



C A L I F O R N I A

DEPARTMENT OF JUSTICE

**Report on the Investigation into the
Death of Juan Carlos Chabel-Orellano
on December 20, 2022**

Kern County AB 1506

August 2026

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INVESTIGATION OF OFFICER INVOLVED SHOOTING

BACKGROUND—AB 1506

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

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

- Witness 1 (W-1), San Joaquin Railroad employee
- Witness 2 (W-2), acquaintance of Mr. Chabel
- Witness 3 (W-3), Kern County Behavioral Health worker
- Witness 4 (W-4), former girlfriend of Mr. Chabel
- Witness 5 (W-5), food truck business owner
- Witness 6 (W-6), brother of W-5

INTRODUCTION¹

On December 20, 2022, Bakersfield Police Department (BPD) officers were called to the encampment of an unhoused man, later identified as Juan Carlos Chabel-Orellano (Chabel), near railroad tracks in a rural area of the City of Bakersfield. Mr. Chabel had been told by a railroad worker to move his encampment or it would be disposed of. He responded by displaying a handgun and threatening to shoot anyone who moved his belongings.

When BPD officers arrived at the encampment, Mr. Chabel pointed a handgun at them, moved inside his encampment, and raised and lowered the tarp covering the encampment. Officers yelled for him to surrender, which he did not do.² Officers took cover behind their vehicles and fired their handguns at Mr. Chabel. At one point, Mr. Chabel threw his handgun from the encampment; it is unknown whether this was visible to the officers. Mr. Chabel exited his encampment as officers fired additional rounds, and he ran across adjacent railroad tracks. Officers pursued him on foot through a field and eventually into a nearby business area at the east end of Daniels Lane. Officers broadcast a request for assistance due to an officer-involved shooting, a description of Mr. Chabel and his direction of travel, and that he was armed with a firearm.

Additional BPD officers responded near the western end of Daniels Lane to block Mr. Chabel's path. As Mr. Chabel continued to move westbound toward them, he was seen with a metallic object in his hand and putting his hands in his jacket pockets. Officers gave commands for him to stop and show his hands.

1 This report generally includes information about facts and circumstances leading up to the OIS, even if some of the information was unknown to the officers, in order to explain and give context to the entire incident.

2 These commands were given in English. After the incident, a witness who knew Mr. Chabel told detectives that Mr. Chabel spoke only Spanish.

When he failed to respond, multiple officers fired their weapons, and Mr. Chabel fell to the ground. As officers were ordered to approach and arrest Mr. Chabel, he began to move. Officers yelled, “Don’t do it” and “Don’t pick it up” and fired additional rounds when Mr. Chabel attempted to rise. Paramedics arrived and rendered aid to Mr. Chabel before pronouncing him deceased at the scene.

After the OIS, a knife was recovered near Mr. Chabel’s body, and a revolver was found outside his encampment. The revolver had one live round in the cylinder, and the other chambers were empty. Forensic analysis determined that the revolver had not been fired.

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

SUMMARY OF INCIDENT

On December 20, 2022, at approximately 9:00 AM, W-1, a San Joaquin Railroad employee, was inspecting railroad tracks in the area of Madison Street and East Bell Terrace in the City of Bakersfield. W-1 came across a homeless encampment. W-1 contacted the two men who were standing next to the encampment: Mr. Chabel and W-2, who was visiting Mr. Chabel’s encampment to buy bicycle parts from Mr. Chabel. W-1 asked Mr. Chabel to move his encampment further away from the railroad tracks. W-1 told Mr. Chabel to gather up anything that he wanted to keep. W-1 advised Mr. Chabel that if he did not move his encampment, Code Enforcement Officers would clear the encampment. Mr. Chabel responded in Spanish, “Let them come, I’ll shoot you and then I will shoot them.” Mr. Chabel then entered his encampment and returned shortly thereafter, tucking something into his waistband.

W-1 believed Chabel’s threat was credible, and walked away from the encampment towards his truck, which was parked on the railroad tracks. While at his truck, at 9:15 AM, W-1 called City of Bakersfield Code Enforcement Officer Charles Babbitt³ and explained what had happened. Officer Babbitt was working a Rapid Response enforcement detail with fellow Code Enforcement Officer Able Gonzales. W-1 told Officer Babbitt that he believed Mr. Chabel had a gun. Officer Babbitt had worked closely with W-1 for approximately three years, clearing out homeless encampments that were on San Joaquin Railroad property. The tone of W-1’s voice made Officer Babbitt believe there had been a legitimate threat of violence against W-1. Officer Babbitt feared W-1 was in danger.

Officer Babbitt attempted without success to contact BPD Senior Officer Michael Ko. Officer Babbitt then successfully contacted BPD Sergeant Andrew Ferguson by telephone and passed on the information he had obtained from W-1. Officer Babbitt said that railroad personnel had been threatened by Mr. Chabel with a weapon and personnel believed he had a weapon. Sergeant Ferguson agreed to respond to W-1’s location at the railroad tracks.

Code Enforcement Officers Babbitt and Gonzales arrived at a field in the area of East Belle Terrace and Madison Street in a marked City of Bakersfield Code Enforcement Rapid Response truck. As they arrived, Officer Babbitt spoke on the phone to W-1, who provided a description of Mr. Chabel. Officer

3 Bakersfield Code Enforcement Officers are employees of the City of Bakersfield. They are not police officers and do not work for BPD.

Babbitt, in turn, relayed that information to Sergeant Ferguson. Officer Babbitt and his partner drove around the area, looking for a safe place to park while they awaited Sergeant Ferguson's arrival.

At 9:41 AM, Sergeant Ferguson informed BPD Dispatch that he was responding to the location for an incident of disturbing the peace, "involving a transient, possibly armed, with either Code Enforcement or Railroad Police."

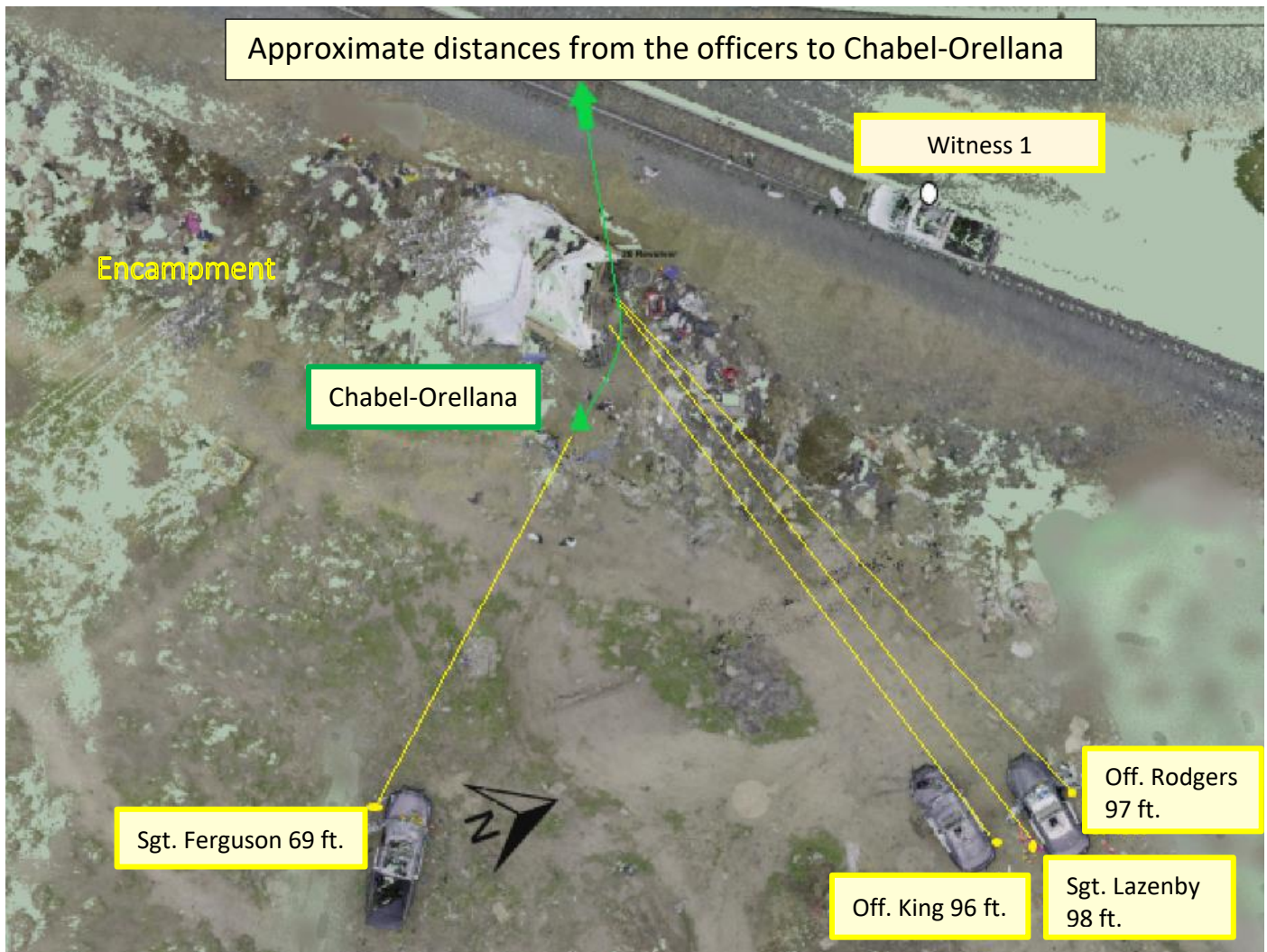
At 9:44:44 AM, Sergeant Ferguson arrived, followed by Sergeant Scott Lazenby and Officer James King. Sergeant Ferguson parked on a rise near Mr. Chabel's encampment, and Sergeant Lazenby and Officer King parked approximately 130 feet to Sergeant Ferguson's right.⁴ Sergeant Ferguson was approximately 69 feet away from Mr. Chabel; Officers King and Rodgers and Sergeant Lazenby were approximately 97 feet away. Sergeant Ferguson got out of his patrol car and used the patrol car's public address system microphone to issue a command to Mr. Chabel.⁵



Still image taken by BPD criminalists of Mr. Chabel's encampment with W-1's truck in the foreground, officers' vehicles behind encampment

⁴ This information, including times during the sequence of events, was obtained by reviewing these officers' body worn video (BWV) recordings. Sergeant Ferguson, Officer Rodgers, and Officer King activated their BWV and audio recordings at this time. Sergeant Lazenby did not activate his BWV until after the initial OIS.

⁵ It is not known what was said by Sergeant Ferguson as the sound on his BWV was not yet activated.



BPD photograph after OIS; locations of BPD officers, W-1 and Mr. Chabel's encampment noted in yellow

At 9:44:48 AM, Sergeant Ferguson yelled, "He has a gun!" Officer King's BWV shows Mr. Chabel pointing an object in his right hand in Sergeant Ferguson's direction. Sergeant Ferguson returned to his police truck and used it to provide cover; Sergeant Lazenby and Officer King also took cover behind the police cars.



Still image from Officer King's BWV of Mr. Chabel holding an object in his right hand while facing Sergeant Ferguson



Still image from Officer King's BWV showing Mr. Chabel pointing an object in the direction of Sergeant Ferguson



Still image (cropped and enlarged) from Officer King's BWV showing Mr. Chabel pointing an object in the direction of Sergeant Ferguson

At 9:44:52, Sergeant Ferguson, Sergeant Lazenby, and Officer King fired shots as Mr. Chabel ran into his encampment. Officer Chad Rodgers arrived as the other officers were taking cover behind their vehicles. Officer Rodgers ran toward the passenger door of Sergeant Lazenby's patrol car, opened the door, and took a shooting stance behind the door. W-1 later told investigators that he heard Mr. Chabel firing his gun at the officers.

At 9:44:59 AM, Sergeant Ferguson broadcast, "998," BPD radio code for an officer-involved shooting. At 9:45:02 AM, Sergeant Lazenby broadcast "998."

Sergeant Ferguson, Sergeant Lazenby, and Officer King fired rounds at Mr. Chabel as Mr. Chabel entered his encampment. At 9:45:05, Officer Rodgers yelled, "Come out with your hands up, do it now," and seconds later began shooting at Mr. Chabel, who was inside his encampment. Sergeant Lazenby and Officer King also ordered Mr. Chabel to come out with his hands up and to show his hands.

At 9:45:08 AM, Mr. Chabel raised and lowered the tarp covering the tent and appeared to look out of the tent as the BPD officers fired rounds at his encampment.



View from Officer Rodgers' BWV of Mr. Chabel rising from his encampment



View from Officer Rodgers' BWV of Mr. Chabel rising from his encampment (cropped and enlarged)

A slowed down version of Officer Rodgers' BWV shows that, at 9:45:11, an object appears to have been thrown from the encampment into the dirt below the berm near the railroad tracks.⁶ Based on their actions and broadcasts it appears the officers did not observe this. Mr. Chabel continued to raise and lower the tarp covering his encampment.

At 9:45:16 AM, W-1 yelled to the BPD officers, "He throw down!" during the officers' gunfire.⁷ W-1 was approximately 69 feet away from the closest officer, Officer Rodgers.

At 9:45:17 AM, Mr. Chabel emerged from his encampment and ran toward the west, across the railroad tracks, away from the BPD officers.



Mr. Chabel running away from the BPD officers as recorded on Officer Rodgers' BWV

At 9:45:18, the officers continued giving him commands to "put your hands up" and "show us your hands." Officers fired shots at Mr. Chabel when he was on top of the berm. Officer Rodgers commanded Mr. Chabel to "get on the ground, you better get on the ground now." Sergeant Ferguson, Officer Rodgers, and Officer King chased Mr. Chabel as he ran through the field.

Officer King commanded, "Bakersfield Police. Stop running." Mr. Chabel continued running. Sergeants Ferguson and Lazenby made radio broadcasts, informing responding officers of Mr. Chabel's description and his path of travel. They chased Mr. Chabel toward Daniels Lane. There was an encampment in the field, and Sergeant Ferguson yelled at a woman to contain her dog.

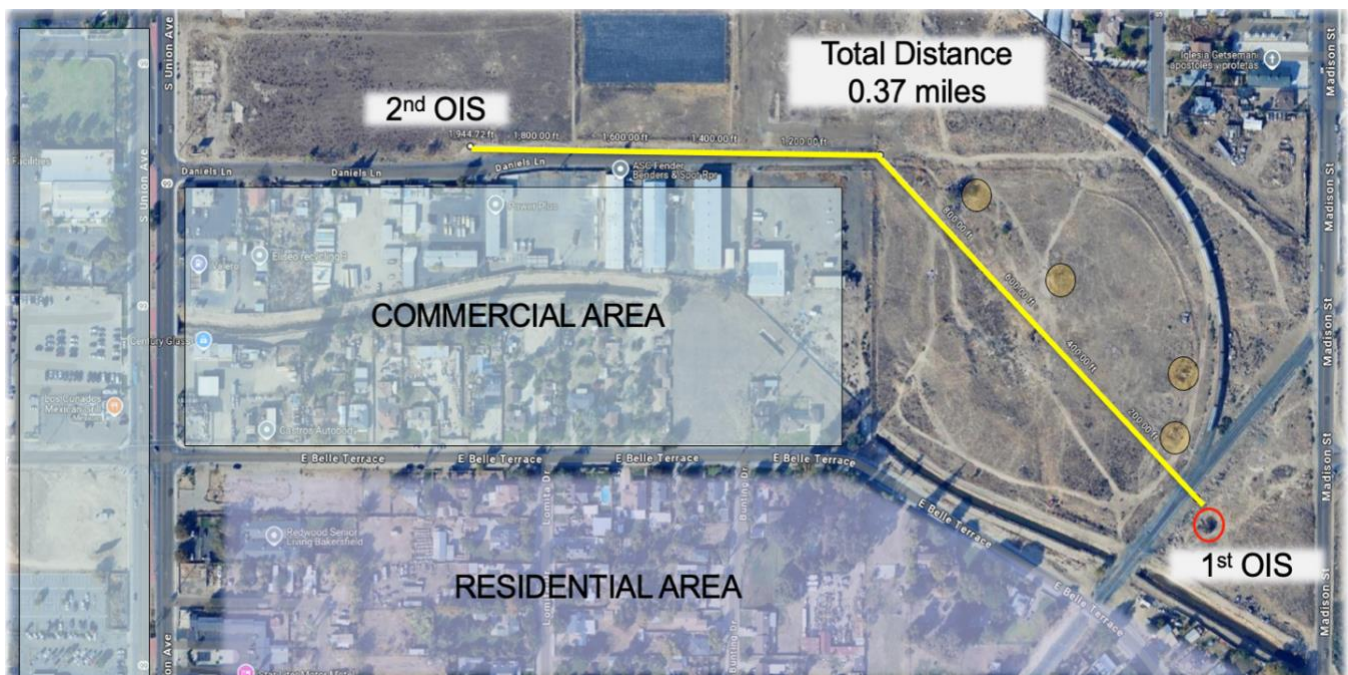
6 In a later search of the area where the object landed, officers recovered a handgun. Officer King and Sergeant Ferguson were ducking down as shots were fired, and their BWV does not show an object being thrown.

7 W-1's statement was recorded on W-1's cellphone. This statement was not able to be heard on a review of the officers' BWV.

Officer Ko arrived at East Belle Terrace and Madison Street as Officers King and Rodgers began pursuing Mr. Chabel. Officer Ko asked Sergeant Lazenby, “Sarge did he shoot at you?”⁸ Sergeant Lazenby replied, “He 417’d all of us.”⁹

Officers Rodgers and King were joined by BPD Officer Ryan Ryder as they pursued Mr. Chabel across the field.¹⁰ Officer Ryder saw Mr. Chabel holding a dark object, less than a foot long, at his side. Officer Ryder gave Mr. Chabel commands to “drop whatever you have in your hand and get on the ground,” which Mr. Chabel ignored. Officer Ryder followed Mr. Chabel, and asked Officers Rodgers and King, “What does he have guys, a knife?” Officer King responded, “a firearm.”

