective Travis Gagne at her place of employment in Big Bear, California. When asked about the February 24 report she had made, she said, "It was not domestic violence." She explained that Mr. Sostek "broke some of his own shit." She said that "He broke a monitor for his computer. He basically smashed it. He didn't hit me." She further explained, "he was stupid, and he broke some of his own shit, is what it broke down to. He broke one of my wood pieces that was an art piece that I did. It was a carving. It was – I don't think he meant to hit it." There were no weapons involved. She had called the police "because I wanted to be able to go and if it went to that, I wanted to be able to get an Order of Protection so he would stay away from me, if it went there. And I didn't know if it would, but I still needed to talk to somebody because if there's no incident report or anything, nobody's going to be able to do shit." She further explained, "I didn't know which way he was going to head. He left to cool down. I didn't know if he was coming back...I didn't really know. It was, kind of, up in the air and I just wanted to make sure my ass was covered." Mr. Sostek did not return for a few days. When he did return, "we sat down and we had a conversation where, you know, we decided that, you know, we're just going to – not break up, per se, but... (just take some time out)." She estimated that, at the time of her interview, she had not seen him for a week. Mr. Sostek had last texted her a few days prior to her interview.

W-1 explained that she had known Mr. Sostek for a couple of years and had met him through one of her exes. She had met him in San Diego. She had been going out with Mr. Sostek, "on and off for over a year now."

SA Jon Genens spoke with W-1 again on March 13, 2023, at 2:50 PM. SA Genens advised W-1 that Mr. Sostek had been killed in an OIS. He had not been able to let her know this during their interview the previous night because Mr. Sostek's parents had not yet been notified of his death at that time.

W-1 called SA Genens on April 7, 2023, at 4:14 PM and left a voicemail message. SA Genens called her back on April 11, 2023, at 9:13 AM. W-1 was concerned that impound charges might be accruing on Mr. Sostek's Honda. SA Genens told her that the Honda was in SBSB custody, that the SBSB had a search warrant to process the car for evidence, and that no impound charges would accrue until the car was released by SBSB. SA Genens said that W-3, the registered owner of the Honda, would be notified when the car was ready to be released.

W-1 reiterated that she had known Mr. Sostek for a couple of years. She started dating him in San Diego. Five or six months prior to her interview he moved in with her in Big Bear. He was autistic and had a hard time interacting with people. It was hard for him to hold a job because "he comes off wrong sometimes, not meaning to."

Mr. Sostek was “scared” of the police and did not want to go to jail. “He doesn’t do well there. He already did that once. Actually, I think he did it twice or two or three times. I can’t remember. But it was all stemming from the same thing. One was a parole violation. You know what I mean? It was just stupidity. But I know he had a hell of a time in there. So I can understand why he wouldn’t want to go back.” She said that Mr. Sostek “did tell me he didn’t ever want to go back to jail ever again.”

## **W-2**

W-2 was interviewed on March 12, 2023, at his home in Big Bear, California by DOJ SA Jon Genens, DOJ SA Supervisor Sam Richardson, and SBSD Homicide Detective Travis Gagne.

W-2 is W-1’s brother. W-2 told the investigators that W-1 had met Mr. Sostek in San Diego. W-1 had parked her RV in front of her friend’s house in Big Bear. W-1 and Mr. Sostek had stayed in W-1’s RV for a month to two months, until W-1 kicked Mr. Sostek out. W-1 told W-2 that she was afraid for her safety. W-1 later moved her RV to W-2’s residence for several months in 2023. After the move, W-1 told W-2 that Mr. Sostek was coming back, and W-2 said “nope.” W-2 had given W-1 keys to his home, and he took them back because he was concerned about Mr. Sostek having access to his home.

W-2 had only met Mr. Sostek twice. The first time was at Christmas time. Mr. Sostek was living with W-1 in her RV. W-2 dropped off a Christmas gift for W-1 and saw Mr. Sostek for 30 or 40 seconds.