Officers King, Rodgers, and Ryder continued to follow Mr. Chabel who was moving across the field towards Daniels Lane. As the foot pursuit was occurring, BPD Officers Ko, Ashby, Flores, Ramirez, Summit, Droege and Williams arrived on the west side of Daniels Lane. These officers got out of their patrol cars and moved towards Mr. Chabel. As they advanced, they positioned themselves near a parked gray Toyota Corolla and along the fence line of a nearby business. The officers gave Mr. Chabel commands to “get on the ground.” Mr. Chabel continued walking in their direction and said “mata me.”¹¹



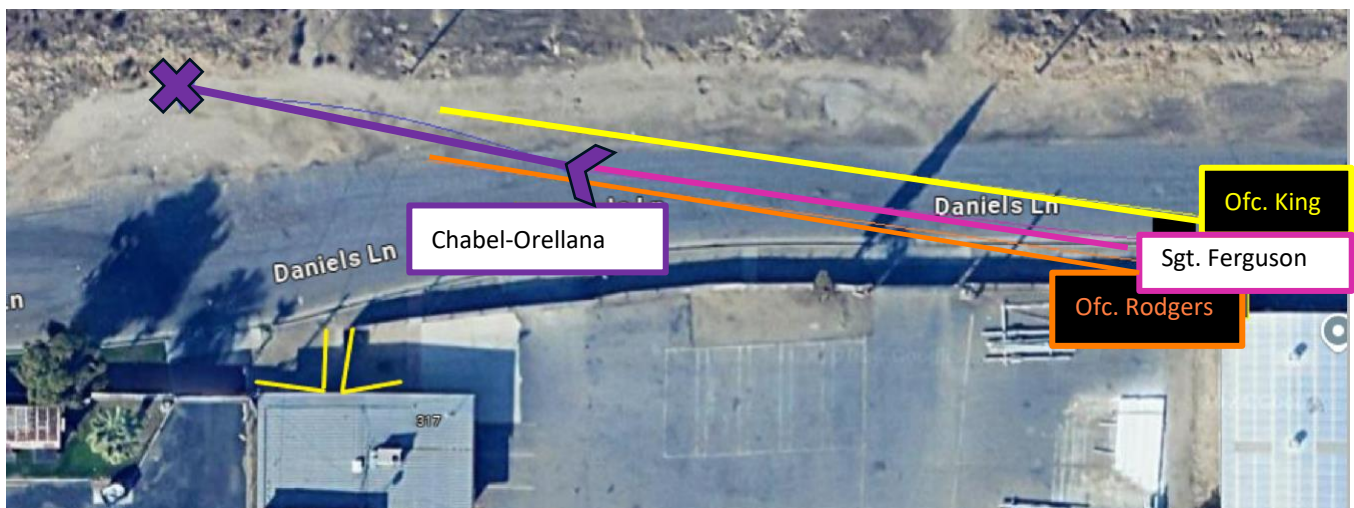
Google map showing Mr. Chabel’s path of travel (yellow line) and the two OIS locations

8 This was recorded on Officer Ko’s BWV.

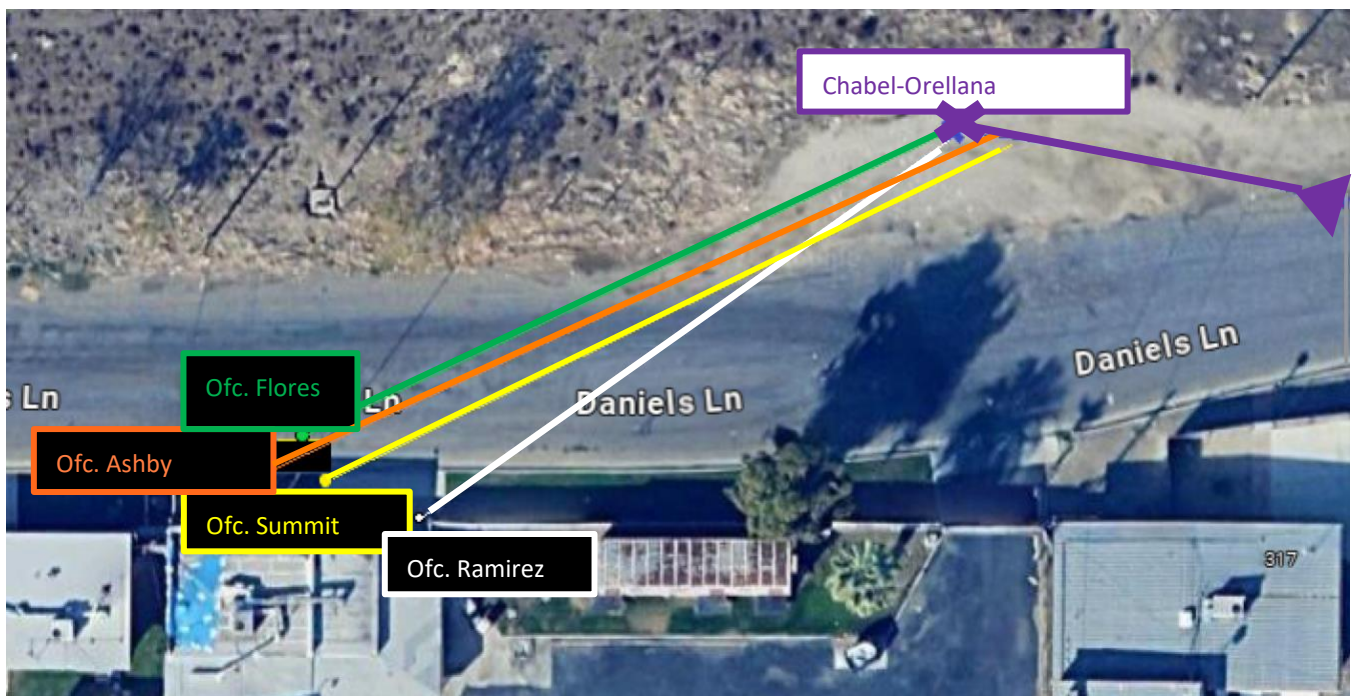
9 “417” is a reference to the California Penal Code section for brandishing a firearm in a threatening manner.

10 Officer Ryders BWV was later located on the floorboard of his patrol car and did not record any of the events described here.

11 “Kill me” in Spanish.



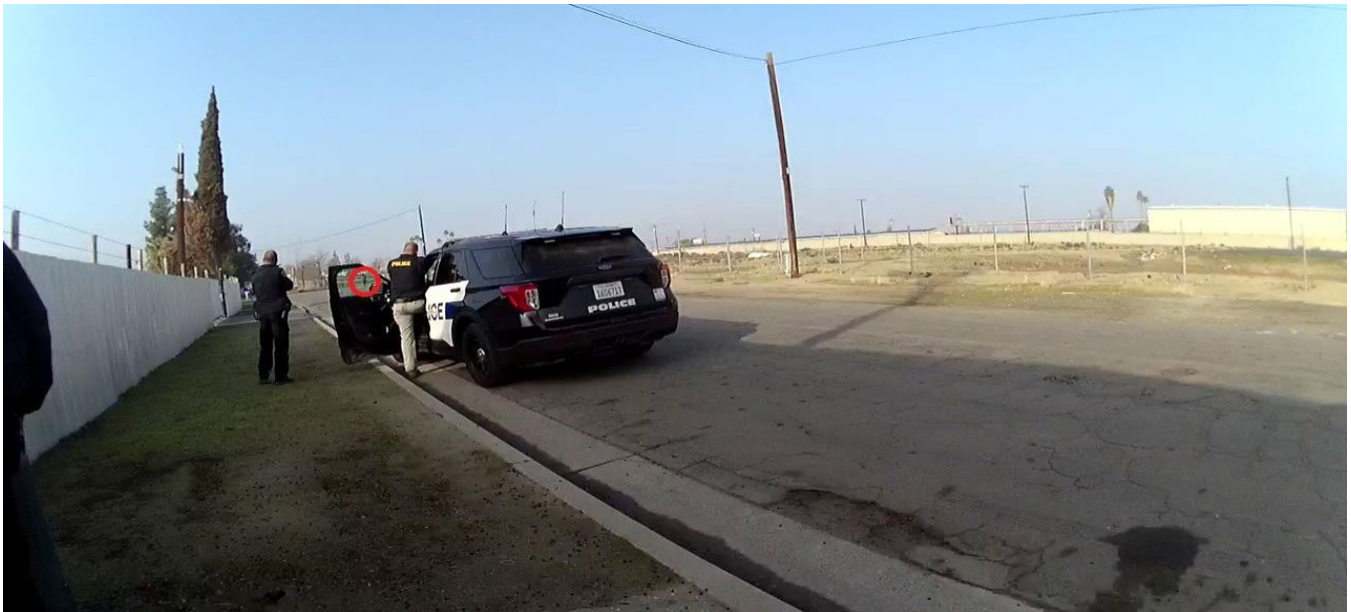
Second OIS scene showing the locations of the officers on the east end of Daniels Lane



Locations of Mr. Chabel and the officers at the west end of Daniels Lane

Sergeant Ferguson, who had run part of the way across the field, broadcast for officers to bring his car to him. He then drove Officer Ryder's patrol SUV to join the BPD officers who were pursuing Mr. Chabel. He stopped the patrol SUV to the west of 325 Daniels Lane.

At 9:49:54 AM, Sergeant Ferguson got out of the patrol car and took cover behind the car's "A" pillar, the forward-most support for a vehicle's roof. Sergeant Ferguson pointed his handgun at Mr. Chabel and at 9:49:59 AM, fired a round at Mr. Chabel. He fired a second round at 9:50:03 AM. Officer Rodgers also fired one round at Mr. Chabel. Officer King's body worn video shows that he fired three times from behind the patrol vehicle, then fired once more after walking towards Mr. Chabel and ordering him to get on the ground. Mr. Chabel continued walking away from the officers who were behind him on the east end of Daniels Lane.



Officer King's BWV showing Sergeant Ferguson on Daniels Lane (Mr. Chabel inside circle)

The BPD officers who were on the west of Daniels Lane had their rifles and handguns drawn and pointed at Mr. Chabel. Those officers continued to give Mr. Chabel commands to “drop it.” BPD Officer Matthew Wilson was on the scene, and he saw Mr. Chabel holding a metal object; Mr. Chabel was not complying with commands. Officer Hearn was also on the scene, and he saw Mr. Chabel holding his hands near his waistband and putting his hands in and out of his jacket pockets. Officer Summit said, “I’m taking the shot!”



Enlarged images from Mann Transportation security video of Mr. Chabel with his arms close to his body then raising his arm

At 9:50:10 AM, Sergeant Ferguson broadcast, “Units engage.” Shortly thereafter, he asked, “Why are they not shooting?” Almost immediately thereafter, Officers Summit, Flores, and Ashby fired rounds at Mr. Chabel from a distance of 134 feet.

The shooting lasted for approximately seven seconds. At 9:50:20 AM, Sergeant Ferguson then got back on the radio and broadcast, “Suspect’s down, making entry, team from the west.” Mr. Chabel had fallen to the ground. In Officer Hearn’s voluntary interview, he told investigators that he saw Mr. Chabel throw a shiny metal object to the ground as he fell. The object was still relatively close to him, three to five feet from him.

As Sergeant Ferguson and Officers Rodgers, Ryder and King walked from the east towards Mr. Chabel, the officers who were on the opposite side of Daniels Lane shouted, “Show me your hands and get on the ground.” Mr. Chabel made movements consistent with an attempt to rise from the ground. Officers commanded “show me your hands” and “get on the ground.”

Mr. Chabel then sat up. BPD Officer Amy Droege told investigators in a voluntary interview that she was on the scene, and she saw Mr. Chabel put his right hand down as if he was bracing himself to get up. Officer Williams, in his voluntary interview, told investigators that he thought Mr. Chabel was reaching at his waistband, possibly for a firearm. Officer Hearn also saw Mr. Chabel reaching for his waistband and for his pockets.



Mann Transportation security video (enlarged) showing Mr. Chabel sitting up after being shot

At 9:50:41 AM, Officers King and Ramirez each fired one round at Mr. Chabel. Officers Summit and Flores fired multiple rounds at Mr. Chabel. Mr. Chabel fell back and stopped moving.

At 9:50:50 AM, Sergeant Ferguson gave the command to “cease fire.” Officers on both sides of the field then approached Mr. Chabel. Sergeant Ferguson asked, “Where’s the gun?” Officer Ko said, “He threw it right there. There’s something in front of him.” Sergeant Ferguson and Officer Williams moved Mr. Chabel’s body about three feet towards the roadway.

At 9:51:56 AM, Sergeant Ferguson ordered the officers to “find that gun, search him.” Officers searched the area around Mr. Chabel’s body and found a gold metallic butterfly knife. Sergeant Ferguson said, “No, he had a pistol...a gray revolver.” They were unable to find a gun.



Officer King's BWV showing BPD Officers moving Mr. Chabel's body



BPD crime scene photo showing the gold metallic butterfly knife and evidence marker

At 9:54:15 AM, Officer Rodgers was speaking to Officer Ashby; their conversation was recorded on Officer Ashby's BWV. Officer Rodgers stated, "He shot at us." Officer Ashby responded, "He did?" Officer Rodgers commented, "Fucker." Officer Flores stated, "He was still popping off when he got right here," pointing to the area where Mr. Chabel fell. Officer Rodgers responded, "Oh yeah. I don't know where the fucking gun is at. He was fucking smoking rounds at us in the beginning." Officer Flores responded, "I heard pops coming from over here," pointing in Mr. Chabel's direction.

Sergeant Ferguson walked back towards the scene of the first OIS. While walking there, he spoke to Sergeant John Bishop.¹² Sergeant Ferguson expressed disappointment because there was a problem with his patrol car's rifle safety lock, which prevented him from releasing the rifle. He said, "We could have ended this a mile ago" if the vehicle safety mechanism had allowed him to release his rifle, and further stated, "I could have ended it in this long field if I could have got my AR out," referring to his AR-15 patrol rifle.

At 10:02:22 AM, Sergeant Ferguson arrived at the first OIS scene. He, along with other BPD officers, looked inside Mr. Chabel's encampment.



BPD photograph showing entrance to Mr. Chabel's encampment

Sergeant Ferguson found Mr. Chabel's handgun outside of the encampment and asked one of the officers to remain with the handgun. The handgun, containing one unfired round, was later recovered as evidence.

¹² Their conversation was recorded on Sergeant Bishop's BWV.

Timeline

The following is a timeline and summary of radio traffic, BWV, and other video recordings.

Legend:

AF:	Sergeant Andrew Ferguson's BWV
CR:	Officer Chad Rodgers' BWV
JK:	Officer James King's BWV
CB	Code Enforcement Officer Charles Babbitt
SL:	Sergeant Scott Lazenby
MW:	Officer Matthew Williams's BWV
MK:	Officer Michael Ko's BWV
EH:	Officer Michael Hearn's BWV
VS:	Officer Vincent Sims's BWV
AFL:	Officer Anthony Flores
UNK:	Unknown Officer
DIS:	Police Dispatcher

Times listed in **blue** show the police radio traffic for this incident. Other entries are taken from BWV.

9:41:25	AF: "Lincoln Robert 1."
9:41:28	DIS: "Lincoln Robert 1."
9:41:31	AF: "Show me enroute to Madison and Belle Terrace, a four fifteen (Penal Code section for disturbing the peace) involving a transient, possibly armed, with either Code Enforcement or Railroad Police. I'm enroute."
9:41:44	DIS: "Lincoln Robert one, ten-four Madison and Belle Terrace."
9:41:47	CR: "Lincoln 99 with him."
9:41:52	JK: "Lincoln nine and thirteen enroute." DIS: "Lincoln thirteen, ten-four."
9:43:15	AF: "Lincoln Robert 1 to the Henry-Edward Unit, do you have a description?"
9:43:20	CB: "We have eyes on. He's on the east side of the tracks, wearing a brown hoodie and ah blue jeans."
9:43:31	AF: "Copy, we are almost to you."
9:43:34	DIS: "Henry-Edward Copy?"
9:44:23	CR Driving (BWV recording starts).
9:44:27	AF Driving (BWV recording starts).

9:44:35 (Radio traffic with unrelated call.)
 AF: "Give us code. He's refusing to take his hands out of his waist band."
 DIS: "Code on channel one, code on channel one. East Bell Terrace and Madison."

9:44:36 AF picks up patrol vehicle's microphone.

9:44:37 JK opens driver's side door of his patrol car.

9:44:39 AF takes patrol vehicle out of gear, opens driver's door.
 JK points his handgun at Mr. Chabel, who is in front of his encampment

9:44:42 AF exits patrol vehicle.

9:44:43 AF turns towards encampment, man on bike is to the left of the encampment, Mr. Chabel is in front and to the right of the encampment. Railroad worker W-1's white truck is on the railroad tracks above and to the right of the encampment.

9:44:45 AF walks towards the front of his patrol vehicle.

8:44:45 CR arrives on scene, opens driver's door of his patrol car, runs to passenger side door of SL's patrol SUV.

8:44:46 Mr. Chabel takes several steps away from his encampment.

9:44:46 Mr. Chabel raises his left hand, points a gun in AF's direction.

9:44:48 AF keys mike, "He's got a gun." AF raises handgun, points it in Mr. Chabel's direction. Mr. Chabel lowers his arm; the gun is at his left side.
 JK runs behind his patrol car. His gun is raised. SL's gun is raised.

9:44:49 AF moves towards the driver's side door of his patrol vehicle.

9:44:52 Sounds of gunshots.
 JK runs to the passenger side of his patrol car, fires his handgun. Mr. Chabel retreats into his encampment.

9:44:52 CR moves towards SL's patrol car. JK is to the right rear of his own patrol car, SL is behind the driver's door of his patrol car.

9:44:53 AF points his handgun in Mr. Chabel's direction.

9:44:54 CR at passenger side door of SL's patrol car, points his handgun at Mr. Chabel's encampment (Mr. Chabel is inside the encampment).

9:44:58 AF broadcasts, "Lincoln Robert One, 998, 998."

9:44:59 AF (on CR's BWV) "998."
 AF, JK, CR all have handguns in their hands, pointing at the encampment.

9:44:59 SL: "Robert twenty-five, nine-nine-eight"

9:45:00 AF lowers gun.

9:45:01 CR uses SL's patrol car's passenger door as cover.

9:45:02 AF: "Lincoln Robert 998, 998."

9:45:02 DIS: "Copy 998."

9:45:03 JK crosses behind his patrol car and moves to the driver's side of the car.

9:45:05 CR on his microphone (PA): "Come up with your hands up, dude, do it now."
JK, AF, CR all have their handguns pointing at the encampment.

9:45:07 AF opens driver's door of his patrol vehicle. Sirens are heard.
SL: "Come out with your hands up, do it now."

9:45:07 JK: "Show us your fucking hands." He moves to the right trunk area of his patrol car.

9:45:08 -14 JK fires his handgun twice, CR fires handgun once, then twice more, JK fires twice more.

9:45:08 White tarp covering Mr. Chabel's encampment is raised and then lowered.
AF uses his patrol car's driver's door for cover and points handgun, which he rests on his open patrol car door, at Mr. Chabel's encampment.

9:45:09 – 20 AF lowers his handgun, turns towards the interior of his patrol vehicle, attempts to unlock his rifle.

9:45:11 Object lands in dirt below berm near railroad tracks.

9:45:11 White tarp over encampment is raised, lowered.

9:45:13 White tarp over encampment is raised, lowered.
Officers fire two gunshots toward the encampment.

9:45:16 White tarp over encampment is raised.
W-1 yells, "He threw down" (not audible on officers' BWV).

9:45:17 Mr. Chabel emerges from encampment, runs to berm beneath railroad tracks.

9:45:18 CR: "Put your hands up." Mr. Chabel is halfway up the berm.
JK: "Show us your hands."

9:45:20 Officers fire two shots at Mr. Chabel who is on top of the berm.

9:45:21 Mr. Chabel runs across the railroad tracks.
Unintelligible words are spoken over the radio.

9:45:23 SL: "Start medical aid."

9:45:23-24 CR and JK run after Mr. Chabel and fire five shots at Mr. Chabel who has crossed the railroad tracks and is still on top of the berm.
CR commands Mr. Chabel to "get on the ground, you better get on the ground now" and "Bakersfield Police get on the fucking ground motherfucker."

9:45:24 AF gets out of his patrol vehicle, closes driver's door.

9:45:25 Gunshot sounds.

9:45:25 CR fires one shot at Mr. Chabel.

9:45:26 CR starts running after Mr. Chabel.
AF: "Watch your crossfire."

9:45:26 DIS: "Ten-four."

9:45:27-28 AF fires his handgun twice at Mr. Chabel.
Mr. Chabel clears the railroad tracks, descends from view.

9:45:28 Mr. Chabel has crossed the railroad tracks. CR and JK run after him; their handguns are pointed in Mr. Chabel's direction.

9:45:29 AF runs towards railroad tracks.

9:45:32 AF: "Suspect is running westbound across the tracks."
DIS: "Copy."
SL: "Robert twenty-five, he's running westbound across the tracks."
DIS: "Suspect is running westbound across the tracks."

9:45:36 CR clears berm and is atop the first set of railroad tracks. Mr. Chabel has run across the field. CR yells, "Get on the fucking ground, you better get on the ground now."

9:45:39 DIS: "Copy. Running westbound across the tracks."

9:45:42 DIS: "Suspect is running westbound. Watch your crossfire."

9:45:46 CR crosses the second set of railroad tracks. Mr. Chabel has run further across the field. CR yells, "Get on the fucking ground motherfucker."

9:45:48 CR's camera falls off. UNK: "Police, stop running."
JK: "Bakersfield Police, stop running."

9:45:53 DIS: "Confirm, medical aid is clear to enter?"

9:45:57 AF runs up berm, is on the railroad tracks, "Hey, hold up."

9:45:57 SL: "Paul Robert twenty-five, officers are in active foot pursuit. Subject still appears to be armed."

9:46:04 DIS: "Ten-four."

9:46:05 JK: "Lincoln thirteen, Hispanic male, black beanie, brown hoodie. Running Westbound."

9:46:12 DIS: "Copy. Subject running westbound."

9:46:15 AF runs across field.

9:46:19 UNK: "Two one three, en route."

9:46:29 AF: "Lincoln Robert One, get people to the old Starlighter."

9:46:35 DIS: "Copy. Units to the old Starlighter."

9:46:45 (Incomplete radio transmission)

9:46:49 AF: "Somebody go back and get my truck and get it through this field."

9:46:50 CR's camera falls off. UNK: "Police, stop running."

9:46:56 DIS: "Unit to handle that."

9:47:00 CR and JK still in the field, walking slowly, heavy breathing.

9:47:08 (Inaudible transmission from unknown officer)

9:47:12 AF: "He's going to come out on that first street where the bricks are. He's still armed."

9:47:22 DIS: "Copy. Subject's still armed."

9:47:29 SL: "Robert twenty-five, units need to head to Union Avenue. The scene is code four."

DIS: "Robert twenty-five copy, the scene is code-four."

9:47:30 DIS: "Units head towards Union Avenue, Code 4."

9:47:40 UNK: "Subject description."

9:47:41 UNK: "Unit 28" (Inaudible due to multiple units trying to talk) ... "description."

9:47:45 JK: "Hispanic male, (inaudible due to multiple units trying to transmit), brown jacket, black jeans."

9:47:54 DIS: "Hispanic male, black jacket, black jeans."

9:47:55 JK: "Brown jacket, black beanie, blue jeans, walking westbound."

9:48:03 DIS: "Correction, brown jacket, blue jeans."

9:48:07 UNK: "Confirming, he's got a firearm?"

9:48:09 CR, JK reach Union Avenue.

JK: "Get on the ground. Get on the ground now. Bakersfield Police get on the ground now."

9:48:14. Dog barking.

9:48:18 DIS: "Affirm."

9:48:24 AF: "Get the dog, please," to person in encampment in the field.

9:48:58 JK and CR arrive on Daniels Lane. CR: "Get on the ground." JK: "Get on the ground now."

9:48:58 UNK: (Inaudible) "On Daniels, on Daniels."

DIS: "Subject on Daniels."

Multiple officers trying to transmit.

AF: "Watch your crossfire."

DIS: "Units watch crossfire."

9:49:00 Officer Ryan Ryder to JK: "What's he got, a knife?" JK: "A firearm."

9:49:19 AF arrives on east end of Daniels Lane, enters patrol SUV through open driver's door.

9:49:21 AFL and CS arrive on the west end of Daniels Lane, take cover behind a gray Toyota.

9:49:26 CS: "Unit One we got him. He's walking towards us now."

9:49:31 DIS: "Copy, walking towards you guys now."

9:49:37 UNK: "Walking westbound. Watch crossfire. Officers to the east as well."

9:49:44 DIS: "Subject walking west, correction walking westbound. Officers on the east."

9:49:48 UNK officers on the west end of Daniels: "Drop the gun now."

9:49:49 UNK officer on the west end of Daniels: "Drop the gun."

UNK officers gave Mr. Chabel commands to "get on the ground." Mr. Chabel continued walking in their direction and said, "Mata me."¹³

9:49:50 AF parks patrol SUV.

9:49:50 UNK officer on the west end of Daniels: "I got a shot; I got a shot."

UNK officer on the west end of Daniels: "Backdrop, backdrop."

UNK officer on the west end of Daniels: "I got a shot. Tell them to watch their crossfire."

9:49:51 MK: "Units on the east, stop there. Units on the east stop there."

9:49:52 AF opens driver's door, stands, takes cover, points handgun at Mr. Chabel.

9:49:56 UNK officer on the west end of Daniels: "Drop it. Drop it now."

9:49:59 AF fires his handgun one time in Mr. Chabel's direction.

9:50:02 UNK: (Inaudible) "east ninety-seven."

DIS: "Ten-four, Ninety-seven."

9:50:03 AF fires his handgun one time in Mr. Chabel's direction.

9:50:03 CR fires one round at Mr. Chabel

9:50:09 MK, MW, DR, EH and NA arrive on the west end of Daniels Lane and take cover around the gray vehicle.

9:50:10 AF: "Units engage."

9:50:11 MK: "Take the shot. Do it."

9:50:13 AF: "Why are they not shooting?"

9:50:13 Sounds of gunshots.

9:50:17 DIS: "Copy, Units engage."

UNK officer on the west end of Daniels: "Don't move, don't move."

UNK officer on the west end of Daniels: "He's moving, he's moving."

Shots are fired.

¹³ "Kill me," in Spanish.

9:50:20 AF: "Suspect's down, make an entry team from the west."
DIS: "Subject down, make entry from the west."
UNK officer on the west end of Daniels: "Don't move, don't move."
UNK officer on the west end of Daniels: "He's moving, he's moving."
Shots are fired.

9:50:31 AF: "Have medical aid stage at Daniels and Union."
DIS: "Stage medical aid at Daniels and Union."
UNK: "And Robert two, units are engaged to the front of the Service Master."

9:50:36 UNK: "Get on the ground."

9:50:38 JK: "Get on the fucking ground."

9:50:42 - 48 Sounds of gunshots.

9:50:50 AF: "Cease fire, cease fire."

9:50:50 DIS: "Copy, units engaged to the front of Service Master."

9:51:11 MK: "Sarge confirm you are moving in from the east."
AF: "Affirm, we're moving in."

9:51:33 AF: "Where's the gun?"

9:51:34 MK: "He threw it right there. There's something in front of him."

9:51:45 UNK: "Robert two, we have sufficient units on Daniels. Units are approaching the suspect now."
DIS: "Copy there are sufficient units on Daniels. Approaching the suspect now."

9:52:22 UNK: "Robert two, suspect is in custody. Have medical aid move in. Expedite."
DIS: "Copy, subject in custody. Medical will expedite."

9:52:38 UNK: "Robert two, we need units to put up crime scene tape at Daniels and Union for the outer perimeter."
DIS: "Put up crime scene tape at Daniels and Union."

9:51:51 Officers pick up Mr. Chabel and move his body.

9:51:56 AF: "Find that gun. Search him."
VS: "449."

9:52:08 AF: "There's a knife there."

9:52:57 UNK: "Robert two, units on Daniels, clear a path for medical aid to get through. Everybody block ah.. park on one side of the street."

9:53:02 NA: "He's got this right here, also."
MK: "I saw something."
AF: "No he had a pistol. It's a, it's a, it's a gray revolver."

9:53:08 UNK: (Inaudible) "Block Daniels and Union and tape it off."

9:53:28 UNK: "Park twenty, ninety-seven on Daniels."
DIS: "Park twenty, copy."

9:53:36 UNK: (Inaudible) "Traffic."
DIS: "Ten-four."

9:54:00 UNK: (Inaudible) "What's the next street east on Daniels?"

9:54:13 DIS: (Inaudible) "Dead-end of South Union."

9:54:15 AF (on his BWV): Sergeant Ferguson expressed disappointment because there was a problem with his patrol car's rifle safety lock which prevented him from releasing the rifle. He said, "We could have ended this a mile ago" if the vehicle safety mechanism had allowed him to release his rifle, and further stated, "I could have ended it in this long field if I could have got my AR out," referring to his AR-15 patrol rifle.
CR (on NA's BWV): "He shot at us. A couple of times."
NA: "He did?"
CR: "Fucker."
AFL: "He was still popping off when he got right here," pointing to the area where Mr. Chabel fell.
CR: "Oh yeah. I don't know where the fucking gun is at. He was fucking smoking rounds at us in the beginning."
AFL: "I heard pops coming from over here," pointing in Mr. Chabel's direction.
UNK: "I heard pops coming from over here."
UNK: (inaudible comments)
MK instructs the officers to put their BWV on "Admin" (no audio recording).

9:54:18 UNK: "Confirm there is no additional northbound street east of Union?"

9:54:24 DIS: "East Terrace is to the north. East Bell Terrace is to the south."

9:54:57 CPR started.

9:54:58 UNK: "Robert two, Hall is ninety-seven" (paramedic unit arrived on scene).

9:55:03 DIS: "Copy, Hall ten ninety-seven."

9:55:55 CS: "Unit one."

9:55:57 DIS: "Unit one."
CS: "I need a unit to secure my vehicle at South Gate and East Bell Terrace."

9:56:06 DIS: "Unit to secure his vehicle, South Gate and East Bell Terrace."

9:56:26 DIS: "Unit to handle Unit One's request."

9:56:32 UNK: "Lincoln twelve I can handle."

9:56:34 DIS: "Lincoln twelve copy."

- 9:57:05 SL: "Robert twenty-five are there units that need code."
DIS: "Any units need code?"
- 9:57:28 SL: "Robert twenty-five you can clear the code and when two units become available can they see me at Belle Terrace and Madison to clear the encampment to be sure there's nobody else present."
- 9:57:30 Medics cease CPR due to "Traumatic injuries."
- 9:57:21 DIS: "Clear to be on channel one, clear to be on channel one. Unit clear to help on Paul Robert 25 on Madison?"
- 10:02:22 AF returns to first OIS scene and reactivates his BWV. He and other officers look into Mr. Chabel's encampment.
- 10:02:30 AF sees Mr. Chabel's gun in a pile of debris near the encampment, and says, "Gun's right there."
- 10:02:41 AF broadcast, "One firearm's been located just south of the tracks."

INVESTIGATION

DOJ Response

On December 20, 2022, at 5:00 PM, DOJ's Division of Law Enforcement (DLE), Bureau of Investigation (BI), California Police Shooting Investigation Team (CaPSIT), Southern California Region, received notification of the OIS incident. At 8:45 PM, DLE agents arrived at the scene. They were joined by a Deputy Attorney General assigned to the Special Prosecutions Section. At 9:00 PM, they were briefed about the incident by BPD Detective Jesse Perez. CaPSIT assumed jurisdiction of the investigation pursuant to AB 1506.

Due to the delayed notification from the BPD, the scene had been processed by the BPD Crime Lab, and all evidence had been removed from the scene before DOJ DLE agents arrived in Bakersfield. DLE agents returned to Bakersfield on December 21, 2022, at 11:00 AM to examine the OIS scene. They were given a walk through by BPD Detective Perez and they examined both OIS scenes and the empty lot located west of the intersection of 800 Madison Street and 700 East Belle Terrace.

Evidence Reviewed by DOJ

- The incident scene
- Body worn camera footage from officers
- Security video from locations near the OIS
- Cell phone video
- Interviews of officers who witnessed the OIS
- Interviews of civilian witnesses
- Communications and dispatch logs and recordings
- Autopsy and toxicology reports

- Reports of evidence recovery and analysis
- Expert analysis of video evidence
- Use of force expert's report
- BPD property reports
- BPD final OIS report
- BPD and DOJ forensic reports
- DOJ reports
- Photographs of incident scene and officers

Evidence Recovery

On December 20, 2022, BPD detectives and evidence technicians made detailed observations about the location of items of evidence and the collection of those items, from both OIS scenes. Employees from BPD Crime Lab and investigators also documented the scene by taking photographs and using a drone to record aerial video of the entire area.

Scene of OIS #1

BPD Robbery-Homicide Detective Jason Felgenhauer was assigned to oversee the first OIS scene in the 500 block of Madison Street. He described the scene and supervised the collection of evidence. He noted that the first OIS scene was approximately 450 to 500 yards from the second OIS scene on Daniels Lane. He also examined Mr. Chabel's encampment and the firearm that was recovered near the encampment.

Detective Felgenhauer obtained a search warrant and searched the encampment. The encampment contained a very small living area. He located a heavily used methamphetamine smoking pipe, two cell phones, and several large knives, which appeared to have been "strategically placed" near the bed for self-defense.

Detective Felgenhauer examined the handgun that was found near the encampment. It was an older .22 caliber Heritage revolver with a seven-shot capacity. There was one live round in the handgun. The firearm was functional.

Detective Felgenhauer observed 29 casings from expended rounds at the scene. Six casings were on and around Sergeant Ferguson's parked patrol truck; the majority of the remaining casings were around Sergeant Lazenby's patrol car.

BPD Crime Lab Supervisor Jeffrey Cecil and BPD Lab Technician Mary Pezer processed the first OIS scene. They recovered 30 WIN nine-millimeter Luger cartridge casings from that scene. Mr. Chabel's handgun was also recovered, as was the single brass .22 live round from the chamber of the handgun.

Scene of OIS #2

The second OIS scene, between the 200 and 300 blocks of Daniels Lane, was processed by BPD Detective John Dunn. The following was collected from Mr. Chabel's body: a "vape device," rolling papers, \$1,924 in U.S. currency, and several baggies of drugs, one of which was "suspected meth."

Detective John Dunn also recovered 21 Brass Hornady .223 Rem cartridge casings and two WIN nine-millimeter Luger cartridge casings from the area of 217 Daniels Lane; he noted that these casings matched BPD-issued duty ammunition. Detective Dunn took measurements of the scene using a Rolatape measuring device and found that the Silver Toyota sedan, used as cover by the officers at the west end of Daniels Lane, was 134 feet west of Mr. Chabel's body. The Ford Explorer driven to the second OIS scene by Sergeant Ferguson was 258 feet east of Mr. Chabel's body.

Detective Dunn noted that a butterfly knife had been recovered near Mr. Chabel's body. Based on Sergeant Ferguson's and Officer Williams's BWV, he believed the butterfly knife was located on the ground, in an open position about three to four feet (southeast direction) from Mr. Chabel's feet, before Mr. Chabel was moved.

DOJ Forensic Lab Analysis

On December 21, 2022, DOJ's Fresno Bureau of Forensic Services (BFS) responded to assist with the transfer of items of evidence which BPD had collected during the investigation. The evidence was transported to the Fresno lab for examination and testing by BFS.

BFS examined and test fired the .22 caliber revolver found near Mr. Chabel's encampment and examined the single unfired round found in the revolver's cylinder. The revolver functioned as designed. The unfired bullet did not have a firing pin impression or other suitable mark for comparison.

DNA analysis was performed on the revolver and on the .22 cartridge recovered from the chamber of the revolver. BFS concluded that three people contributed to the DNA found on the revolver, and that to a high degree of statistical certainty, Mr. Chabel's DNA contributed to the DNA mixture on the revolver. The other contributors are unknown. DNA was not detected on the swab from the .22 cartridge.

DNA swabs were taken from the butterfly knife's blade and handle. BFS found that two people contributed to the DNA found on the knife blade, and that to a high degree of statistical certainty, Mr. Chabel's DNA was present on both the knife blade and handle. The other contributor to the DNA on the knife blade is unknown.

Firearm Processing and DOJ Analysis of Shots Fired

On Wednesday, December 21, 2022, at approximately 9:00 AM, BPD Sergeant Bishop was notified of DOJ's request to seize the firearms used by officers involved in the OIS. In response, the firearms used by Sergeant Ferguson, Sergeant Lazenby, and Officers Ashby, Flores, King, Rogers, Summit and Ramirez were seized. Sergeants Ferguson and Lazenby, and Officers King, Rogers, and Ashby used nine-millimeter handguns. Officers Summit, Ramirez, and Flores used rifles with .223-caliber rounds.

The involved officers did not provide information about the number of rounds they had loaded in their weapons at the beginning of the shift. Video evidence from the officers' BWV and security camera footage from businesses near the second OIS scene were examined to determine how many rounds were fired by each BPD officer during the two OIS events. This information was also compared to the number of casings located and collected at each OIS scene.

Sergeant Ferguson

Sergeant Ferguson's BWV footage shows him firing six rounds at OIS #1 and two additional rounds at OIS #2 on Daniels Lane with casings being ejected to the passenger side of Officer Ryder's patrol vehicle.

Six nine-millimeter casings were recovered at OIS #1 near Madison Lane in the vicinity of Sergeant Ferguson's patrol vehicle. One casing was recovered from the passenger side of the vehicle, and five casings were recovered from the vehicle's hood. Five nine-millimeter casings were recovered from Daniels Lane (OIS #2) in the vicinity of the passenger side of Officer Ryder's patrol vehicle. It is not known which of these casings was fired from Sergeant Ferguson's handgun.

BPD examined Sergeant Ferguson's handgun with attached magazine and two additional magazines on his belt. In total, the examined handgun and magazines contained nine fewer rounds than full capacity. The maximum capacity of each magazine was 16 rounds, and the handgun could hold one round in the chamber. The examined handgun and attached magazine contained 17 rounds, one belt magazine contained seven rounds, and the second belt magazine contained 16 rounds.

Sergeant Lazenby

On Officer King's BWV, Sergeant Lazenby can be seen firing his handgun at least three times at OIS #1. There are moments where he could have fired additional rounds but had moved off-screen from Officer King's recording. Sergeant Lazenby remained at the scene of OIS #1 and did not fire his weapon at OIS #2.

BPD examined Sergeant Lazenby's handgun with attached magazine and two additional magazines on his belt. In total, the examined handgun and magazines contained seven fewer rounds than full capacity. The maximum capacity of each magazine was 16 rounds, and the handgun could hold one round in the chamber. The examined handgun and attached magazine held 11 rounds, one belt magazine held 15 rounds, and the second belt magazine held 16 rounds.

Officer Rodgers

Officer Rodgers' BWV shows he fired seven times at OIS #1. His body worn camera fell off during the ensuing foot pursuit and did not capture the events at OIS #2.

Bakersfield Police Lab only located three casings from the passenger side of Sergeant Lazenby's patrol vehicle, the area where Officer Rodgers' casings would have been ejected. Three nine-millimeter shell casings were recovered on Daniels Lane in the area where Officer Rodgers was the only officer who fired his handgun.

BPD examined Officer Rodgers' handgun with attached magazine and two additional magazines on his belt. In total, the examined handgun and magazines contained 10 fewer rounds than full capacity. The maximum capacity of each magazine was 16 rounds, and the handgun could hold one round in the chamber. The examined handgun and attached magazine contained 17 rounds, one belt magazine contained 16 rounds, and the second belt magazine contained 6 rounds.

Officer King

Officer King's BWV shows him firing his handgun 13 times at OIS #1 and four times at OIS #2. The number and location of casings collected at both scenes are consistent with Officer King's BWV.

BPD examined Officer King's handgun with attached magazine and two additional magazines on his belt. In total, the examined handgun and magazines contained 17 fewer rounds than full capacity. The

maximum capacity of each magazine was 16 rounds, and the handgun could hold one round in the chamber. The examined handgun and attached magazine contained 16 rounds, one belt magazine contained 16 rounds, and the second belt magazine was empty.

Officer Ashby

Officer Ashby's BWV shows him firing two rounds from his nine-millimeter handgun. Both casings were recovered in the grassy parkway next to the Service Master business on Daniels Lane.

BPD examined Officer Ashby's handgun with attached magazine and two additional magazines on his belt. In total, the examined handgun and magazines contained 2 fewer rounds than full capacity. The maximum capacity of each magazine was 16 rounds, and the handgun could hold one round in the chamber. The examined handgun and attached magazine contained 14 rounds and both belt magazines were fully loaded with 16 rounds.

Officers Flores, Summit, and Ramirez

Video footage of OIS #2 shows Officers Flores, Summit, and Ramirez firing rifles at the eastern area of Daniels Lane. Officer Ko's BWV shows Officer Flores firing one round from the left rear of the parked Toyota, advancing next to the driver's door, and firing five more times. Officer Summit is seen on both his BWV and security camera footage firing 13 rounds. Officer Ramirez's BWC shows that he fired once from the area where a single casing was located. A total of 20 .223-caliber casings were recovered from the area where Officers Flores, Summit and Ramirez fired.

BPD examined the department-issued .223-caliber rifles of Officers Flores, Summit, and Ramirez. Each rifle could hold one round in the chamber and had an attached magazine with a capacity of 28 rounds. In total, the examined rifles and magazines contained the following number of rounds fewer than full capacity: Officer Flores - 10 rounds; Officer Summit - 14 rounds; Officer Ramirez - three rounds.