After that W-2 met Mr. Sostek one time at W-2’s home, and “he was an absolute jackass, and I just told him – I told her, ‘He needs to go.’” W-1’s RV was then parked near W-2’s home. There had been a storm, and W-1 had tried to move her RV and got stuck. W-2 was trying to help her when Mr. Sostek began screaming, yelling, and whining. “Like, just being a complete asshole while I’m hooking up the truck, pulling her this way, pulling her that way and I was just like, ‘Dude, you got to go.’”

Several days after that, on February 24, 2023, he heard Mr. Sostek and W-1 fighting and Mr. Sostek was screaming, “just banshee-ing. I mean that sounds really bad but he just – the way he screamed was like a little girl. Really high-pitched and like, just screaming from the RV.” The sheriffs were called after that incident. W-1 told W-2 that she and Mr. Sostek had gotten into a fistfight at one point. W-1 texted W-2, “Kyle is gone. Waiting for the police. I will be leaving as soon as I can.” After that, all W-1 would say about Mr. Sostek was “they (the police) are looking for him.” After that incident, Mr. Sostek did not return to W-2’s property.

## **W-3**

On March 13, 2023, SA Genens spoke with W-3, Mr. Sostek’s mother. W-3 had been notified of her son’s death early that morning. W-3 said that she was “outraged” because her son had never hurt anyone or tried to hurt anyone, and she did not understand why the police had killed him.

On March 15, 2023, a DOJ Victim Advocate spoke with W-3. W-3 said that her son “never hurt anyone,” that he “was on the autistic spectrum,” that he “would say things that would scare people, but it was because he was autistic,” and that he “never hurt a fly.”

On March 27, 2023, SA Genens received a telephone call from W-3 at 4:11 PM, in which she asked for the name of the officer who had shot her son. She was advised that the officer’s name could not be released at that time. W-3 said that her son was autistic and “shot his mouth off at times,” and said things and made threats that he should not have made. She said that her son had never hurt anyone or stolen anything.



### ***Big Bear Fire Department Captain/Paramedic Mitch Hollenbaugh***

On March 16, 2023, Big Bear Fire Department Captain/Paramedic Mitch Hollenbaugh was interviewed by SA Jon Genens and SBSD Homicide Detective Malcolm Page. Captain Hollenbaugh had been a firefighter for 29 years and a paramedic for 23 years at the time of his interview.

On March 12, 2023, Captain Hollenbaugh had been on duty at the Big Bear fire station. The fire department received a call of a person with a gunshot wound at 3:09 AM. Captain Hollenbaugh was dispatched at 3:11 AM. During his interview he reviewed the patient care record for the incident so that he could be accurate about the times of the events. He, Paramedic Britt Huether and Engineer/Paramedic Jon Bidwell had responded to the call in their fire engine with its emergency overhead lights activated. Their station was approximately two miles from the OIS scene. They arrived at 3:16 AM and departed the OIS scene at 3:38 AM. Big Bear Fire Department Medic Ambulance 282, with Paramedics Tyler Guyon and Cameron Dupre, also responded to the call. The Medic Ambulance arrived at the scene but did not touch Mr. Sostek as the paramedics had already commenced life-saving measures.

When the fire engine arrived at the OIS scene on Vista Avenue Captain Hollenbaugh saw three police vehicles and a citizen's car in front of them. The police vehicles were all in a row behind the civilian's car, which was stopped at the dead end at the end of Vista, which was bermed in by snow. The first police vehicle was "right up by" the patient's (Mr. Sostek's) car. The second police vehicle was about a car length behind the first. There was a distance of one or two car lengths between the second police vehicle and the third. The road was very narrow from the berms of snow, and the police vehicles were in the middle of the road. There were no streetlights, and the scene was illuminated by the police vehicles' lights.