Total Shots Fired

Based on the evidence collected in the investigation, the total number of shots fired during this incident cannot be determined with certainty. At OIS #1, 26 total shots were identified on BWV, and 32 casings were initially recovered at the scene. Two additional rounds were discovered at OIS #1 after the crime scenes had been processed and the evidence markers had been removed. At OIS #2, 33 total shots were identified on body-worn and security video, and 34 bullet casings were recovered.

Coroner's Findings

Mr. Chabel was born on April 24, 1982. He was five feet seven inches tall and weighed 170 pounds.

On January 11, 2023, Dr. Eugene Carpenter Jr. conducted an autopsy of Mr. Chabel's body at the Kern County Coroner's Office. Dr. Carpenter found the cause of death was multiple gunshot wounds and the manner of death was homicide. Thirteen projectiles or fragments were recovered from Mr. Chabel's body. Dr. Carpenter identified nine gunshot wounds, as listed below, and noted that all entrance wounds were consistent with small high-velocity ammunition rather than handgun ammunition:

1. Gunshot wound to posterior upper right shoulder region.
2. Gunshot wound to lateral upper right anterior chest.
3. Gunshot wound to the lateral lower right anterior chest.
4. Gunshot wound to anterior upper central abdominal wall.

5. Gunshot wound to lower lateral right anterior chest wall.
6. Graze wound across the middle part of the anterior abdominal wall skin surface.
7. Gunshot wound to the mid right forearm.
8. Gunshot wound to the anterior right thigh.
9. Gunshot wound to the base of the fifth finger of the left hand.

The toxicology report found the presence of ethanol, THC, amphetamine, and methamphetamine in Mr. Chabel's body.

Video Recordings

Body Worn Video (BWV) of Shooting Officers

During the course of the investigation, DOJ received and reviewed video files showing body worn camera footage for the BPD officers involved in various aspects of the OIS.

Sergeant Andrew Ferguson

Sergeant Ferguson's BWV began recording at 9:43:47 AM. He drove a marked BPD Ford F-150 truck. He drove to the train tracks at the corner of East Belle Terrace and the 500 block of Madison Street in Bakersfield.

At 9:44:44 AM, Sergeant Ferguson got out of his truck. Two men were near an encampment. One of the men, later identified as W-2, was walking away from the encampment pushing a bicycle. The other man, later identified as Mr. Chabel, remained standing in front of the encampment.

At 9:44:48 AM, Sergeant Ferguson said, "He's got a gun," and removed his handgun from his holster. He braced himself against his truck's driver's side fender.

At 9:44:50 AM, Sergeant Ferguson began shooting in Mr. Chabel's direction. He initially fired four rounds at Mr. Chabel. Sergeant Ferguson then tried to get his rifle from his patrol truck but he could not open the lock securing the rifle. By the time Sergeant Ferguson again faced in Mr. Chabel's direction, Mr. Chabel was running away and was crossing the railroad tracks. Sergeant Ferguson fired two more rounds from his handgun at Mr. Chabel as he ran away.

At 9:45:28 AM, Sergeant Ferguson began to run after Mr. Chabel. Sergeant Ferguson ran towards the east, over the railroad tracks and across a field that terminated at the east end of Daniels Lane.

At 9:49:19 AM, Sergeant Ferguson had crossed the field and had entered the east end of Daniels Lane. Officers King, Rodgers, and Ryder had run after Mr. Chabel, and were ahead of Sergeant Ferguson on Daniels Lane. Sergeant Ferguson entered Officer Ryder's patrol SUV, which had been parked at the dead end on Daniels Lane and drove west on Daniels Lane.

At 9:49:54 AM, Sergeant Ferguson caught up with the other officers and got out of Officer Ryder's SUV. He stood between the door and the SUV's A-Pillar, pointed his firearm at Mr. Chabel, and fired two rounds. The first round was fired at 9:49:59 AM, and the second round was fired at 9:50:03 AM.

At 09:50:13 AM, Sergeant Ferguson used his BPD handheld radio to broadcast: "Units engage." Shortly thereafter he asked, "Why aren't they shooting?" Sergeant Ferguson's BWV recorded the sounds of gunshots, which went on for approximately seven seconds.

Sergeant Ferguson broadcast, “Suspect’s down, making entry, team from the west.” Gunshots could still be heard coming from the west end of Daniels Lane. As Sergeant Ferguson began approaching Mr. Chabel, the officers on the west side of Daniels Lane shouted commands at Mr. Chabel. The commands included “show me your hands” and “get on the ground.”

At 9:50:41 AM, Officer King, who was to the east of Mr. Chabel, fired a single round at Mr. Chabel, and the sounds of several additional gunshots came from the direction of the officers who were to the west of Mr. Chabel.

At 9:50:50 AM, Sergeant Ferguson ordered the officers to cease fire. BPD Officers from the east and west approached Mr. Chabel. As officers got close to Mr. Chabel, Sergeant Ferguson asked, “Where’s the gun?” He and another officer moved Mr. Chabel’s body approximately three feet from the dirt area along Daniels Lane where he had fallen, south towards the pavement. Sergeant Ferguson then told officers, “Find that gun.” Officers looked in Mr. Chabel’s immediate area and found a butterfly knife, but they were unable to find a handgun.

At 9:52:30 AM, Sergeant Ferguson said “admin,” and turned off his BWV’s audio recording. He then walked back toward Mr. Chabel’s encampment.

At 10:02:22 AM, Sergeant Ferguson turned his BWV back on to record the search of Mr. Chabel’s encampment. Sergeant Ferguson and other BPD officers searched Mr. Chabel’s encampment and found it was unoccupied. Mr. Chabel’s handgun was found outside of his encampment. Sergeant Ferguson asked a BPD officer to stay with the handgun.

Sergeant Scott Lazenby

Although Sergeant Lazenby was wearing his BWV, he did not activate it until the first OIS had ended. Once activated, his BWV showed that Sergeant Lazenby remained at the first OIS scene and cordoned off the scene using yellow crime scene tape. After putting up the crime scene tape, Sergeant Lazenby described the incident to two BPD officers. He said that when he arrived, he saw Mr. Chabel talking to another man (later identified as W-2). Sergeant Lazenby stated: “So it was him and some other dude. He basically starts walking away from us, and we’re giving him commands - we’re giving him commands, he won’t take his hands out of his pockets. Then he basically 417’d us, so we gave him commands to drop the gun, and then he goes back behind the wooded area after several shots are fired.”¹⁴

Sergeant Lazenby’s BWV showed that Sergeant Ferguson returned to the first OIS scene, and Sergeant Lazenby told him that Mr. Chabel’s encampment needed to be cleared. Sergeant Ferguson replied that officers had fired rounds into the encampment, and informed Sergeant Lazenby that “one firearm has been located south of the tracks.” Sergeant Lazenby advised dispatch that officers would be clearing the encampment. Sergeant Ferguson said that officers were clearing the encampment. Sergeant Lazenby notified BPD dispatch that the encampment had been cleared. He then stated, “I need to sit in my truck for one minute brother, people can leave me alone.”

¹⁴ The “wooded area” was part of Mr. Chabel’s encampment.

Officer Chad Rodgers

Officer Rodgers wore a BWV which fell off as he chased Mr. Chabel. His BWV did not record any part of the second OIS.

At 9:44:45 AM, Officer Rodgers arrived at the scene of the first OIS and activated his BWV. He got out of his patrol car and ran to the passenger side door of Sergeant Lazenby's patrol SUV.

At 9:45:01 AM, Officer Rodgers opened the passenger door of Sergeant Lazenby's SUV, stood behind the door, drew his handgun, and pointed it at Mr. Chabel's encampment.

At 9:45:05 AM, Officer Rodgers ordered Mr. Chabel to "come out with your hands up, do it now."

At 9:45:08 AM, the tarp covering Mr. Chabel's encampment was raised and lowered, and Officer Rodgers fired one gunshot at Mr. Chabel. Officer Rodgers then fired two more times in the direction of Mr. Chabel's encampment.

In a slowed down version of the BWV, at 9:45:11 AM, an object disturbed the dirt berm below the railroad tracks.

At 9:45:13 AM, Officer Rodgers fired one more gunshot into Mr. Chabel's encampment.

At 9:45:17 AM, Mr. Chabel left his encampment, running to the west, away from the BPD officers. Between 9:45:21 AM and 9:45:23 AM, Officer Rodgers fired his handgun three more times at Mr. Chabel as Mr. Chabel left the encampment and ran up the embankment toward the railroad tracks.

At 9:45:24 AM, Officer Rodgers ran after Mr. Chabel. He ran over the train tracks yelling commands at Mr. Chabel: "Get on the fucking ground, you better get on the ground now," and "Bakersfield Police get on the fucking ground, motherfucker!"

At 9:45:48 AM, Officer Rodgers' BWV fell off his uniform and stopped recording. It was found at 12:24:12 PM on the west side of the train tracks near the first OIS scene.

Forensic Analysis of Officer King's BWV

A forensic video analysis of Officer King's BWV was conducted by Justin Rosander of JSM Forensics. Mr. Rosander is a certified forensic video technician and examiner who has qualified as an expert in state and federal courts. Mr. Rosander also holds a California investigation license. He was retained by DOJ to synchronize BWV and other video obtained from witnesses and security cameras and to determine whether the video quality was sufficient to determine whether Mr. Chabel threw a firearm during the first OIS and whether Mr. Chabel threw a knife during the second OIS. As to the second OIS, Mr. Rosander could not determine from video footage if Mr. Chabel possessed a knife or threw it. As to the first OIS, he concluded that a "dark colored object appeared to be tossed or thrown from the general area of the individual toward the railroad tracks out of view." He could not determine whether the dark colored object was a firearm, knife, or other object because there was insufficient image resolution.

Officer James King

Officer King's BWV was not time stamped. He turned his BWV on when he got out of his patrol car. He immediately pointed his handgun at Mr. Chabel as he walked towards Mr. Chabel. Sergeant Ferguson

yelled, “He’s got a gun!” Mr. Chabel raised his right hand which contained an object and pointed the object in Sergeant Ferguson’s direction.

Officer King moved to the back of his patrol car. Sergeant Lazenby was to Officer King’s right and was firing his handgun at Mr. Chabel. Officer King shouted at Mr. Chabel, “Show us your fucking hands!”

Officer King fired his handgun eight times at Mr. Chabel while he was in the encampment, and then again ordered Mr. Chabel to “show us your hands!” Mr. Chabel ran from his encampment, heading away from the officers. As Mr. Chabel ran from his tent and up the embankment, Officer King fired his handgun five more times at Mr. Chabel. Officer King then ran after Mr. Chabel. As he pursued Mr. Chabel, Officer King yelled, “Bakersfield Police stop running!” Officers King and Rodgers pursued Mr. Chabel as he ran across a field in the direction of Daniels Lane. Mr. Chabel continued running away from the officers. BPD Officer Ryder had arrived on Daniels Lane as Mr. Chabel approached. The officers ordered Mr. Chabel to stop.

Officers King, Rodgers, and Ryder followed Mr. Chabel as he walked on Daniels Lane. The officers ordered Mr. Chabel to “get on the ground.” Officer Ryder asked Officers King and Rodgers, “What does he have guys, a knife?” Officer King responded, “A firearm.”

Sergeant Ferguson drove westbound in Officer Ryder’s patrol SUV. Sergeant Ferguson parked the SUV on the south curb of Daniels Lane and got out of the SUV. Sergeant Ferguson stood in the driver’s side A-Pillar of Officer Ryder’s patrol car and fired two rounds at Mr. Chabel as Mr. Chabel walked away from the officers who had pursued him from the first OIS scene. Officer King moved to the back of Officer Ryder’s patrol SUV.

Sergeant Ferguson said, “Units engage.” Officer King fired three rounds at Mr. Chabel, who was then walking away from the BPD officers who were on the east side of Daniels Lane and towards officers who were on the west side. Several other officers also fired rounds at Mr. Chabel. Sergeant Ferguson said, “Suspect down, making entry team from the west.” Officer King then moved to the south curb of Daniels Lane and moved towards Mr. Chabel. Officer King aimed his firearm at Mr. Chabel and ordered him to “get on the ground, get on the fucking ground!” Officer King fired his handgun one more time at Mr. Chabel.¹⁵

Sergeant Ferguson shouted, “Cease fire, cease fire!” Officers stopped firing and began to move towards Mr. Chabel, who had fallen. Sergeant Ferguson asked, “Where’s the gun?” Senior Officer Ko responded, “He threw it right there.” Sergeant Ferguson and Officer William moved Mr. Chabel from the area where he had fallen to a flat area approximately three feet away. Officers placed handcuffs on Mr. Chabel and began to look for his injuries.

Sergeant Bishop asked, “Who’s all the shooters, I need you all to come over here,” gesturing to the south sidewalk of Daniels Lane. Officer King turned off the audio of his BWC.

¹⁵ BPD Detective John Dunn measured the distance between the location where Mr. Chabel fell and Officer Ryder’s patrol vehicle as 258 feet. A single casing from Officer King’s handgun was found approximately 165 feet away from Mr. Chabel’s body.

Officer Anthony Flores

Officer Flores did not activate his BWV until the OIS was over.

Officer Dominic Ramirez

Officer Ramirez's BWV was not time-stamped. His BWV shows that Officer Ramirez arrived at Daniels Lane and got out of the passenger side of his patrol car. Other BPD officers are seen taking cover and drawing their weapons. Officer Ramirez walked past an officer and said, "I'm behind you, I'm behind you." He stated, "I'm here Summit." An officer is heard saying "drop it, drop it."

Officer Ramirez took cover. His BWV was then pointed towards the ground, and his shadow appears to be crouching. At the same time, Mr. Chabel can be heard yelling at officers, "Mata me" (Spanish for "kill me.")

Sergeant Ferguson, using the BPD police radio, told the officers to "engage," and Officer Ko said, "Do it." A volley of shots is heard. Sergeant Ferguson broadcast, "Suspect's down, make an entry team." Officers are heard shouting "don't move, don't move," "don't pick it up," "he's moving," and "stay on the ground." Additional gunshots are heard. Officer Ramirez advanced towards Mr. Chabel and took cover behind a blue metal structure. Additional gunshots are heard, and then a command to "cease fire." A voice is heard saying, "Watch his hands." Officer Ramirez stands up, and he and other officers move towards Mr. Chabel; the other officers have their rifles pointed at Mr. Chabel while Officer Ramirez's rifle appears to be in the low ready position.

Officer Cortez Summit

Officer Summit's BWV did not contain timestamps. He responded to the OIS scene on Daniels Lane. One minute after he arrived, he announced to other units that he saw Mr. Chabel walking toward him. Officer Summit knelt behind the front passenger side of a gray Toyota Corolla. As Mr. Chabel walked in the middle of Daniels Lane, Officer Summit ordered him to "drop it." Mr. Chabel walked away from the officers who were on the southwest side of Daniels Lane and said, "Mata me," which is Spanish for "kill me," and continued to walk away from the officers.

Sergeant Ferguson gave the command for units to "engage," and Officer Summit announced he was going to "take the shot." He and other BPD officers fired rounds at Mr. Chabel. Mr. Chabel fell to the ground. Officer Summit, who had been kneeling, stood up and moved toward Mr. Chabel. Mr. Chabel was moving. Officer Summit gave Mr. Chabel orders not to move. Mr. Chabel kept attempting to rise. Officer Summit fired another round at Mr. Chabel. Officer Summit ordered "don't pick it up" and "don't do it." Mr. Chabel kept moving. Officer Summit fired another five rounds at Mr. Chabel, who fell to the ground, landed on his back and did not rise again. Sergeant Ferguson said loudly, "Cease fire," and Officer Summit said, "Aw shit."

The BPD officers moved toward Mr. Chabel. Officer Williams and Sergeant Ferguson moved Mr. Chabel's body onto a flat surface where Mr. Chabel was handcuffed and searched.

Senior Officer Nicholas Ashby

Officer Ashby's BWV was not time stamped. His canine was barking (as can be heard on his BWV) as Officer Ashby arrived on Daniels Lane. Officer Ashby got out of his patrol vehicle and walked behind Officer Ko. They joined Officers Flores and Summit behind a gray Toyota Corolla. Officers Flores and

Summit had their rifles pointed at Mr. Chabel and were shouting orders at him. BPD officers repeatedly shouted, “show me your hands,” and “drop the gun.” Officer Flores said, “I’ve got a shot.”

Officer Ashby drew his handgun and pointed it in Mr. Chabel’s direction. Sergeant Ferguson broadcast, “Engage.” BPD officers fired at Mr. Chabel. Officer Ashby fired two shots at Mr. Chabel. Other officers continued shooting at Mr. Chabel and continued to give him orders. Officer Ashby ordered Mr. Chabel to “stop moving.” A second volley of gunshots was fired by BPD officers at Mr. Chabel while he was on the ground, but Officer Ashby did not fire his handgun at that time. Sergeant Ferguson said, “Cease fire,” and Officer Ashby noted, “He’s still moving.”

BPD officers approached Mr. Chabel and Officer Williams and Sergeant Ferguson moved Mr. Chabel about three feet from where he had fallen. Sergeant Ferguson told the officers to “find that gun.” BPD Officers turned Mr. Chabel onto his stomach, handcuffed him, and searched him.

Sergeant Bishop ordered the shooting officers to come to him. Officer Ashby joined other BPD officers. Officer Rodgers said, “He shot at us a couple times. Fucker.” Officer Ashby replied, “He did?” Officer Flores pointed to the east and said, “He was still popping off when he got right here.” Officer Rodgers said, “Oh yeah, I wonder where the fucking gun is at, he was fucking smoking rounds at us in the beginning.”

Surveillance Video

BPD detectives collected video footage from two businesses, one private residence, and two citizen cellphone recordings:

1. Service Master (63 video files from one camera) 217 Daniels Lane.
2. Mann Transportation (5 video files from three cameras) 313 Daniels Lane.
3. Private Residence Arlo Camera (5 video files from one camera) 700 Smith St. #A
4. Cell phone video from Martha Herrera (1 video file) 501 East Belle Terrace
5. Cell phone video from W-1 (2 video files) Train tracks at first OIS scene.¹⁶

Mann Transportation

Camera 6 from 313 Daniels Lane faced northeast. At 9:54:05 AM, it shows Mr. Chabel walking westbound along the north side of Daniels Lane, waving his arms. At 9:54:19 AM, Mr. Chabel brings his hands together by his face and his left arm goes up and down to approximately a 90-degree angle pointed away from his body, and appears to be grasping something in his left hand. Mr. Chabel’s distance from the camera and the quality of the recording make it impossible to determine from the video what Mr. Chabel is holding. At 9:54:24 AM, Mr. Chabel looks back to the east then continues westbound, all while having his left arm in a 90-degree angle. At 9:54:34 AM, Mr. Chabel walks out of the frame.

Camera 10 from 313 Daniels Lane faced northwest. At 9:54:32 AM, Mr. Chabel enters the camera view walking northwest with his left arm at a 90-degree angle. At 9:54:44 AM, Mr. Chabel is shot and falls to the ground. At 9:55:42 AM, officers from the west begin moving east toward Mr. Chabel. At 9:55:51 AM, officers from the east begin moving west toward Mr. Chabel. At 9:56:30 AM, officers contact Mr. Chabel.

¹⁶ W-1’s cell phone video documents his observations during the first OIS, which are set forth below in the interview section.

INTERVIEWS OF POLICE AND CODE ENFORCEMENT OFFICERS

None of the BPD officers who were involved in this incident as shooting officers provided voluntary statements. 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 against the employee 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, *Garrity v. State of New Jersey* (1967) 385 U.S. 493, 500.) Accordingly, no compelled statements were considered as part of this investigation.

Several of the witness officers provided voluntary statements. The following are summaries of their interviews. Officer interviews consist of the officer's recollection of the incident. These recollections may be inconsistent with the facts ultimately determined by DOJ's independent review of the evidence, including video footage.

Code Enforcement Officer Charles Babbitt

On December 20, 2022, at 1:58 PM, Bakersfield Code Enforcement Officer Charles Babbitt was interviewed by BPD detectives Frank McIntyre and Kyle McNabb.

Mr. Babbitt worked for Bakersfield City Code Enforcement. On the morning of the OIS, he was assigned to the Rapid Response Enforcement Team with Code Enforcement Officer Able Gonzales.

At approximately 9:30 AM on December 20, 2022, W-1 called Officer Babbitt and said he had been confronted by Mr. Chabel. W-1 asked Officer Babbitt to have BPD officers respond to his location. W-1 said that Mr. Chabel had threatened him with a weapon and said that "he was going to shoot anybody who tried to clean his camp." W-1 said that Mr. Chabel was wearing a brown hooded jacket and blue jeans.

Officer Babbitt feared W-1 was in danger, so he tried calling BPD Officer Ko, but got no answer. Officer Babbitt then contacted Sergeant Ferguson and gave him the location and description of Mr. Chabel. Officer Babbitt said that railroad personnel had been threatened by Mr. Chabel with a weapon and personnel believed Mr. Chabel had a weapon.

Officer Babbitt arrived at the scene of the first OIS before Sergeant Ferguson. He was located in the field close to Madison Street and East Belle Terrace. Mr. Chabel was 75 yards away, which was too far for Officer Babbitt to see if Mr. Chabel had a firearm. Mr. Babbitt and his partner drove their vehicle toward a nearby field. He did not see BPD officers arrive near Mr. Chabel's encampment, but heard shots being fired. He looked in the direction of the shots and saw at least three police vehicles and three or four officers who were relatively close to each other. All three officers had their weapons drawn and Officer Babbitt could not tell who was firing. He saw the suspect (Mr. Chabel) running away. The officers were firing at him as he fled.

Code Enforcement Officer Able Gonzales

On December 20, 2022, at 2:20 PM, BPD detectives McIntyre and McNabb interviewed Code Enforcement Officer Able Gonzales at BPD Headquarters.

Officers Gonzales and Babbitt were leaving another call when Officer Babbitt received a telephone call from W-1 regarding a transient with a firearm near the train tracks at East Belle Terrace. Officer Gonzales heard W-1 say that he was trying to get a homeless man, Mr. Chabel, to vacate an area but Mr. Chabel had threatened him. W-1 said that he believed Mr. Chabel had a gun. Officer Babbitt said that he would call the police, which he did.

As Officer Gonzales drove to W-1's location, they saw Sergeant Ferguson pull up in his BPD patrol truck. As Officer Gonzales looked for a safe place to park, he saw BPD officers with their guns pointed at Mr. Chabel, and then he heard gunshots. Officer Gonzales did not see a weapon in Mr. Chabel's possession because "he was climbing and getting on the tracks and then going over, and they (BPD officers) were like kind of, they were waiting, they were behind him." He did not see any firearms.

Senior Officer Michael Ko

On December 20, 2022, at 3:40 PM, BPD Officer Michael Ko was interviewed by BPD Detectives N. Benavente, and J. Perez. Officer Ko was assigned to the Impact Unit, which dealt with quality-of-life issues, many involving transients, loitering, trespassing and encampments. They worked with City of Bakersfield code enforcement officers.

That morning, Officer Ko was driving a BPD Ford Explorer. He received a phone call from a code enforcement officer stating that he needed help at Madison and East Belle Terrace at the train tracks. There was a "railroad cleanup guy" that was having issues with a transient encampment, and there was a person there that they believed was armed with a firearm. Officer Ko notified Sergeant Ferguson, who arrived on scene before Officer Ko did. Officer Ko heard over the radio that the suspect was refusing to take his hands out of his waistband. As he was driving to Sergeant Ferguson's location, he heard a call of "998" (officer involved shooting). When he arrived, Sergeants Ferguson and Lazenby, and Officers Rodgers and King, were already there. They had their firearms drawn. Officer Ko stated that he found this unusual because transients were usually "cooperative."

He heard rapid gunfire. He didn't know who was firing. He got out of his car to seek cover and heard several more rounds. He did not know where the gunshots were coming from. He saw an encampment in a trench below the patrol cars. He saw a Hispanic male (Mr. Chabel) going up the side of the trench and running westbound. He could not see the man's hands. He heard "a bunch of yelling" from the officers and saw Officers Rodgers and King chasing Mr. Chabel on foot, who was a few hundred feet ahead of them. Sergeant Ferguson also chased the suspect. Officer Ko stayed with Sergeant Lazenby to clear the encampment. He heard Sergeant Ferguson say he needed someone to bring his truck. He tried to maneuver his police Ford Explorer into the field to cut off the suspect, but he was unable to do so. He drove around to a street (Daniels Lane) next to the Service Master business and saw the suspect on the north side of the street. Officers were yelling at him, and he was ignoring commands. Officer Ko could not see his hands. Initially the suspect was walking toward the officers. He then stopped and started yelling. He seemed very agitated and kept yelling. Officer Ko could not hear what he was saying. He heard officers saying, "show me your hands, show me your hands."

Officer Ko set up behind Officer Summit who was sheltering behind a car. Officer Summit had a rifle. Officer Ramirez and Officer Flores also had their rifles. He saw other officers coming from the east. They were 200 to 300 feet away from him. There was a crossfire situation.

Officer Ko heard over the radio that the suspect was armed with a firearm. He could not see the suspect's hands. One officer said, "I have a shot," and Officer Ko responded, "Take it." Six or eight shots rang out. The suspect went down. Officer Ko still could not see his (Mr. Chabel's) hands. Other officers were yelling at the suspect. Another volley of six to eight shots was fired. At that point the suspect stopped moving.

Officers from both locations moved in to take the suspect into custody.

Officer Ko felt that the suspect was a threat at the time the shooting occurred based on several factors: "At that time, so I heard that he was in possession with a firearm over the radio. You couldn't see his hands. He was noncompliant. He had already fled from officers. And the way he was agitated, I didn't know what his next move was, and I didn't know if he was going to try to fire at officers, and there's businesses that are occupied just 50 to a hundred feet away."

Officer Ko's Body Worn Video

Officer Ko's BWV was not time stamped. When he arrived at the first OIS location near the railroad tracks at Madison Street and East Belle Terrace, Sergeant Ferguson, and Officers Rodgers and King were running over the train tracks in pursuit of Mr. Chabel. Officer Ko asked Sergeant Lazenby, "Did he shoot at you?" Sergeant Lazenby responded, "He 417'd all of us."

Officer Ko told Sergeant Lazenby that Mr. Chabel's encampment needed to be cleared. Sergeant Lazenby told him that "they need two additional units before clearing the camp." Sergeant Ferguson then transmitted by radio that he needed an officer to bring his truck to him across the field. Sergeant Lazenby agreed to "hold" the Madison Street and East Belle Terrace location. Officer Ko drove to Daniels Lane to assist the BPD officers who were pursuing Mr. Chabel. Those BPD officers gave Mr. Chabel commands to "drop the gun now!" Mr. Chabel responded to the officers in Spanish. Officer Ko observed Officers Flores, Ramirez, and Summit armed with rifles; he joined several other BPD officers who were behind and to the sides of a parked Toyota Corolla; these officers were armed with pistols.

At the time, Mr. Chabel was walking west on Daniels Lane. "So initially he was walking towards us. Uh - he then stopped - just started yelling. I couldn't see his hands. He was refusing. He seemed very, very agitated. He just kept yelling. I couldn't hear what he was saying. He just ignored commands, but he just seemed very agitated. He just stopped in the middle, next to that no trespassing sign and just kind of stood there and just yelling." This concerned Officer Ko: "[H]e was yelling, acting agitated. He was ignoring numerous commands. I was hearing officers say, 'show me your hands, show me your hands.'" Officer Ko was armed with a pistol and had heard that the suspect had a firearm, but he could not see the suspect's hands: "It looked like he was purposefully trying to conceal his hands. I had a pretty direct view of his whole body from the view from behind the vehicle."

One gunshot was fired from the east side of Daniels Lane at Mr. Chabel as he was walking westbound. Officer Flores tried to fire his rifle at Mr. Chabel three times, but his rifle misfired each time. Sergeant Ferguson broadcast "engage" over the police radio. Officer Ko told the officers around him to "do it!" Officers Ashby and Summit each fired several gunshots at Mr. Chabel. Mr. Chabel fell to the ground.

Officer Summit, who had been kneeling, stood up and approached Mr. Chabel. Officer Ko said, "Threw it." As other BPD officers advanced towards Mr. Chabel, they noticed that he was moving and issued commands to him: "Don't move," "don't pick it up," and "don't do it!" The officers fired their guns at

Mr. Chabel again. As Sergeant Ferguson said, “Cease fire, cease fire,” the BPD officers continued yelling commands at Mr. Chabel. Officer Ko told the officers who were on the west of Daniels Lane, “Hang on, just chill.” He confirmed with Sergeant Ferguson that the officers who were on the east of Daniels Lane were going to approach Mr. Chabel.

When they were near Mr. Chabel, Sergeant Ferguson asked, “Where’s the gun?” and Officer Ko replied, “He threw it right there, he threw something. Just in front of him.”

Sergeant Ferguson grabbed Mr. Chabel’s left leg, and Officer Williams grabbed Mr. Chabel by his arms. They moved Mr. Chabel’s body three to five feet and Sergeant Ferguson said, “Find that gun.” Officer Ko replied, “He threw something up here.” Sergeant Ferguson said, “Search him” then pointed towards the ground and said, “There’s a knife there.”

Officer Ryan Ryder

On December 20, 2022, at 4:16 PM, Officer Ryan Ryder was inspected and interviewed by BPD Detectives Benavente and Perez.

On the day of the OIS, Officer Ryder was assigned to the Impact Unit. He was paired with W-3, a Kern County Mental Health worker (“MHW”). They handled and assisted on calls requiring mental health evaluations. They drove a BPD Ford Explorer.

Officer Ryder was on another call for service when his police radio broadcast that an OIS had occurred. He looked up the location of the shooting, which was Madison Street and East Belle Terrace. As he drove to that location with his patrol vehicle’s lights and sirens on, he heard another broadcast that the suspect was running westbound through a field. The officers sounded “winded” as they broadcast their location. He drove through a dirt field near East Belle Terrace and saw Officers Rodgers and King walking quickly behind the suspect, whom he later identified as Mr. Chabel. Officer Ryder parked his patrol vehicle in the dirt field at the east end of Daniels Lane and got out of the Explorer. Mr. Chabel was holding a dark object in his left hand; it was at his side, near his left leg. The object was less than a foot long, but Officer Ryder could not tell what the object was. Mr. Chabel never pointed the object at Officer Ryder. Because officers had been involved in a shooting with Mr. Chabel, Officer Ryder unholstered his handgun and pointed it at Mr. Chabel. He told Mr. Chabel to “get on the ground, Bakersfield Police, drop whatever you have in your hand.” He gave many commands to Mr. Chabel, who yelled something in his direction, turned his back towards Officer Ryder and walked away westbound on Daniels Lane.

Officer Ryder followed Mr. Chabel westbound; Officers Rodgers and King also followed Mr. Chabel. They were approximately 30 feet behind Mr. Chabel. Mr. Chabel moved his hands in front of his body, and Officer Ryder could no longer see them. He asked Officer Rodgers, “What does he have in his hand.” Officer Rodgers responded, “He has a firearm, he just shot at us.” That information caused Officer Ryder to believe that the object he had seen in Mr. Chabel’s hand was a gun. He continued to give commands to “get on the ground, drop what’s in your hands,” to Mr. Chabel, who did not comply and continued walking westbound away from him and Officers Rodgers and King. The officer came upon a tractor-trailer truck parked in the middle of the road, and the officers used the truck as cover. Officer Ryder watched Mr. Chabel to make sure he did not enter any of the businesses along Daniels Lane.

Other officers arrived at the west end of Daniels Lane and cut off Mr. Chabel's path. Officer Ryder broadcast over the police radio, notifying the officers to the west that he and other officers were to their east, to avoid a potential crossfire situation. He heard a radio broadcast telling him and Officers Rodgers and King to stop advancing. They stopped on the south side of Daniels Lane and saw that Mr. Chabel continued to walk westbound.

Sergeant Ferguson drove up in Officer Ryder's Explorer. Officer Ryder heard officers on the west end of Daniels Lane giving Mr. Chabel commands, which Mr. Chabel ignored. Officers told Mr. Chabel to show his hands. Because Officer Ryder was behind Mr. Chabel, he could not see his hands.

Within a few seconds, Sergeant Ferguson yelled, "Engage," meaning "shoot." Officer Ryder did not have a view of the suspect when that statement was made, as there were two officers in front of him: "So, my -- my attention was not on the suspect when he yelled engage and then within seconds the fires were being shot. Um -- I was focused on the other officers - first of all the two that were in front of me - Officers King and Rodgers, and then the other officers over on the west end. I was making sure that we weren't in their line of fire and then by the time I heard him say engage and the shots were being fired, those officers were in front of me and the suspect starting then falling to the ground."

Officer Ryder heard gunshots coming from the officers to the west on Daniels Lane and from the officers around him. He could not tell which of the officers had shot. Mr. Chabel fell to the ground. The officers continued giving commands to him to show them his hands. Mr. Chabel was slightly moving but was not showing his hands. Once he stopped moving, the officers began approaching him from both sides and once it was determined that he was no longer armed the officers took him into custody and started CPR.

Officer Ryder said he had been "terrified." He believed Mr. Chabel was a threat due to the initial information that had been broadcast over the police radio, because Mr. Chabel did not obey the orders officers had given him, and because Mr. Chabel was moving towards other officers. He believed Mr. Chabel was armed with a gun and never saw Mr. Chabel discard anything from his hand.

Officer Amy Droege

On December 20, 2022, at 2:58 PM, Officer Amy Droege was interviewed by BPD Detectives Benavente and DOJ Special Agent Marco Perez. Officer Droege had been a BPD police officer for two and a half years at the time of her interview. She had no prior law enforcement experience.

On December 20, 2022, she was in uniform and was driving a marked BPD police car. Her partner was Officer Eric Hearn. She was assigned to the Special Enforcement Unit, a criminal street gang task force. She and her partner started their shift early that day so that they could pass out Christmas baskets in the morning. After handing out the baskets they were on their way back to the police station.

She was monitoring police radio traffic when she heard Sergeant Ferguson broadcast that he was en route to assist code enforcement with a "disturbing the peace" call for service. She then heard a broadcast of "998" over the radio, which is the code for an officer-involved shooting, and that the suspect was fleeing from the shooting scene, across the railroad tracks and towards Daniels Lane. She heard Sergeant Ferguson broadcast that the suspect was fleeing from the OIS scene and that he was still armed with a firearm.

She and her partner drove “code” (with lights and sirens activated) towards Daniels Lane. The subject description was broadcast; he was described as a male wearing a brown jacket and pants. They were heading eastbound on Daniels Lane in their patrol car when Officer Droege saw the subject jogging in the middle of the roadway. There had been a broadcast that the suspect was armed with a firearm and was fleeing from a prior shooting, and she realized that she and her partner were right in front of the suspect. She knew that the suspect was running in the direction of open businesses on Daniels Lane and that South Union Street intersects Daniels Lane; there was a restaurant and a gas station there that were always occupied by civilians. She was concerned that the suspect was fleeing toward them with a firearm, and she was concerned that the suspect would be a danger to civilians.

Officer Droege pulled her patrol car over and got out of the car. She was 75 to 100 yards away from the suspect, and he was jogging westbound towards her. She began walking briskly towards the suspect. Other officers had arrived on Daniels Lane and were also walking toward the suspect. Once she had a better view of the suspect, she realized that he was further away than she had originally thought. BPD officers do firearms qualifications, and sixty feet is the furthest distance they qualify from while shooting their handguns. The suspect was more than sixty feet away from her. She returned to her patrol car and got her rifle. She believed the suspect was still armed with a firearm and felt that she was far enough away that she would shoot more accurately with her rifle if she had to engage with the suspect.

Officer Droege did not consider a less lethal approach because the suspect had already been involved in a shooting and was still armed, which “made it a lethal engagement” at that point. She had pepper spray, a Taser and a baton available to her, but the suspect was too far away to make their use possible. She believed that officers’ lives would be endangered by the use of less lethal force options.

She had heard shots fired while she was still retrieving her rifle. As she was walking back towards the suspect, she could not see his hands. She took cover behind a parked patrol car and placed her rifle on the passenger side mirror of the patrol car and looked through her rifle sights. There were marked police vehicles with their lights activated that the suspect could have seen. The suspect was 70 to 85 feet away from her. His hands were either in his pockets or near his waistband. She had a side view of the suspect, whose hands were both concealed. She heard officers saying, “drop the gun, drop the gun.” Other officers engaged. After that, she saw the suspect on the ground. He was bracing his right hand on the ground as if he was trying to get up, but she could not see his left hand. She was afraid that he might get into a kneeling position for greater stability while using a firearm in his left hand. A second volley of shots were fired. She did not shoot at the suspect during the first volley because other officers were downrange from her, in front of her. She did not shoot during the second volley because Officer Flores backed into her creating an officer safety situation.

Officer Matthew Williams

On December 27, 2022, Officer Matthew Williams was interviewed by BPD Detective Jesse Perez and DOJ Special Agent Perez; Officer Williams’s attorney was present. Officer Williams had been a BPD Officer for two years at the time he was interviewed. He had no prior law enforcement experience.

On the day of the OIS, Officer Williams was on duty, in BPD uniform, and was equipped with a body-worn camera. He was driving a marked BPD Ford Taurus. He did not have a partner officer. He was assigned to patrol the Valley Zone, south of Highway 58 to Taft Highway, east of Highway 99 to Rock Pile.

Officer Williams was on his way to another call when he heard a radio call that code enforcement officers needed assistance. He knew that his sergeants were on their way, and they said they would handle the call. He then heard over the radio that they had contact with a suspect who was reaching toward his waistband; Officer Williams knew that this was a potential threat and started heading toward the sergeants' location. He then heard a broadcast of radio code 998, a call indicating that an officer has fired his gun at a suspect. He next heard a radio call that the suspect was heading westbound toward Union Street and was armed with a firearm. The suspect was described as a Hispanic male wearing a brown jacket. As he got closer, he heard a broadcast that the suspect was on Daniels Lane heading toward Union.

Officer Williams arrived at South Union and Daniels Lane. There were BPD officers already there. He parked his patrol car. He knew that there had been an officer-involved shooting and that the suspect had reached for his waistband. He had heard a broadcast that the suspect was still armed and was moving toward the officers. He knew that he was some distance from the suspect and grabbed his patrol rifle, which he believed was more accurate at a distance than his handgun. He believed that he needed to be armed because the suspect was armed, and a shooting had already occurred, which he felt justified the use of deadly force. He thought that the only de-escalation techniques which could be used under the circumstances were verbal commands, since the suspect was armed and far away. His Taser had a range of 20 feet and would have been ineffective against a suspect who was able to use deadly force. He did not have any long-range less than lethal weapons in his patrol car.

He joined the other uniformed BPD officers on the south side of Daniels Lane, including Officer Summit and Officer Ramirez, who had their rifles out. They were standing near a parked Toyota. Officer Williams knelt down with his rifle. He saw the suspect walking westbound toward him and the other officers. He was concerned about crossfire because he could see other officers pursuing the suspect. The suspect began moving away from crossfire toward the north side of Daniels Lane, giving Officer Williams a backdrop of an open field. The suspect was a Hispanic male.

Officer Williams's primary concern was that the suspect was still armed and was walking toward him and the other officers. He raised his rifle and had the suspect in his sights. He was watching the suspect's hands. He heard other BPD officers give multiple commands to the suspect to "stop right there, let me see your hands, put your hands up." The suspect kept reaching towards his waistband and walking towards the officers. He did not comply with any of the commands.

Officer Williams saw that the suspect had some sort of metal object in his hands. Although he could not see any detail, he believed it was a firearm. Officer Williams believed the suspect was a threat to him and the other officers. He was also concerned because the suspect was getting closer even though he was being told to stop.

He could not see what the suspect's hands were doing but it looked like he was "pulling," and Officer Williams was about to pull the trigger on his rifle when he heard other shots fired and could tell that the suspect had been hit. The suspect fell down. The suspect threw or dropped the metal object about 10 yards away from him. Officer Williams was somewhere between 40 and 80 yards from the suspect at that time.