The paramedics grabbed their gear and walked to the scene where they saw two police officers near the "highest" police vehicle performing CPR on Mr. Sostek. The officers told the paramedics that there had been a police-involved shooting and that the officers had been performing CPR and had placed an occlusive dressing over a chest wound. There were materials from the officers' first aid kit around the body. The officers had removed Mr. Sostek's shirt to perform CPR. Mr. Sostek's body was between a police car and a snow berm. He observed that Mr. Sostek was an adult male, approximately 50 years old. The sheriffs pointed out three bullet wounds – one to the middle of Mr. Sostek's chest, one to the right side of his chest, and one to the abdomen. He saw that Mr. Sostek had a tattoo across his stomach that said, "fuck cops." He saw a possible wound from a projectile fragment in the crease of Mr. Sostek's neck on the right side. Mr. Sostek was on his back.

The paramedics moved Mr. Sostek's body downhill behind the police car so that they had more room to work. They connected Mr. Sostek to a monitor and defibrillator pads. The monitor showed that Mr. Sostek had no detectable heart rhythm from the time the paramedics first monitored him to the time they left the OIS scene. Chief Hollenbaugh estimated that he, Paramedic Huether and Engineer Bidwell performed CPR for 20 minutes or longer, giving chest compressions and ventilations with a bag valve mask. They also administered epinephrine. They had not gotten any response at all to their efforts to revive Mr. Sostek. They called their base station, which was staffed with a doctor and a nurse, and according to their protocols discontinued efforts to revive Mr. Sostek. A blanket was placed over his body.

### ***Engineer/Paramedic Jon Bidwell***

Big Bear Fire Department Engineer/Paramedic Jon Bidwell was interviewed on March 16, 2023, by SA Jon Genens and SBSB Detective Malcolm Page. He had been employed by the Big Bear Fire Department for 15 years at the time of his interview and had been a paramedic for 11 and a half years. He had been trained in advanced life support care. Engineer/Paramedic Bidwell's recollections of the OIS scene and the care administered were substantially similar to Captain Hollenbaugh's. He thought the SBSB deputies "did a good job. It was amazing they did occlusive dressings and all this other crazy stuff...after that (the OIS) had just happened." The sheriffs "were pretty upset. They were distraught." He described the taller deputy (Deputy Fuller) as having "looked like he was just almost distant from it once we pulled him off the compressions. Almost like in a state of shock..." Bidwell saw four bullet holes in Mr. Sostek's body.

### ***Firefighter/Paramedic Britannia Huether***

Big Bear Fire Department Firefighter/Paramedic Britannia Huether was interviewed by SA Genens and SBSB Detective Malcolm Page at the Big Bear Fire Department on March 16, 2023. Firefighter/Paramedic Huether had worked for the Big Bear Fire Department for 21 years at the time of her interview. Her recollections of the OIS scene and the care rendered to Mr. Sostek were substantially similar to those of Captain Hollenbaugh. She observed that Mr. Sostek had four gunshot wounds: "The first one we saw was dead center in his chest and there was one lower left abdomen. And then, right side of his neck. And then, further, actually further on in the call we noticed there was something on his left lateral under his arm kind of area." The sheriffs told the paramedics that two bullets had gone through and through Mr. Sostek, and there were two exit wounds on his back. The paramedics did not roll Mr. Sostek over.

After their lifesaving efforts were unsuccessful, Firefighter/Paramedic Huether called Loma Linda Medical Center, advised the nurse and then the doctor on duty of Mr. Sostek's condition and their efforts to revive him, and was given permission to cease lifesaving efforts. The time of death was 3:27 AM.

## **Autopsy**

On March 12, 2023, SBSB Deputy Coroner Investigator Kaci Dement positively identified Mr. Sostek by the California Driver License found in his wallet, as well as through biometric fingerprint identification. Mr. Sostek was born on April 6, 1988. Investigator Dement discovered a projectile in Mr. Sostek's hair on the right side of head. The projectile was collected as evidence by BFS.