While the suspect was on the ground, other BPD officers gave him commands: "don't reach," "put your hands up," and "let me see your hands." The suspect was still moving and was reaching in his

waistband. Officer Williams felt that the suspect was reaching for a weapon, and he focused the sights of his rifle on the suspect. He was looking at the suspect's hands, and the suspect made a pulling motion from his waistband, which is where firearms are often carried. Officer Williams again felt that he needed to engage, but he heard multiple gunshots coming from the other BPD officers and so he did not shoot.

After that, the suspect was not moving or reaching for anything. A team of BPD officers with rifles approached the suspect. Officer Williams put his rifle on safety and swung it to his back and put gloves on so that he could handcuff the suspect. The suspect was on his back. Officers Williams and Simms rolled him over and Officer Lopez assisted them in handcuffing the suspect. He saw that the suspect had a bleeding wound to his upper thigh and applied a tourniquet to the suspect's upper thigh. He then started CPR on the suspect until the Fire Department arrived and took over and pronounced the suspect dead. Officer Williams broadcast the suspect's death over the radio so his time of death could be logged.

Officer Williams looked for the object the suspect had discarded and found a gold butterfly knife some feet away. He put a piece of paper near the knife to mark it for evidence. He and Officer Lopez stood by to make sure that nothing was tampered with. He stood by until the scene was cleared.

Officer Eric Hearn

On December 27, 2022, Officer Hearn was interviewed by BPD Detective Jesse Perez and DOJ Special Agent Perez; Officer Hearn's attorney was present. Officer Hearn had been employed as a BPD officer for two years at the time of his interview. He had no prior employment as a police officer.

At the time of the OIS, Officer Hearn was a passenger in the marked BPD Ford Taurus driven by Officer Amy Droege. They were assigned to the Special Enforcement Unit (SEU), which is the BPD gang unit. He had been a member of the SEU for five months. They were assigned to deliver Christmas baskets on the day of the OIS and had completed that assignment. They were on their way back to the BPD eastside station on Truxton Avenue when they heard a radio call that Sergeant Ferguson was responding to assist a code enforcement officer.

He and Officer Droege were in the BPD parking lot, and Officer Hearn was putting gas in their patrol car, when they heard an officer in distress call from Sergeant Ferguson (call sign "Lincoln Robert 1") advising that a suspect was reaching for his waistband. A short time thereafter, Officer Hearn heard a 998 call, which is an officer involved shooting call. He then heard a broadcast that the suspect was running westbound. He and Officer Droege responded Code 3 (lights and sirens activated). As they drove, a broadcast advised that the suspect was in possession of a handgun.

They travelled southbound on Union Avenue and turned east into Daniels Lane, where Officer Droege parked approximately 10 yards from a business called Service Master. Two or three other BPD officers were already there. He and Officer Droege got out of their patrol car. The suspect had been described as a Hispanic male wearing a brown jacket and jeans. Officer Hearn had seen a man matching that description walking quickly, westbound on Daniels Lane.

The other BPD officers had taken cover behind a gray Toyota and were 10 to 15 yards from his patrol car. Officer Flores was to the left of the Toyota, Officer Summit was to the right of the Toyota, Officer Williams was in a grassy area in the open, Officer Ramirez was taking cover behind another building.

Officer Hearn was five to 10 yards behind the Toyota and was near Officer Ko. Officer Ashby was also present. All of the officers who were in front of him had “lethal coverage” (they had their firearms drawn). Officers Flores, Summit, Williams, and Ramirez had rifles, and Officer Ashby had a handgun. When Officer Hearn got out of his patrol car, he drew his handgun. There was no place where Officer Hearn could obtain “cover”:

“Due to their being no cover concealment for myself, I had stepped back behind the vehicle, approximately five to ten yards. I was with Officer Ko. Due to all the officers in front of me having lethal coverage I was more going to take on the role of going hands on. Or less lethal, such as possibly taser, whatever options I believed was best at the time. So I had just monitored the situation as it was playing out.”

The suspect continued walking westbound. Officers were giving him commands to “drop the gun.” The suspect did not comply. Officer Hearn heard the suspect making incoherent statements and did not know what the suspect was saying. The suspect continued to walk to the west as BPD officers gave him further commands. Officer Hearn was concerned that he or another officer might be shot; he was also concerned that people in the adjacent buildings might be struck by gunfire.

Officer Hearn believed the suspect was armed with a firearm due to the broadcast he had heard. The suspect was holding his hands near his waistband, and his hands were in and out of his jacket pockets. Officer Hearn found this concerning because people commonly carry firearms in their waistband and pockets.

Officer Hearn did not feel that less-lethal options, such as taser, pepper spray, or baton, were viable because the suspect was too far away. He also did not feel that they were “necessary” because he believed the suspect was armed with a firearm.

BPD officers shot at the suspect. There was a volley of rounds being fired. Officer Hearn did not know which officers fired at the suspect. The gunshots had no effect on the suspect who continued to walk with his hands near his waistband. A round struck the suspect, and he fell to the ground.

Officer Hearn saw an object in the suspect’s hand. He did not know what the object was but could see that it was a shiny metal object. The suspect threw the object to the ground. The object was still relatively close to him, three to five feet from him.

After being struck and falling to the ground, the suspect sat up. He continued to reach toward his waistband or pockets as if he was trying to retrieve something. A second volley of shots was fired, and the suspect fell on his back. After that, the suspect no longer appeared to be a threat. He was lying on the ground on his back.

Officer Williams and Sergeant Ferguson handcuffed the suspect, and officers began rendering medical aid. Officer Hearn saw that the object thrown by the suspect was a silver and gold colored butterfly knife.

Officer Vincent Sims

On December 27, 2022, Officer Vincent Sims was interviewed by BPD Detective Jesse Perez and DOJ Special Agent Perez; Officer Sims’ attorney was present.

On the day of the OIS, Officer Sims had been a BPD officer for three years. He was driving a marked BPD patrol car. He did not have a partner. He was assigned to the Impact Team, a specialized unit dealing with quality-of-life issues in the City of Bakersfield, which included encampments. He was responding to a call when he heard Sergeant Ferguson broadcast that he was en route to a call. A minute later, he heard Sergeant Ferguson broadcast, “He’s reaching for his waistband.” About 10 seconds later, he heard “998” over the radio, which meant officer involved shooting.

Officer Sims used his computer to note that he was en route to the call. He learned that the suspect was still armed with a firearm, and he received a description of the suspect. He drove with his patrol car’s lights and sirens activated. As he approached the location of the call he grabbed his department-issued AR 15 rifle. He chose his rifle because it was more accurate, and he thought it was the best “tool” given the situation. He did not consider less lethal options because he understood that there was an “emergency situation,” an officer involved shooting, meaning either that a suspect had fired at officers or that the suspect did something that caused the officers to respond with deadly force.

As he approached the intersection of South Union and Daniels, Officer Sims initially did not see anyone. He looked 100 yards down Daniels to the east and saw another police car and multiple officers positioned on the south side of the roadway. Most of the officers were standing behind a silver sedan. There were a couple of officers crouching down. He parked his patrol car and ran toward the officers. He saw Officers Summit and Ko near the silver sedan.

Officer Sims was approximately 50 yards from the officers when he heard multiple gunshots, possibly eight gunshots. As he approached the officers, he saw that they were pointing their guns in a northeast direction. He looked in that direction and saw the suspect in a seated position about 50 feet to the northeast of the officers. He could not see the suspect’s hands and did not see any weapons in the suspect’s possession. His view was blocked by the officers who were in front of him.

As he got to the group of officers there was another volley of gunshots, three or four shots. He was not sure if the gunshots came from the group of officers he was with or from further east on Daniels. He heard officers near him giving commands like “let me see your hands” and “don’t move.” The commands went on for 15 or 20 seconds. The suspect did not appear to be listening. Everything was quiet for a few seconds and then one of the officers said that they needed to move up and secure the suspect.

They moved as a group. There were five or six officers in front of Sims who moved toward the suspect, as did a group of three or four officers who had been on the other side of the street. Someone shouted that they needed people to go “hands-on” with the suspect to take him into custody. Once Officer Sims got closer, he saw that the suspect was lying down with his hands up behind his head. Officer Sims did not see any weapon in the suspect’s possession or in the suspect’s vicinity.

An officer had grabbed the suspect’s left arm. Officer Sims grabbed the suspect’s right arm to handcuff him. They moved the suspect to a more level surface, and other officers began rendering first aid.

Officer Belkys Ripoll

On December 27, 2022, Officer Belkys Ripoll was interviewed by BPD Detective Jesse Perez and DOJ Special Agent Perez; Officer Ripoll’s attorney was also present. At the time of the OIS, Officer Ripoll was a BPD trainee. She had been an officer for eight weeks.

On the day of the OIS, she was in uniform, driving a BPD marked patrol Ford Taurus. She was on patrol with her training officer, Officer Dominic Ramirez. They were assigned to the Valley area, which is the portion of the City of Bakersfield south of Union, east of Highway 99 and up to Cottonwood.

Officer Ripoll and her partner were at the BPD substation on East White Lane when she heard a “998” (officer-involved shooting) radio call. Officer Ramirez said, “Let’s go.” She drove their patrol vehicle with lights and sirens eastbound on White Lane and turned north on Madison Street. She was focused on driving and did not listen to the radio. Officer Ramirez obtained his rifle and was getting it ready. They did not know what they were driving into. They were trying to figure out where the suspect was going. She turned off the patrol car’s lights and siren, so that they could listen to the radio. She heard the suspect’s description and heard that he was heading eastbound on Daniels Lane. She activated the patrol car’s lights and siren again and drove to Daniels Lane. She parked behind another BPD patrol SUV.

She and Officer Ramirez ran out of the car. She followed her training officer and saw several officers behind a vehicle. She went toward another BPD patrol SUV and walked up to the open driver’s door. She saw officers walking westbound from the east and knew that there was a potential for crossfire. She retreated behind the SUV’s C-pillar (the metal panel to the rear of the passenger window of a vehicle). She had her handgun out but did not have it pointed. Her view was blocked by a tree and by the SUV’s doorframe. The suspect was about 65 yards away from her. She could not clearly see his hands, but they were swaying by his side as he walked.

Officer Ripoll heard some gunshots and then heard officers giving commands. She could not recall exactly what was said, but there were commands to stop. She saw the suspect, who just kept walking. She heard gunshots and the suspect fell. Less than a minute passed between the time Officer Ripoll first saw the suspect walking and when he “went down.”

The suspect sat up. Officer Ripoll had the suspect’s head in her gun’s sights: “The suspect went down, and then he sat up to where at that’s when his head was exactly aligned to my sights. And then -- um - - before I could react, I heard gunshots again.” The suspect “went back down” again. She heard officers say that they were going to approach, and she holstered her gun. Other officers approached the suspect, handcuffed him and searched him.

INTERVIEWS OF CIVILIAN WITNESSES

As a part of the investigation, DOJ Special Agents conducted multiple canvasses for witnesses to the incident. The canvasses resulted in the discovery of several witnesses who were identified and interviewed. The following are summaries of their interviews, which describe the incident from the point of view of the witnesses.

W-1

On December 20, 2022, at 1:20 PM, BPD Officer David Hamma transported W-1 to the BPD Investigations Office to be interviewed. W-1 told Officer Hamma that he had observed Mr. Chabel throw a firearm from inside the tent to outside the tent, and Mr. Chabel then said, “Let them kill me. I’m ready.”

On December 20, 2022, at 1:57 PM, W-1 was interviewed by BPD Detectives Petris and Celedon. At the time of his interview, W-1 was employed by the San Joaquin Valley Railroad as a track inspector. He was using a truck to inspect the tracks, which he did once or twice a week. His truck had a weed sprayer.

W-1 stopped his truck and got out when he saw Mr. Chabel's encampment. Mr. Chabel was standing outside of his encampment. W-1 walked by Mr. Chabel as he was going to move a switch, so that the weed sprayer could go onto a spur line. He told Mr. Chabel that he could not be there because Mr. Chabel was on private property. Mr. Chabel responded, "Yeah, yeah, yeah, I know, I know." W-1 warned that code enforcement officers were coming behind him. He explained that railroad personnel usually moved encampments and then code enforcement personnel cleaned up after them. He warned Mr. Chabel to remove his belongings because code enforcement would haul the items away. W-1 had given Mr. Chabel similar warnings on at least two prior occasions. Mr. Chabel responded, "Ah, let them. Let them come. I'll shoot you and then I'll shoot them."

W-1 saw Mr. Chabel bend down and crawl into the encampment where he was staying. He came out "sticking something" in his waistband. W-1 turned away and kept walking. He was not sure what Mr. Chabel had put into his waistband. He called Officer Babbitt, the code enforcement officer. He asked Officer Babbitt if he knew any of the officers in the area who could assist him because he was afraid he was going to be shot. Officer Babbitt said he would contact someone. After he made the phone call, W-1 continued with his work. Within seconds, Officer Babbitt was there, and a few minutes later the officers arrived. Mr. Chabel was standing outside his encampment "pretty much waiting for the officers."

The officers started to command Mr. Chabel "to get on the ground, to get his hands out of his pockets and get on the ground." Mr. Chabel did not comply. W-1 saw Mr. Chabel pull a revolver gun out of his waistband and point it at the officers. W-1 took cover on the passenger side of his truck. He said Mr. Chabel "start[ed] shooting at the officers," and the officers returned fire. W-1 said that he heard Mr. Chabel shoot once, and then "all of the guns started going off," so he did not know if Mr. Chabel kept shooting. W-1 heard the officers tell Mr. Chabel to drop the weapon and get on the ground, but Mr. Chabel did not comply.

Mr. Chabel ran into his encampment. W-1 then started recording the incident. Mr. Chabel threw his gun out, and W-1 yelled that "he threw his gun down." W-1 was approximately 100 feet from the officers, and he did not know if the officers heard him. W-1 did not think the officers were in a position to see Mr. Chabel throw the gun.

W-1 yelled to Mr. Chabel to "stay down." Mr. Chabel started crawling up to the railroad tracks, went across the tracks, and "took off" running. At that point, the officers ran after him.

W-1 provided the recording to BPD. The recording shows Mr. Chabel inside his encampment. Officers ordered him to "show...your hands." Mr. Chabel lifted the tarp covering his encampment with his hands. The BPD officers fired at Mr. Chabel. The gunshots struck Mr. Chabel's encampment as well as the ground around his encampment. Mr. Chabel put his hands down and disappeared into his encampment. Moments later, W-1 said, "He threw it down." W-1 told Mr. Chabel in Spanish not to run. Mr. Chabel ran from his encampment. He ran to the west, away from the officers. BPD officers fired gunshots at Mr. Chabel as he ran; their bullets struck the dirt next to him.

On June 7, 2023, DOJ Special Agent Perez conducted a follow-up telephonic interview of W-1. W-1 said that all of his conversations with Mr. Chabel had been in Spanish. In the contacts prior to the day of the OIS, W-1 warned Mr. Chabel to relocate because the code officers would come through and clean up the encampment. Mr. Chabel replied that he would leave that night or the next day.

W-2

On December 21, 2022, at 11:40 AM, W-2 was interviewed by Bakersfield PD Detective P. Hernandez and DOJ Special Agent Perez.

On December 20, 2022, W-2 went to see Mr. Chabel (whom he knew as Juan Carlos) to buy a bicycle part. A truck was spraying along the railroad tracks. Another truck arrived and stopped at their location. A railroad worker got out of one of the trucks and told him and Mr. Chabel to take their belongings and leave the area because they were cleaning. Mr. Chabel entered his tent and got a gun. W-2 had known Mr. Chabel for four months and had never seen him with a gun before this. Mr. Chabel spoke only Spanish and did not speak English.

Mr. Chabel displayed the gun to the railroad worker. He said they were not going to force him to leave. Mr. Chabel held the gun in his palm and did not point it at the worker. Mr. Chabel told the railroad worker he had ammunition for the gun. The worker appeared frightened. W-2 was a few feet away from Mr. Chabel during his interaction with the railroad worker who was standing above them on the train tracks. The railroad worker was about 20 feet away from Mr. Chabel. W-2 told him that he should not have shown the gun to the railroad worker because the worker was going to call the police.

W-2 saw the police drive up, and he told Mr. Chabel that he should leave. Mr. Chabel refused to leave, saying he was going to protect his home, and that “no one is going to get him out of there over his dead body.” He tried to convince Mr. Chabel to give up saying, “Nothing is going to happen to you, just throw yourself on the ground and he didn’t do it. He instead went into his house.” Mr. Chabel appeared to be scared. W-2 walked away towards Madison Street. He did not see Mr. Chabel point the gun at officers or hear Mr. Chabel threaten them.

An officer in a marked pickup truck gave Mr. Chabel commands over the loudspeaker to surrender. Officers shot at Mr. Chabel, who was inside his tent. They paused and then resumed shooting at Mr. Chabel as he ran over the railroad tracks. He lost sight of Mr. Chabel after he ran across the tracks.

W-2 told Detective Hernandez that Mr. Chabel had made a statement about death and reincarnation. Mr. Chabel described how in death you don't really die; however, you are reincarnated into a different family. Mr. Chabel further told him that life was full of surprises. The day of the officer involved shooting was the first time they had ever spoken about death. Mr. Chabel had made statements that he was going to protect his home, and that the only way he would be removed from his home would be if he was dead.

W-3

On December 20, 2022, W-3 was interviewed by BPD Detectives Celedon and Petris.

On the day of the OIS, W-3 was employed by Kern County Behavioral Health and was paired with Patrol Officer Ryan Ryder. He was on another call when he heard a call of 998 over the police radio. He and Officer Ryder jumped into their patrol truck. He heard dispatch say something like a gun was confirmed. Officer Ryder found the location. He heard Sergeant Ferguson on the radio saying he was

going westbound. Officer Ryder drove through a dirt field and stopped the truck. Officer Ryder saw the suspect. Officer Ryder got out of the patrol truck and told the suspect to stop. W-3 saw something “shiny metal” in the suspect’s hand but could not tell what it was, but he “knew it was some type of weapon.” The suspect was about 40 to 50 yards away from him.

The suspect kept walking. Officer Ryder dropped something. W-3 got out of the truck to look for it. When he got back in the truck, he saw Sergeant Ferguson coming. Sergeant Ferguson got into Officer Ryder’s truck with W-3, and they took off towards the suspect, then stopped the truck quite a distance from the suspect. The sergeant said something to the suspect like “stop, turn around.” He heard officers say things “like, you know, stop, you know, police, put your hands up, drop -- drop the weapon, stop moving, you know, I don’t want to do this, man, like, stop.”

W-3 heard a shot, and he did not know where it came from; he did not know if the suspect was shooting toward him and the officers. He then heard many shots. When he opened his eyes, he saw the suspect sitting up, and he heard officers issuing commands. More shots were fired.

W-4

On December 20, 2022, at 5:40 PM, W-4 was interviewed by BPD Detectives John Dunn and J. Felgenhauer.

W-4 knew Mr. Chabel as “Juan Carlos.” He was her ex-boyfriend. He lived in a makeshift shelter near the railroad tracks. He sold “crystal” (methamphetamine) and “weed” (marijuana). Mr. Chabel had shown her a BB rifle he had; she saw him load it with BB ammunition. Several weeks before her interview, W-4 saw Mr. Chabel with a black .22-caliber revolver. He was trying to get ammunition for his gun. She asked why he needed the gun, and he said, “Things are rough now.” She had seen Mr. Chabel with a machete.

W-4 did not witness the OIS. After the shooting she spoke with W-2, who said he was with Mr. Chabel when the “train guy” came and told them to get their belongings and leave. Mr. Chabel had responded, “Not with this,” and had showed the handgun to the “train guy,” who backed away. The police came and told Mr. Chabel to get on the ground. He did not comply and ran into his tent. Officers fired at him as he ran into his tent.

W-5 and W-6

On December 21, 2022, at 10:20 AM, BPD Detectives P. Hernandez and Thomas Hernandez interviewed W-5 and W-6 at the Pros Food Trailer, 341 Daniels Lane.