On March 15, 2023, Mr. Sostek's autopsy was conducted by Forensic Pathologist Chanikarn Lopez, M.D. Doctor Lopez found that Mr. Sostek was six feet tall and weighed 329 pounds. Upon examination, he found Mr. Sostek had sustained a gunshot wound to his left cheek; the projectile had passed through his cheek, and then entered and exited the right side of his neck. Mr. Sostek had sustained one gunshot wound to the center of his chest. He had sustained two gunshot wounds to his abdomen, one to the upper abdomen and one to the lower abdomen. He had also sustained a gunshot wound to the upper left back between his arm and shoulder blade. There was a graze wound to Mr. Sostek's forearm.

Four projectiles were removed from Mr. Sostek's body and booked as evidence. Toxicological analysis of Mr. Sostek's blood found the presence of amphetamine, methamphetamine, and THC. Dr. Lopez concluded that Mr. Sostek died within minutes from multiple gunshot wounds. His report was signed on September 29, 2024.

## APPLICABLE LEGAL STANDARDS

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

### Murder

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

Second degree murder is the unlawful killing of a human being with malice aforethought but without the additional elements of willfulness, premeditation, and deliberation, that would support a conviction of first degree murder. (*People v. Knoller* (2007) 41 Cal.4th 139, 151.) The malice required for second degree murder may be express or implied. (Pen. Code, § 188; *People v. Hernandez, supra*, 183 Cal.App.4th at p. 1332.) Malice is express when there is an “intent to kill.” (Pen. Code, § 188; *People v. Delgado* (2017) 2 Cal.4th 544, 571.) Malice is implied “when the killing results from an intentional act, the natural consequences of which are dangerous to life, which act was deliberately 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. Moya* (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. set forth the law of self-defense in homicide cases. Penal Code section 196 provides that a homicide committed by a peace officer is justified when the use of force complies with Penal Code section 835a. (Cf. Pen. Code, § 197 [listing circumstances where homicide committed by “any person” is justifiable, which includes self-defense or the defense of others].)

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

To determine whether deadly force is necessary, “officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.” (Pen. Code, § 835a, subd. (a)(2); *People v. Hardin* (2000) 85 Cal.App.4th 625, 629-630 [“only that force which is necessary to repel an attack may be used in self-defense; force which exceeds the necessity is not justified” and “deadly force or force likely to cause great bodily injury may be used only to repel an attack which is in itself deadly or likely to cause great bodily injury”].)

A threat of death or serious bodily injury is “imminent” when, based on the “totality of the circumstances,” a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or to another person. (Pen. Code, § 835a, subd. (e)(2); see *People v. Lopez* (2011) 199 Cal.App.4th 1297, 1305-1306 [imminent peril is “immediate and present” and “must be instantly dealt with”; it is not prospective or even in the near future].)

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

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

### **Burden of Proof**

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

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

## **LEGAL ANALYSIS**

DOJ has completed an independent investigation and review of the facts and circumstances that lead to the death of Mr. Sostek. This review and analysis is based on the totality of evidence provided to DOJ in this matter, including the voluntary statement from Sergeant Everman, witness statements, forensic evidence, coroner's report, autopsy photographs, drone photographs, and police reports.

Because a prosecuting agency would need to affirmatively prove beyond a reasonable doubt that Deputy Fuller did not act in lawful defense of himself 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 Deputy Fuller 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.

### **Subjective Element of Self-Defense**

Deputy Fuller was attempting to apprehend Mr. Sostek, a felon who was described as "armed and dangerous" and wanted for a parole violation. Mr. Sostek had failed to comply when Deputy Fuller attempted to pull him over in Big Bear. As Mr. Sostek attempted to avoid arrest, he led Deputy Fuller on a dangerous high-speed nighttime pursuit over icy roads. Mr. Sostek drove recklessly, speeding so



that his vehicle almost lost traction and driving through stop signs in residential areas. Mr. Sostek led Deputy Fuller to a dark and isolated area abutting the National Forest. There were no street lights in the area, which was illuminated only by the lights from the deputies' patrol vehicles. When he got out of his car, Mr. Sostek did not run towards the forest, but instead ran directly at Deputy Fuller, who was taking cover behind the door of his patrol car. Mr. Sostek's footprints were found in the snow underneath the open door of Deputy Fuller's patrol car. Deputy Fuller ran behind his patrol vehicle and ordered Mr. Sostek to back up. Instead of complying with this command, Mr. Sostek ran towards Deputy Fuller with his arm extended towards the deputy.