W-5 said that he was starting a fire when he heard gunshots. He looked to the east on Madison Street and saw BPD officers and a white truck on the train tracks. He heard more gunshots and saw the officers chasing a suspect westbound. They ran out of sight. When the suspect ran by W-5’s business on the 300 block of Daniels Lane, he heard the suspect saying, in Spanish, to “come and get him and kill him.” W-5 walked towards Daniels Lane and saw the suspect walking westbound with the officers still following. W-5 heard one of the officers ask if the suspect had a knife, and another officer said the suspect was armed with a gun. The suspect and the officers continued westbound, then W-5 heard more gunshots. Neither he nor his brother, W-6, saw the actual shooting. W-6 heard officers yelling for the suspect to put his gun down and then heard gunshots.

APPLICABLE LEGAL STANDARDS

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

Murder

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

Second degree murder is the unlawful killing of a human being with malice aforethought but without the additional elements of willfulness, premeditation, and deliberation that would support a conviction of first degree murder. (*People v. Knoller* (2007) 41 Cal.4th 139, 151.) The malice required for second degree murder may be express or implied. (Pen. Code, § 188; *Hernandez, supra*, 183 Cal.App.4th at p.1332.) Malice is express when there is an “intent to kill.” (Pen. Code, § 188; *People v. Delgado* (2017) 2 Cal.5th 544, 571.) Malice is implied “when the killing results from an intentional act, the natural consequences of which are dangerous to life, which act was deliberately performed by a person who knows that his [or her] conduct endangers the life of another and who acts with conscious disregard for life.” (*People v. Dellinger* (1989) 49 Cal.3d 1212, 1215.)

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

Voluntary Manslaughter

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

LEGAL ANALYSIS

DOJ has completed an independent investigation and review of the facts and circumstances that led to the death of Mr. Chabel. This review and analysis is based on the totality of evidence provided to DOJ in this matter, including witness statements, forensic evidence, coroner's report, autopsy photographs, BWV footage, security camera video, police recordings, and police reports.

Because a prosecuting agency would need to affirmatively prove beyond a reasonable doubt that each officer did not act in lawful defense of himself or others, this is the primary issue in determining whether an officer's actions should subject him to criminal prosecution.

Based on the facts and circumstances of this case, DOJ could not disprove beyond a reasonable doubt that each of the shooting officers had reason to believe that Mr. Chabel was armed with a handgun throughout the course of the incident. Mr. Chabel initially displayed a handgun to W-1 and threatened to shoot anyone who came to clear his encampment. W-1 communicated the threat to a Bakersfield code enforcement officer who notified BPD Sergeant Ferguson that a railroad worker had been threatened with a weapon.

When Sergeant Ferguson arrived at the encampment, Mr. Chabel pointed a handgun at him. Sergeant Ferguson shouted loudly enough that he could be heard on Officers King's and Rodgers' BWV that Mr. Chabel had a gun. Officers reacted quickly by positioning themselves behind their patrol vehicles and firing at Mr. Chabel. The officers' reactions were consistent with a subjective belief that Mr. Chabel posed an imminent threat of death or serious bodily injury, and based on the circumstances and Mr. Chabel pointing a gun at Sergeant Ferguson, that belief was not objectively unreasonable.

Mr. Chabel then retreated into his tent. Officers King and Rodgers and Sergeant Ferguson ordered Mr. Chabel to show his hands and to drop his gun. Mr. Chabel instead proceeded to raise and lower the tarp covering his encampment, and the officers again fired at him. The officers could have perceived the movements of the tent to be an effort by Mr. Chabel to aim or fire at them, and that he continued to pose a lethal threat. Indeed, W-1 stated that he heard Mr. Chabel fire his gun, and Officer Rodgers later stated on BWV that Mr. Chabel was "smoking rounds at us in the beginning." While the forensic evidence does not indicate that Mr. Chabel fired his gun, the perception that he did was not necessarily unreasonable given his actions, the sounds of gunfire, and the totality of the urgent circumstances facing the officers at the time.

At one point, Mr. Chabel threw his handgun from the encampment. W-1 called out to the officers that Mr. Chabel had "tossed it." However, video evidence does not indicate that the officers saw the gun being thrown or heard W-1; W-1's words cannot be heard on the officers' BWV. Mr. Chabel next exited the encampment and moved up the embankment toward the railroad tracks with officers apparently unaware that the gun was no longer in his possession. Officers fired additional shots, which at that time could be consistent with a reasonable belief that Mr. Chabel was still armed and was a continuing threat to them or others in the area. W-1, who had been previously threatened by Mr. Chabel, was standing next to his truck on the railroad tracks above the encampment, and there were other

encampments nearby. Under such rapidly unfolding circumstances, an objective officer in this situation could have reasonably believed that an imminent threat persisted, and that having threatened the use of lethal force, Mr. Chabel was a fleeing felon who posed a deadly threat to others in the area north of the railroad tracks and in nearby businesses if not immediately apprehended. The non-shooting officers stated that they heard radio broadcasts that there had been an officer-involved shooting, that the suspect was still armed, and was running in the direction of occupied businesses and of the officers on Daniels Lane; it is reasonable to infer that the officers who fired also heard these broadcasts, and that this information informed their decisions to fire.

Mr. Chabel then ran northwest, and the officers pursued him. They shouted commands to show his hands and to get on the ground, but Mr. Chabel did not comply. Sergeant Ferguson informed dispatch that Mr. Chabel was armed. During the foot pursuit, a second group of officers had gathered from the west on Daniels Lane to block Mr. Chabel's path of escape. Many of the officers armed themselves with patrol rifles due to their distance from Mr. Chabel and the difficulty of making an accurate shot. These officers had heard Sergeant Ferguson's broadcasts that Mr. Chabel had pointed a gun at officers, that an officer-involved shooting had taken place, and that Mr. Chabel was still armed and running in their direction.

At the same time, Officers King, Rodgers, and Ryder pursued Mr. Chabel from the east onto Daniels Lane. Officer Ryder asked Officer Rodgers what Mr. Chabel had in his hand. Officer Rodgers responded, "He has a firearm, he just shot at us." The officers briefly took cover behind a truck and then moved forward.

Sergeant Ferguson drove Officer Ryder's patrol vehicle onto Daniels Lane and stopped near the three officers. After Mr. Chabel failed to comply with commands to stop and continued moving eastward, Sergeant Ferguson fired his handgun and ordered officers to "engage." Officer King and several officers to the west of Mr. Chabel fired their weapons. The officers with Sergeant Ferguson then moved along the south curb toward Mr. Chabel. Officers ordered Mr. Chabel to show his hands and to get on the ground. When Mr. Chabel began to sit up, Officers King and Rodgers and officers to the west of Mr. Chabel fired additional rounds. Sergeant Ferguson then yelled to cease fire and ordered officers to "find that gun, search him," indicating he believed Mr. Chabel was still armed.

When interviewed, some of the non-shooting officers said that as Mr. Chabel moved westbound on Daniels Lane his hands were concealed within his jacket, some said that he appeared to reach inside his clothing, and others saw that Mr. Chabel was holding a metallic object that they believed was a gun. The non-shooting officers said that issuing commands to Mr. Chabel was their only viable non-lethal option. Mr. Chabel, however, did not comply with their commands to show his hands and get on the ground.

Immediately before the OIS, security video from a business on Daniels Lane shows Mr. Chabel walking quickly in a westerly direction toward officers and veering to the side of the road. Mr. Chabel's left hand is seen in or around his jacket pocket. His right hand appears to be pointing an object in front of him. As Mr. Chabel reaches the side of the road, video shows him falling to the ground after an initial volley of shots. He then briefly sits up, pushing up with his right hand and bending his right leg. Consistent with officer statements, his left hand is not visible on the video recording. He finally slumps down to the ground and remains motionless.

Statements of some of the shooting officers were captured on BWV immediately after the OIS and show that they believed Mr. Chabel was armed and had fired rounds at them. As recorded on Officer

Ashby's BWV, Sergeant Bishop ordered the shooting officers to come to him. Officer Ashby followed the order and joined other BPD officers. Officer Rodgers said, "He shot at us a couple times. Fucker." Officer Ashby replied, "He did." Officer Flores pointed to the East and said, "He was still popping off when he got right here." Officer Rodgers said, "Oh yeah, I wonder where the fucking gun is at, he was fucking smoking rounds at us in the beginning."

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." When asked about the use of force in this incident, the non-shooting officers replied that they were in a situation where they could be shot. Officer Droege described this as a "lethal engagement situation." When interviewed, the non-shooting officers described the threatening circumstances they faced on Daniels Lane.

Officer Williams stated during his interview that the situation "was stressful." He knew that a shooting had occurred, and that the suspect was not complying and was armed with a firearm. Officer Williams related, "I'm feeling that he's set out to harm regardless, whatever any -- anyone's going to do, he's going to do what he wants. And I know that puts me at harm's way. [T]hat very well mean I can die." As a result, Officer William decided to deploy a deadly force option rather than a taser, "because the stress is coming from, will I get shot." Officer Williams also stated that he was concerned with Mr. Chabel closing the distance to officers, despite being commanded to stop. Officer Williams believed that he needed to engage but did not shoot when he heard multiple gunshots coming from the other officers. Even after Mr. Chabel fell to the ground and officers told him "don't reach," "put your hands up," and "let me see your hands," Mr. Chabel moved and reached in his waistband. Officer Williams believed that he was reaching for a weapon.

In his interview, Officer Sims similarly stated that he understood there was an officer involved shooting and that "the suspect was either shooting at the officers or did something to where lethal force had to be used so it was an emergency situation." Officer Sims stated that he wanted to be prepared with the force option to meet "the emergency circumstances." Officer Sims did not consider using less lethal force "because it was already had passed that point" and could have jeopardized someone's well-being or life.

In her interview, Officer Amy Droege said that she heard Sergeant Ferguson broadcast on the radio that "the subject was still armed with a firearm" and "was fleeing from the initial shooting scene." Another broadcast advised that the subject was fleeing westbound on Daniels Lane. As she turned onto Daniels Lane, Officer Droege was concerned that "this person's going to be right in front of me, fleeing from a prior shooting and he's still armed with a firearm, I need to get myself in a position to act and engage appropriately." Officer Droege also stated she had responded to calls for service in that area and was aware there would be open businesses on Daniels Lane in the direction that Mr. Chabel was heading. She described South Union Avenue as a busy street with a restaurant and gas station at the intersection with Daniels Lane that were "constantly occupied by civilians and individuals. So, the subject fleeing with a firearm towards them is concerning."

At a later point in her interview, Officer Droege reiterated her concern that the suspect was a danger to officers and civilians alike. Based on her experience, Officer Droege knew there were businesses

along the south side of Daniels Lane. She had been to calls for service where a person was carjacked at gunpoint as officers arrived on scene, “So it happens almost simultaneously.” Officer Droege said that South Union Avenue is a major roadway where there is “a lot of opportunity” for an armed subject “to carjack somebody, to kill somebody.” She stated that officers were initially advised to respond to Daniels Lane “to keep that from happening.” She was also concerned for officer safety with officers on both sides of the street. According to Officer Droege, “So both of those things are going through my mind as I’m approaching.”

Officer Droege did not consider a less lethal approach because the suspect was already involved in a shooting and was still armed, which she felt made it a lethal engagement at that point. She had pepper spray, a taser and a baton available to her, but the suspect was too far away to make their use possible. She believed that officers’ lives would be endangered by the use of less lethal force options.

Officer Ryder also explained that he was “terrified” and believed that Mr. Chabel posed an imminent threat to life. His partner was part of the Mental Evaluation Team. Officer Ryder felt it was unsafe for the officers or his partner to approach Mr. Chabel: “Our lives were in danger, and my partner is not armed. He doesn’t have anything to defend himself with, so it was not safe for him at that point to try to engage.”

In his interview, Officer Ko stated that Mr. Chabel posed a threat to the officers on Daniels Lane. He heard over the radio that Mr. Chabel was in possession of a firearm. According to Officer Ko, “You couldn’t see his hands. He was noncompliant. He had already fled from officers. And the way he was agitated. I didn’t know what his next move was, and I didn’t know if he was going to try to fire at officers, and there’s businesses that are occupied just 50 to a hundred feet away.” When Mr. Chabel was on the ground, Officer Ko said he continued to move as officers commanded “don’t move,” “don’t pick it up,” and “don’t do it.” According to Officer Hearn, Mr. Chabel sat up and reached toward his waistband or pockets as if he was trying to retrieve something.

These non-shooting officers faced the same facts, circumstances, vantage points, and information as the multiple officers who fired at Mr. Chabel. Their statements would therefore provide evidence of what a reasonable officer would believe under the circumstances that unfolded in this OIS, supporting a defense of the shooting officers if criminally prosecuted. According to their statements, they believed that they were confronted by an armed suspect who had threatened fellow officers with deadly force, was moving toward them in a threatening manner, and continued to pose a lethal threat until final shots were fired. In their view, the shooting of Mr. Chabel was reasonably necessary because they believed he posed an imminent threat of death to themselves, other officers, and those in nearby businesses. Taking the incident as a whole, including background knowledge, video evidence, statements and observations recorded by both shooting and non-shooting officers, it cannot be said that the use of deadly force was unreasonable beyond a reasonable doubt and therefore the People would be unable to sustain their burden of proof if charges were filed against the officers in this case.

CONCLUSION

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



C A L I F O R N I A

DEPARTMENT OF JUSTICE

**Policy and Practice Recommendations for the
Bakersfield Police Department Related to the
Officer-Involved Shooting of Juan Carlos Chabel-Orellano
on December 20, 2022**

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

August 2026



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 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.

The shooting officers in this case are employed by the Bakersfield Police Department (BPD). None of the officers who fired their weapons agreed to be interviewed by DOJ, and thus the facts in this report are based upon available video, statements of non-shooting officers, and other evidence obtained during the investigation. On August 27, 2021, BPD and the City of Bakersfield (City) entered into a stipulated judgment with DOJ.¹ The judgment followed a civil investigation of the BPD pursuant to Civil Code section 52.3. The judgment requires BPD to revise its use of force policies and practices, and compliance with that judgment is overseen by an independent monitor. DOJ’s report herein is separate and apart from the ongoing implementation, enforcement, and monitoring of that judgment against BPD and the City.

As background, on December 20, 2022, BPD officers responded to a call for service to the area of East Belle Terrace and Madison Street in the City of Bakersfield. The call concerned a man, later identified as Juan Carlos Chabel-Orellano (Chabel), who had reportedly threatened to shoot a railroad employee working in a rural area of the city that contained numerous encampments of unhoused people. Initially four BPD officers responded to the scene: Sergeant Andrew Ferguson, Sergeant Scott Lazenby, Officer Chad Rogers, and Officer James King. When BPD officers arrived, Mr. Chabel was standing in front of an encampment of tents. Another man was walking a bicycle slowly away from a tent. Mr. Chabel then pointed an object in his right hand in Sergeant Ferguson’s direction, and Sergeant Ferguson yelled, “He’s got a gun!” Officers quickly ran behind their patrol cars, and they began firing at Mr. Chabel. No verbal commands were given before the officers started shooting from distances ranging from approximately 69 feet to 98 feet away from Mr. Chabel.

Mr. Chabel retreated into a tent. The officers stopped shooting and began yelling commands. Officer Rogers said, “Come out with your hands up. Do it now!” Another officer yelled, “Show us your fucking hands.” Mr. Chabel became partially visible at times, as he lifted up the flap of the tent and stuck his head out from the structure. When he did so, the officers fired approximately five rounds at Mr. Chabel. Body worn camera (BWC) footage shows that Mr. Chabel then tossed a handgun away from the tent and ran in a westward direction away from officers, across an open field toward Daniels Lane. As he ran away, officers fired at him before pursuing him both on foot and by patrol vehicle. It is unclear whether any officer saw Mr. Chabel toss the gun; it appears that some did not see him toss the

¹ [*People v. City of Bakersfield*](#) (Super. Ct. Kern County, 2021, No. BCV-21-101928).

gun, given that during the foot pursuit officers broadcasted that Mr. Chabel was still armed with a gun. This initial round of shootings is referred to herein as Shooting #1.

Seven additional officers—including Senior Officer Nicholas Ashby, Officer Anthony Flores, Officer Dominic Ramirez, Officer Cortez Summit, Senior Officer Michael Ko, Officer Amy Droege, and Officer Matthew Williams—responded to the west end of Daniels Lane to intercept Mr. Chabel. Mr. Chabel walked away from pursuing officers, Sergeant Ferguson, Officer Rodgers, and Officer King, and toward the officers who were stationed at the west end of Daniels Lane. Mr. Chabel was not responding to their verbal commands. Approximately four minutes and forty-one seconds passed between Mr. Chabel fleeing the tent and the next round of gunfire described in the paragraph that follows, referred to herein as Shooting #2.

Sergeant Ferguson arrived on the east end of Daniels Lane in a patrol vehicle, opened the vehicle's door, and, without warning, fired at Mr. Chabel twice. At the time Sergeant Ferguson fired his gun, Mr. Chabel was walking away from him. Sergeant Ferguson then commanded, "Units engage," over the radio. Approximately two seconds later, Sergeant Ferguson said, "Why are they not shooting?" Almost immediately thereafter, BPD officers Rogers, King, and Summit fired several rounds. When Officer King started firing, he was approximately 229 feet away from Mr. Chabel. The shooting lasted for approximately eight seconds. Mr. Chabel fell to the ground. Sergeant Ferguson then got back on the radio and said, "Suspect's down, make an entry, team from the west."

After being struck by gunfire, while Mr. Chabel was lying on his back, the officers on the west side of Daniels Lane shouted, "show me your hands and get on the ground." Mr. Chabel began moving to a seated position, at which time seven officers fired several more rounds at Mr. Chabel. At the time shots were fired, the offices were located approximately 130 feet to 229 feet away from Mr. Chabel. Officers King and Ramirez fired a single round, and Officers Summit and Flores fired multiple rounds at Mr. Chabel.

Mr. Chabel was struck with a total of at least nine bullets by BPD officers. Paramedics arrived on scene and treated Mr. Chabel, but he died within a few minutes.

The Police Practices Section evaluated all the facts and available evidence, and pursuant to its obligations under Government Code section 12525.3, subdivision (b)(2)(B)(iii), the Police Practices Section advises BPD to review and implement ten recommendations:

Recommendation One: Training Regarding Firearms Safety, Awareness of Backdrop, and Identification of Target

The Police Practices Section recommends that BPD provide additional training regarding firearms safety, awareness of backdrop before shooting firearms, and identification of targets before firing.

Government Code section 7286, subdivision (b)(2) requires that police departments maintain a policy that provides a minimum standard on the use of force, which must include a requirement that officers consider their surroundings and potential risks to bystanders, to the extent reasonable under the

circumstances, before discharging a firearm. (Gov. Code, § 7286, subd. (b)(6).) BPD maintains this policy. (BPD Policy Manual, No. 300.4.)

Firearms safety, including awareness of backdrop and the target of the use of deadly force, is an essential aspect of policing. California Peace Officer Standards and Training (POST) Learning Domain 35, Firearms/Chemical Agents, Version 4.0 (July 2025) states: “All firearms are deadly weapons. Lack of awareness or attention to safety for even a moment can cause deadly consequences. There are four fundamental rules of firearms safety that must be respected and obeyed at all times with no exceptions.”² POST Rule 4 of the Fundamental Rules of Firearms Safety states:

Be sure of the target, surroundings, and backdrop before firing the firearm.

- Clearly identify the target before firing
- Be aware that if the projectile misses or completely passes through the target, it could strike an unintended person or object
- Never fire at a movement, color, sound, or shape unless it can be clearly identified
- Peace officers should be aware of people around them before they fire a firearm to make sure no one is moving into the line of fire³

During Shooting #1, BPD officers fired at the opaque tent without knowing if there were other people inside, and even though there were homes in the backdrop. At the time of the initial volley of fire, consisting of approximately eight rounds, Mr. Chabel was standing in front of the tent. After the initial shooting by Sergeant Ferguson, Mr. Chabel ran into the tent, and the officers fired more rounds at Mr. Chabel when he was emerging from the tent. During the shooting, officers could not see into the tent and did not know how many persons may have been in the tent.