Other than Deputy Fuller, the sole eyewitness to this OIS was Sergeant Everman. He stated that Mr. Sostek was much larger than Deputy Fuller, and that Mr. Sostek approached Deputy Fuller rapidly, causing the deputy to retreat behind his patrol car to gain time and distance from Mr. Sostek. Deputy Fuller issued commands to Mr. Sostek four times to "back up." Mr. Sostek continued to advance rapidly towards Deputy Fuller. Mr. Sostek was also considerably larger than Deputy Fuller. While Sergeant Everman's view of the OIS was blocked by Deputy Fuller's back, his statement made clear that Mr. Sostek did not obey Deputy Fuller's commands.

Sergeant Everman said in the "[f]ive seconds from the moment those doors opened to [Deputy] Fuller retreating beyond his rear bumper, [Mr. Sostek] had already passed the open driver's door of the patrol car and was within arm's reach of Deputy Fuller." Sergeant Everman said Deputy Fuller had retreated from his open car door to just beyond his back bumper, a distance of approximately ten feet, when shots were fired.

All of these facts and circumstances support a finding that Deputy Fuller was acting with a subjective belief in the need to defend against an imminent threat of great bodily injury or death. Indeed, Sergeant Everman similarly believed that Mr. Sostek was an imminent threat to Deputy Fuller, and that Mr. Sostek had the present ability, opportunity and apparent intent to cause great bodily injury or death to Deputy Fuller.

### **Objective Element of Self-Defense**

The evidence also indicates that Deputy Fuller objectively and reasonably believed, based on the totality of the circumstances, that the threat of death or great bodily injury was imminent given that Mr. Sostek appeared to have the present ability, opportunity, and intent to cause death or great bodily injury to him.

Deputy Fuller's repeated commands to Mr. Sostek, coupled with Deputy Fuller's retreat to the rear bumper of his vehicle and the short time span that elapsed during the OIS, show that Deputy Fuller believed that Mr. Sostek posed a risk to his safety. When Sergeant Everman got close enough to Mr. Sostek to grab him, Sergeant Everman saw that Mr. Sostek had nothing in his extended hand. Sergeant Everman's observation, made after the shooting when he got within touching distance of Mr. Sostek, does not provide any evidence as to what Deputy Fuller was able to observe prior to the shooting. Deputy Fuller's ability to see was likely limited given the lack of lighting in the area. In any event, the use of force was objectively reasonable in light of Mr. Sostek's size, his running rapidly towards Deputy Fuller, his failure to obey Deputy Fuller's commands to "back up," and his pursuing Deputy Fuller, who had moved to the back of his patrol vehicle to gain distance from Mr. Sostek.

Mr. Sostek sustained four gunshot wounds that entered the front of his body (the check, chest, and two in the abdomen), and one gunshot wound that entered the back. The last wound was likely sustained when Deputy Fuller fired his gun and Mr. Sostek began to fall to the ground. Deputy Fuller's gunshots were fired in rapid succession; the entire volley was fired in approximately two seconds. Studies show that when facing a potential threat, the responding officer has to perceive a threat, make the decision to take action, and then take action. Each step requires time measured in fractions of a second and the entire process can have a significant range of total response time depending on the complexity of the variables. Tobin and Fackler's 2001 study<sup>7</sup> found a rough average of 1 second for total response time for shooting decisions. This delay between stimuli and response is what is often referred to in the industry as the "reactionary gap." The evidence suggests that Deputy Fuller did not have sufficient time to recognize that Mr. Sostek was falling to the ground before he stopped firing, resulting in the single gunshot wound to the back.

This incident unfolded in a very short time. The entire incident, between the time Mr. Sostek got out of his Honda, as evidenced by the broadcast of "foot pursuit," and the time shots were fired, as evidenced by the broadcast of "shots fired" was 14 seconds. Deputy Fuller had to make a life or death decision to defend against an imminent threat in a matter of seconds. 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).) As noted, Sergeant Everman believed that Deputy Fuller had a need to defend himself against an imminent threat of great bodily injury or death. Given all of these facts, such belief held by Deputy Fuller would be objectively reasonable.

## CONCLUSION

The evidence does not show, beyond a reasonable doubt, that Deputy Fuller acted without the intent to defend himself and others from what he reasonably believed to be an imminent threat of death or serious bodily injury. Therefore, there is insufficient evidence to support a criminal prosecution, and no further action will be taken in this matter.

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<sup>7</sup> Tobin, E. J., & Fackler, M. L. (2001). Officer decision time in firing a handgun. *Wound Ballistics Review*, 5, 8-10. See also Jason, A. (2010). Shooting Dynamics: Elements of Time & Movement in Shooting Incidents. *Investigative Sciences Journal*, 2(1), 1-19.



C A L I F O R N I A

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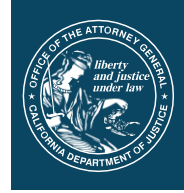
# DEPARTMENT OF JUSTICE

## **Policy and Practice Recommendations for the San Bernardino County Sheriff's Department Related to the Officer-Involved Shooting of Kyle Sostek on March 13, 2023**

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

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May 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 March 12, 2023, the San Bernardino County Sheriff’s Department (SBCSD) held a shift briefing at Big Bear Station prior to deputies deploying to the field during the night shift. According to Sergeant Everman, Deputy Fuller attended the briefing, which discussed that there was a no-bail warrant packet related to Kyle Sostek (Mr. Sostek). Mr. Sostek was wanted for violation of parole, and it was noted he was armed and dangerous. It was also noted that he was driving a white Honda, and his criminal history included arrests for domestic violence and threats.

Another deputy, who was transporting someone, made a radio call that he saw a white Honda in the area of a nearby convenience store that matched the information for Mr. Sostek’s vehicle. Deputy Fuller located the vehicle and attempted to pull Mr. Sostek over for a traffic stop after he saw the license plate and vehicle description matched the information from the warrant packet. Mr. Sostek stopped his vehicle for an estimated 10 seconds, then drove away before Deputy Fuller could exit his patrol vehicle. Deputy Fuller pursued Mr. Sostek’s vehicle for approximately five to six minutes through residential areas in the Sugarloaf area of California. Sergeant Everman assisted with the pursuit by following both vehicles and putting the pursuit information out on the radio. The sheriff’s logs, or “CAD,” confirms that during the pursuit, Mr. Sostek’s vehicle ran multiple stop signs, failed to yield while being pursued by Deputy Fuller with lights and siren, and reached speeds of 50 to 60 miles per hour, which was hazardous for the conditions that included snow, debris on the roadway, and narrow streets.

According to Sergeant Everman’s testimony, the pursuit ended when Mr. Sostek stopped his vehicle at the end of Vista Avenue, a residential cul-de-sac at the edge of the forest. Mr. Sostek’s vehicle was facing the forest and Deputy Fuller stopped his patrol vehicle just behind Mr. Sostek’s vehicle.

After the vehicles were stopped, Mr. Sostek and Deputy Fuller simultaneously opened their driver side doors, at which time each exited their vehicles. Since there is no statement from Deputy Fuller or video evidence, it is unclear at what point in the sequence of events Deputy Fuller removed his duty firearm,

but from Sergeant Everman's statement it is known that when he observed Mr. Sostek run towards Deputy Fuller's patrol vehicle, Deputy Fuller "had his handgun out." At the time of this incident, SBCSD was not equipped with body worn cameras; SBCSD only were equipped with audio belt recorders, which did not clearly capture the incident.