Additionally, one of the officers’ bullets struck a residence on East Belle Terrace, across the street from the field from the tent. The bullet pierced the east living room window of the home, and the curtain just behind the window. The bullet travelled across the living room and pierced another window and curtain that led to the rear yard of the residence to the west. No one was in the living room at the time of the shooting.

The Police Practices Section recommends that BPD: (1) review and provide additional training regarding the situational and positional awareness of officers when engaging in the firing of a service weapon, and (2) develop guidance for officers in developing techniques for using deadly force in a manner that minimizes the risk of harm to innocent bystanders when firing into a location where there may be innocent bystanders.

² *Id.* at p. 1-4.

³ *Id.* at p. 1-5.

Recommendation Two:

Amend BPD's Use of Force Policy and Provide Training That Includes Officers' Duty, When Feasible, to Allow Subjects an Opportunity to Respond to a Deadly Force Warning Before Using Deadly Force

The Police Practices Section recommends that BPD amend its use of force policy and provide training that includes officers' duty, when feasible, to allow subjects an opportunity to respond to a deadly force warning before using deadly force.

Penal Code section 835a requires that, where feasible,⁴ a peace officer shall, prior to the use of force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, make reasonable efforts to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of that fact. (Pen. Code, § 835a, subd. (c)(1)(B).) BPD policy also contains this requirement. (BPD Policy Manual, No. 300.4.) BPD policy also requires officers, when reasonable, to provide the subject with an opportunity to comply with a verbal warning, prior to the officer using control devices, kinetic energy projectiles, and TASERS. (BPD Policy Manual, Nos. 302.3, 302.9.2, 303.4.) But BPD policy *does not* require officers to provide the subject with an opportunity to comply with a verbal warning, prior to utilizing deadly force. (See BPD Policy Manual, No. 300.4.)

Providing the individual with an opportunity to comply with verbal commands can prevent use of force incidents.⁵ When a police officer issues verbal commands, individuals should be provided with a reasonable amount of time and opportunity to comply before force is used, depending on the circumstances, with the understanding that such a pause should not compromise the safety of the officer or another and will not result in the destruction of evidence, escape of a suspect, or commission of a crime.⁶

In this incident, officers did not afford Mr. Chabel the time and opportunity to respond to the verbal commands before engaging in the use of deadly force. During Shooting #1, after officers initially fired at Mr. Chabel, he retreated into the tent. When Officer Rogers arrived at the scene, he pointed his firearm at Mr. Chabel's tent, and commanded Mr. Chabel to, "come out with your hands up, do it now." BWC footage shows that *three* seconds later, Mr. Chabel stuck either his head or hands through the tarp roofing of his encampment, and Officer Rogers immediately shot his first round at Mr. Chabel, failing to allow Mr. Chabel sufficient time to respond. Officer Rogers then shot two more rounds into Mr. Chabel's encampment.

Approximately four minutes later during Shooting #2, BPD officers again failed to issue a warning that they were going to use deadly force. After Mr. Chabel ran away from his encampment, he began walking on Daniels Lane, away from officers pursuing him. Sergeant Ferguson stood just outside his vehicle door and fired two rounds at Mr. Chabel without warning and without giving commands. Officer Rogers, without issuing a warning, fired one round at Mr. Chabel that appeared to miss him.

4 Government Code section 7286, subdivision (a)(3) defines "feasible" as "reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person."

5 International Association of Chiefs of Police, [National Consensus Policy and Discussion Paper on Use of Force](#) (Rev. July 2020) p. 12.

6 *Ibid.*

Sergeant Ferguson then went on the radio and directed BPD officers to, “engage.” Almost immediately thereafter, BPD officers Rogers, King, and Summit fired several rounds without issuing a warning.

The Police Practices Section recommends that BPD provide additional training to its officers regarding the duty under Penal Code section 835a, prior to the use of deadly force, to make reasonable efforts to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts. The Police Practices Section also recommends that BPD amend its use of force policy to require officers, when feasible and before using deadly force, to allow subjects an opportunity to respond to a verbal warning and provide additional training to its officers on this requirement.⁷

Recommendation Three: Provide Training on Using Deadly Force on Fleeing Persons

The Police Practices Section recommends that BPD provide training on when deadly force may be used on fleeing persons.

In California, “a peace officer is justified in using deadly force upon another person *only* when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary for either of the following reasons:

- A. To defend against an imminent threat of death or serious bodily injury to the officer or to another person.
- B. To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.”

(Pen. Code, § 835a, subd. (c)(1), italics added.) BPD policy also contains this requirement. (BPD Policy Manual, No. 300.4.) This recommendation pertains to section 835a, subdivision (c)(1)(B), apprehending a fleeing person for any felony that threatened or resulted in death or serious bodily injury.

Here, there are serious questions as to whether Mr. Chabel posed a threat of death or serious bodily injury unless immediately apprehended when he fled during Shooting #1. On the one hand, BPD officers en route to the scene were told that Mr. Chabel threatened railroad personnel with a weapon and the railroad personnel believed he had a weapon. Mr. Chabel did in fact have a gun initially, but BWC footage shows he tossed his gun outside the tent immediately before fleeing, and ballistics showed he never fired it. As noted above, during the foot pursuit that followed, officers broadcast that Mr. Chabel was still armed with a gun. Thus, it appears that at least some officers did not realize that he had tossed the gun, but none of the shooting officers provided statements about what they observed. As Mr. Chabel began running away from the officers and over the railroad tracks, Sergeant Ferguson fired two additional rounds at Mr. Chabel. Officer Rogers fired three rounds, and Officer King fired five rounds as Mr. Chabel fled with his back turned away from them. Although there were other encampments and persons in the field, there is no indication from the body worn camera footage that

⁷ See *Tennessee v. Garner* (1985) 471 U.S. 1, 11-12; *Harris v. Roderick* (9th Cir. 1997) 126 F.3d 1189, 1204.

officers were aware of this when they fired at Mr. Chabel as he fled. Additionally, Mr. Chabel was in a relatively isolated area, and he was not running towards any other persons.

The Police Practices Section recommends that BPD provide additional training to its officers on the circumstances under which deadly force may be used on fleeing persons.

Recommendation Four: Training on Legal Standard of When Deadly Force is Authorized Based upon an Imminent Threat of Death or Serious Bodily Injury Under Penal Code Section 835a

The Police Practices Section recommends that BPD provide training on the legal standard of when deadly force is authorized based upon an imminent threat of death or serious bodily injury, under Penal Code section 835a, subdivision (c)(1)(A).

As described in the prior recommendation, a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary: (A) to defend against an imminent threat of death or serious bodily injury to the officer or to another person or (B) to apprehend a fleeing person under limited circumstances. (Pen. Code, § 835a, subd. (c)(1).) This recommendation pertains to the first prong, section 835a, subdivision (c)(1)(A).

Here, during Shooting #2, officers struck Mr. Chabel with gunfire, and he fell to the ground on Daniels Lane. Once he was on the ground, there are serious questions as to whether there was an imminent threat of death or serious bodily injury to the officers or to other persons. From one point of view, when Mr. Chabel sat up after being shot, some of the non-shooting officers stated he put his right hand down and they believed he may have been bracing himself to get up. One non-shooting officer stated Mr. Chabel appeared to be reaching at his waistband or for his pockets. On the other hand, none of the non-shooting officers reported observing Mr. Chabel having a weapon in his hands. Other non-shooting officers reported that they observed Mr. Chabel's right hand was empty but could not see the left hand, and that Mr. Chabel made minimal movement after being shot. Additionally, because Mr. Chabel had already been struck by gunfire and was on the ground, and because all the officers were a significant distance away and were either behind cover or emerging from cover, it is not apparent from the available BWC footage that any of the officers continued to face an imminent threat.

The Police Practices Section recommends that BPD provide additional training to its officers on the circumstances under which the use of deadly force is legally justified.

Recommendation Five: Ensure Body-Worn Camera Activation

The Police Practices Section recommends that BPD ensure that its officers comply with the policy requirement that they activate their body-worn cameras.

BPD provides BWCs to specified sworn personnel for use while on duty. (BPD Policy Manual, Policy No. 425.1.) 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 BPD, the public, and officers in determining administrative violations, civil liability, deficiencies in training, tactics, and equipment, and positive interactions that merit commendation.

BPD policy requires officers to activate their BWC to the “On/Record” status prior to any anticipated public assistance, enforcement activity, investigative contact, or police activity, and all contacts specifically related to a call for service. (BPD Policy Manual, Policy No. 425.5.) Officers are expected to activate their BWC prior to arrival on a call for service or an enforcement activity, or when an officer identifies a subject/vehicle upon whom an enforcement stop is warranted. The officer should activate the BWC prior to initiating the stop, contact, or enforcement activity. (*Ibid.*)

Sergeant Lazenby was one of the four officers who initially responded to the call for service at the encampment. A review of Sergeant Lazenby’s BWC shows that he did not activate his BWC during the shooting. Further, Officer Flores responded to Daniels Lane but did not activate his BWC until the shooting had concluded.

This is the second officer-involved shooting that the Police Practices Section has reviewed in which BPD officers did not properly activate their BWCs pursuant to department policy.⁸ The Police Practices Section again recommends that BPD provide additional training and accountability on activation of BWCs.

Recommendation Six: Provide De-Escalation Training

The Police Practices Section recommends that BPD provide additional de-escalation training to officers.

California law requires that law enforcement agencies maintain a policy that provides a minimum standard on the use of force that includes a requirement that officers utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force, when feasible.⁹ (Gov. Code, § 7286, subd. (b)(1).) California Penal Code section 13519.10 mandates that use of force training guidelines include de-escalation techniques and other alternatives to force, “including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence.” (Pen. Code, § 13519.10, subd. (b)(8).) Agencies are required to provide training on “[u]se of force scenario training including simulations of low-frequency, high-risk situations and calls for service, shoot-or-don’t shoot situations, and real-time force option decision-making.” (Pen. Code, § 13519.10, subd. (b)(11); see also Gov. Code, § 7286, subd. (b)(1).)

In this incident, based on a review of available video, BPD officers repeatedly failed to engage in de-escalation, and escalated the situation.

First, after the initial round of gunfire, Officer Rogers commanded Mr. Chabel to, “come out with your hands up, do it now.” Three seconds later, Mr. Chabel stuck either his head or hands through the tarp roofing of his encampment, and Officer Rogers, Sergeant Ferguson, Sergeant Lazenby, and Officer King immediately fired at Mr. Chabel. Each officer fired behind the cover of their vehicles. Sergeant Ferguson was approximately 69 feet away from Mr. Chabel; Officer Rodgers was approximately 97 feet away; and

⁸ California Department of Justice, [Policy and Practice Recommendations for the Bakersfield Police Department Related to the Officer-Involved Shooting of Che Noe Zuniga, Jr. on August 7, 2021](#) (July 2024).

⁹ Recommendation nine addresses BPD’s de-escalation policy.

Sergeant Lazenby was approximately 98 feet away. BWC footage shows that the officers continued firing even after they yelled for Mr. Chabel to come out, and Mr. Chabel appeared to start emerging from the tent. Officer Rogers fired four rounds at Mr. Chabel while he was coming out of the tent.

Second, approximately four minutes later, when Sergeant Ferguson arrived on Daniels Lane, Mr. Chabel was walking westbound, away from the sergeant, approximately 167 feet away. The sergeant exited his vehicle, pointed his gun at Mr. Chabel, and, without issuing any commands, fired two shots at Mr. Chabel. Sergeant Ferguson then commanded over the radio, “Units engage.” Approximately two seconds later, Sergeant Ferguson said, “Why are they not shooting?” Almost immediately thereafter, BPD officers Rogers, King, and Summit fired several rounds. Sergeant Ferguson did not issue a warning or attempt to engage in any de-escalation prior to firing his weapon.

De-escalation is not only required by law, but de-escalation training can dramatically reduce injuries to members of the public and law enforcement officers.¹⁰ The Police Practices Section recommends that BPD provide de-escalation scenario-based training, particularly in high-risk scenarios where someone might be armed with a gun, and including tactical methods that use time, distance, cover, and concealment, to avoid escalating situations that lead to violence.

Recommendation Seven: Revise Policy and Provide Training on Muting of Audio on BWCs

The Police Practices Section recommends that BPD provide training to its officers on the policy requirements for muting audio on body-worn cameras.

BPD policy allows for muting of the body-worn camera audio, but only where necessary for administrative conversations that need to take place outside the presence of the involved community members. (BPD Policy Manual, Policy No. 425.5.) However, BPD policy does not define what are permissible “administrative conversations.” BPD policy further requires that, in any event in which the audio mute is enabled, personnel are required to verbalize and articulate the reason for muting prior to initiation. (BPD Policy Manual, Policy No. 425.5.) BPD policy specifically provides that saying only, “Admin,” is an insufficient justification to mute the audio. (BPD Policy Manual, Policy No. 425.5.)

Here, after Mr. Chabel was shot, there were numerous instances of BPD officers muting the audio on their BWCs, prior to conversations with another officer or a supervisor. According to the BWC footage, *all* shooting officers disabled the audio function of their BWC and later turned off their BWC. Numerous officers at the scene merely stated, “Admin,” prior to turning off their audio. Because *all* officers simultaneously muted the audio on their BWCs, there is a limited audio record available memorializing the conversations immediately following the shooting.

Because BPD officers muted many of the post-shooting conversations, a full, independent, contemporaneous record of what transpired cannot be ascertained. For instance, after the shooting,

¹⁰ See, e.g., U.S. Department of Justice, Office of Justice Programs, *De-Escalation Training: Safer Communities and Safer Law Enforcement Officers* (Sep. 6, 2022); Stats. 2019, ch. 285 (S.B. 230), § 1(b) (“When officers are called upon to detain or arrest a suspect who is uncooperative or actively resisting, may attempt to flee, poses a danger to others, or poses a danger to themselves, they should consider tactics and techniques that may persuade the suspect to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation safely.”).

Sergeant Ferguson walked back to the tent and spoke to Sergeant John Bishop, who was not on scene at the time of the shooting. Sergeant Bishop's BWC recorded the conversation, and Sergeant Ferguson talked about his disappointment with his vehicle's rifle safety lock. Sergeant Ferguson said to Sergeant Bishop, "we could have ended this a mile ago" if the vehicle safety mechanism allowed him to release his rifle. Sergeant Ferguson then said, "I could have ended it in this long field if I could have got my AR out." Sergeant Bishop then disabled the audio function of his BWC.

The purpose of a BWC is to record entire encounters so that the BWC can serve as an accurate record of the events. The repeated, intermittent disabling of the audio on the BWC here renders the record of events incomplete. Further, when officers silence microphones, it may create an unnecessary suspicion of law enforcement and could act as a denial of public access to all the information regarding what transpired in a given incident.

This is the second officer-involved shooting that the Police Practices Section has reviewed in which BPD officers muted their BWCs in violation of BPD policy.¹¹ The Police Practices Section again recommends that BPD emphasize the requirements of its current policy across the department, and provide refresher training on the appropriate circumstances in which BWC recordings may be muted, the required actions an officer needs to take prior to effectuating a mute, and the allowable duration of a mute. BPD should also revise its policy to define what are permissible "administrative conversations" that would justify muting BWC recordings, given the significant concerns that muting BWC may raise.

Recommendation Eight: Amend Policy to Require Officers Not to Discuss a Shooting with Other Officers Before Providing Formal Statements

The Police Practices Section recommends that BPD amend its policy to require officers to refrain from discussing a shooting with other officers before providing formal statements.

BPD Policy Manual, Policy No. 304.4.1(d), provides, in relevant part:

*As soon as practical [after an officer involved shooting], the involved and witness officers **should be transported to the police station**. If officers are removed they should be accompanied by **an uninvolved officer who will remain with the officer(s), at all times**, until relieved by a supervisor ... [¶] 6. [The on-scene supervisor should admonish] involved officers and witness officers **not** to discuss the incident except with authorized personnel or representatives.*

(Italics and emphasis added.) Because the policy does not define "authorized personnel or representatives," this policy leaves open the possibility that officers may discuss the shooting incident with other officers at the scene. As the Police Practices Section has noted in a prior BPD shooting, this series of events may leave the impression that the officers may have been discussing what occurred during the shooting, especially since the audio on their BWC was muted. Conversely, the officers may not have been discussing the events of the shooting.

¹¹ California Department of Justice, [Policy and Practice Recommendations for the Bakersfield Police Department Related to the Officer-Involved Shooting of Che Noe Zuniga, Jr. on August 7, 2021](#) (July 2024).

From a review of the BWC footage, immediately following the shooting on Daniels Lane, after searching the area around Mr. Chabel's body, all the shooting officers, except Sergeant Ferguson and Sergeant Lazenby, assembled on the south side of Daniels Lane across from where Mr. Chabel's body remained, where it appears the officers gathered together and may have discussed the incident.

The Police Practices Section recommends that BPD amend its policy, to explicitly state that following an officer-involved shooting, the officers may not discuss the shooting with other officers, except to provide a public safety statement, prior to providing a formal criminal or administrative statement.

Recommendation Nine: Amend Use of Force De-Escalation Policy

The Police Practices Section recommends that BPD modify its de-escalation policy to comply with state law.

Since January 2020, California law has required that law enforcement agencies maintain a policy that provides a minimum standard on the use of force that includes a requirement that officers utilize de-escalation techniques, crisis intervention tactics, and other alternatives to force, when feasible. (Gov. Code, § 7286, subd. (b)(1).)

At the time of this shooting, BPD Policy Manual, Policy No. 300.3.6 (Alternative Tactics – De-Escalation) stated in relevant part:

[W]hen reasonable, officers should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Gov. Code, § 7286, subd. (b).) Such alternatives may include but are not limited to:

- (a) Attempts to de-escalate a situation.
- (b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

Thus, BPD policy did not require that officers use de-escalation techniques when feasible, as mandated by Government Code section 7286, subdivision (b)(1). BPD policy only suggested that de-escalation could be employed under certain circumstances, as opposed to the state law that affirmatively requires de-escalation when feasible.

The Police Practices Section notes that BPD is currently in the process of amending its de-escalation policy. Once published, we understand the policy will require that officers utilize de-escalation techniques and other alternatives to force when feasible. The Police Practices Section recommends that BPD publish this updated use of force policy as soon as practicable.

Recommendation Ten: Training to Ensure Officers Effectively Communicate with Subjects Who Do Not Understand English

When police officers communicate in the same language as the individuals they encounter, officers enhance communication, promote safety of officers and others, and prevent dangerous misunderstandings or unnecessarily violent escalations.¹² Effective communication in languages other than English is especially important in Bakersfield.¹³ Over 40 percent of Bakersfield residents speak a language other than English at home.¹⁴

In this incident, officers issued numerous commands to Mr. Chabel. However, based upon the body worn camera footage, it appears that all of the officers' commands were issued to Mr. Chabel in English, which may not have been a language spoken by Mr. Chabel. It appears that Mr. Chabel only spoke Spanish during this incident, including when speaking to BPD officers.

The Police Practices Section recommends that BPD train its officers to (a) determine whether an individual is limited English proficient (LEP); (b) take reasonable steps (e.g., calling on bilingual personnel) to ensure accurate, timely, and effective communication to LEP persons, to ensure that officers are able to effectively communicate with the people they encounter; and (c) issue basic commands (e.g., put your hands up) in common languages spoken in Bakersfield.

12 Vera Institute of Justice, [Overcoming Language Barriers: Solutions for Law Enforcement](#) (2007) p.4.

13 Indeed, in the stipulated judgment between DOJ and BPD, BPD agreed to language access provisions, including an agreement to effectively communicate with, and provide timely and meaningful access to police services to, all members of the Bakersfield community, regardless of their limited ability to speak, read, write, hear, or understand English. ([People v. City of Bakersfield](#) (Super. Ct. Kern County, 2021, No. BCV-21-101928), ¶¶ 104, 105.)

14 U.S. Census Bureau, [QuickFacts, Bakersfield, California](#) (as of June 8, 2025).