Sergeant Everman stated that when Mr. Sostek exited his vehicle, he turned towards Deputy Fuller and moved in Deputy Fuller's direction. Sergeant Everman stated he could see that Mr. Sostek had nothing in one hand as he reached toward Deputy Fuller. As Mr. Sostek moved towards Deputy Fuller, Deputy Fuller moved backwards. On the audio recording, sirens are heard as Deputy Fuller gave commands to Mr. Sostek to show his hands. Mr. Sostek can be heard saying he did not want "to go to jail." As Deputy Fuller continued to yell at Mr. Sostek to show his hands, Mr. Sostek says, "I just wanna" [inaudible] "I just wanna" and shots were fired as Mr. Sostek was in the middle of speaking.

PPS evaluated the facts and evidence based upon the belt audio recording and testimony of Sergeant Everman who was on scene seconds prior to the shooting. Deputy Fuller invoked his right to remain silent under the Fifth Amendment and did not provide a separate written or oral statement regarding the shooting. The CAD entry indicates a "foot pursuit" at 3:03:40 a.m., and **14 seconds later**, "shots fired," at 3:03:54 a.m.

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 SBCSD to review and implement the following four recommendations:

## **RECOMMENDATION ONE: REFRESHER TRAINING AND POLICY REVISION ON SEQUESTRATION OF INVOLVED DEPUTIES POST-INCIDENT**

SBCSD Policy Manual 3.640.10 outlines procedures related to involved deputies following a Lethal Force Encounter (LFE).

### **3.640.10 LFE: Involved Deputy's Responsibilities:**

Involved deputies should refrain from discussing the incident until the arrival of the first supervisor. Deputies shall give the supervisor a Public Safety Statement when asked by the supervisor. Involved deputies should refrain from further discussing the incident with anyone else, or among themselves, until after they have discussed the incident with their requested attorney and/or the Homicide Detail investigators.

Additionally, SBCSD Policy Manual 3.636; Discharge of Firearm, advises when a deputy discharges a firearm they are also to "refrain from discussing the incident with anyone else, or among themselves, until after they have discussed the situation with the supervisor, assigned investigator, or Homicide Team Investigators."

Following the shooting death of Mr. Sostek, the involved deputies should have been separated and transported individually to the sheriff's station. Deputy Fuller and Sergeant Everman were not sequestered post-incident. Contrary to policy, they left the scene together in Sergeant Everman's vehicle. They were together for an unknown amount of time before another deputy met them and transported Deputy Fuller to the local station.



PPS recommends SBCSD revise Policy 3.640.10 to require deputies who have participated in officer-involved shootings to be placed in separate patrol vehicles when waiting for transportation to the station and when being transported to the station. This revision will ensure the intended purpose of the policy is upheld, which is to prevent deputies from discussing the incident with each other prior to their attorney consultation and interview with Homicide Detail investigators. It is unknown whether Deputy Fuller and Sergeant Everman discussed the incident. A policy that prevents involved deputies from being placed in the same patrol car will ensure that Policy 3.640.10 is upheld, and that the integrity of the deputies' statements will be preserved.

## **RECOMMENDATION TWO: REFRESHER TRAINING ON EVIDENCE PRESERVATION**

SBCSD Manual Policy 3.640.15 requires that "Vehicles directly involved in the incident shall not be used as the means of transportation to the station." In order to have thorough and complete investigation of the scene, the positions of all involved patrol vehicles should be marked and contents inventoried prior to removal.

Sergeant Everman parked his patrol vehicle behind Deputy Fuller's at the end of Vista Avenue, just before the shooting occurred. Approximately two hours later, Sergeant Everman left the scene in his patrol vehicle with Deputy Fuller before the position of Sergeant Everman's vehicle could be marked and inventoried. In doing so, evidence, including precise mapping and measurements of the vehicle position at the time of the shooting, was lost. Moving the vehicle prevented investigators from precisely marking the positions of all involved patrol vehicles not only in relation to one another, but also in relation to the positions of Deputy Fuller, Sergeant Everman and Mr. Sostek at the time of the shooting. This is critical because all potential evidence must be documented and preserved for future evaluation.

There may have been legitimate extenuating circumstances that necessitated moving Sergeant Everman's vehicle in this case. However, the DOJ is not aware of any such circumstances. Even so, if there was a need to move the vehicle, at a minimum, documenting the position of the vehicle and taking photographs would have memorialized its location and preserved potentially relevant evidence. PPS recommends SBCSD provide refresher training as to the importance of preserving all evidence and not removing potential evidence related to homicide or any other investigations to ensure proper collection and preservation. Further, if any evidence is to be removed from the scene, including involved vehicles, SBCSD must fully document the evidence and document the reason why the policy was not followed.

## **RECOMMENDATION THREE: REVISION TO BODY WORN CAMERA POLICY**

Deputy Fuller was equipped with a belt audio recorder, which was activated at the time of this incident. The belt audio recorder captured both voices of Mr. Sostek and Deputy Fuller, but it is difficult to understand at times, and therefore prevented the DOJ from obtaining potentially critical evidence in this matter. The DOJ credits San Bernardino County for approving, in February 2023, a contract to provide body worn cameras to SBCSD deputies. Body worn cameras benefit both deputies and members of the public by providing footage of deputy-public interactions, including incidents like this one that led to deadly force. Body worn camera (BWC) footage will assist San Bernardino Sheriff,

the public, and deputies in determining administrative violations, civil liability, deficiencies in training, tactics, and equipment, and positive interactions that merit commendation.

SBCSD BWC policies (SBCSD Policy Manual Nos. 3.142.25-3.142.95) include some components aligned with best practices, including requirements for when deputies should activate their cameras, and when deputies can review footage. However, SBCSD should revise its policies to include the following components:

(1) The specific scenarios when a deputy should not activate their BWC, including when in sensitive areas like restrooms or when talking to a victim. SBCSD should permit exceptions to the general rule prohibiting activation during certain scenarios when there is a specific law enforcement reason to record, for example to capture a deputy's use of force or observing a crime in progress.

(2) A review process by which SBCSD will review samples of BWC footage on a regular and consistent basis. SBCSD Policy Manual No. 3.142.80 (BWC Audits) states that the Commander of the Professional Standards Division, or their designee, serves as the "BWC Administrator" and "**may** audit two random recordings from each station or division per month to ensure members are in compliance with BWC policies." (Emphasis added.) SBCSD should require, rather than permit, BWC Audits for purposes of ensuring just compliance with BWC policies and with other SBCSD policies. The BWC Administrator should also use the BWC Audits to evaluate the sampled incident for appropriate use of tactics, techniques, and equipment for both training and commendation purposes and accurate and complete incident reporting. Given the large size of SBCSD and the number of sworn deputies it employs, it should evaluate whether the current practice of auditing "two random recordings from each station or division per month" provides a sufficient sample size to fully evaluate compliance with policy. SBCSD should include a provision requiring the BWC Administrator to elevate, through SBCSD's normal channels, any noncompliance with policy, or any commendable conduct that is revealed through the BWC Audits process.

(3) SBCSD should permit supervisors, field training deputies, and any personnel involved in training to view BWC footage for training purposes, and to use that footage in training classes and briefings. Regular use of BWC footage in training and briefings will provide deputies with real world examples of commendable tactics or techniques, or ones that require improvement which, in turn, will improve deputies' skills.

## **RECOMMENDATION FOUR: ACQUISITION OF IN-CAR CAMERAS**

At the time of this event, SBCSD did not have dashboard mounted cameras in its patrol vehicles. Thus, the vehicle pursuit and officer involved shooting at the ground level were not captured. The in-car cameras work to enhance accountability and transparency to establish a higher level of trust between law enforcement officers and their community. In situations where the shooting officers are not equipped with BWC, an in-car camera can provide visual and audio recording of what transpires. An accurate timeline and transcript can be accessed and reviewed. An in-car camera 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. DOJ understands that resources for many law enforcement agencies are limited, but it is invaluable for

SBCSD to undergo the exercise of determining whether it is a viable option to equip its patrol units with an in-car camera system. Therefore, PPS recommends that SBCSD consider equipping and installing an in-car video system in its patrol units.