



C A L I F O R N I A

DEPARTMENT OF JUSTICE

**Report on the Investigation into the
Death of Austin Heiselman on February 10, 2023**

Orange 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 to the officer-involved shooting (OIS) and family members of Austin Heiselman (Mr. Heiselman). Specific addresses of witnesses, victims, and family members are not provided in this report. 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 the readability of this report, the witnesses are indexed as follows:

- Witness 1 (W-1) Passenger in Ford Explorer
- Witness 2 (W-2) Mr. Heiselman's father

INTRODUCTION

On February 10, 2023, the Fullerton Police Department (FPD) received a License Plate Reader (LPR) hit¹ on a white Ford Explorer that was used in an armed robbery in San Bernardino, CA. FPD commenced a vehicle pursuit of the driver of the white Ford Explorer, Mr. Heiselman. The high-speed vehicle pursuit terminated in a traffic collision, after which Officers Juan Arenas, Nicholas Ashman, Joshua Walker, and Corporal Matthew Green fatally shot Mr. Heiselman. DOJ assumed jurisdiction and commenced an investigation of this shooting on February 10, 2023.

DOJ investigated and reviewed the OIS in accordance with Government Code section 12525.3, as enacted by Assembly Bill 1506. This report is the final step in DOJ's review of the fatal OIS of Mr. Heiselman. The scope of this report is limited to determining whether criminal charges should be brought against the involved deputies. An accompanying report provides potential policy and practice recommendations as required by Government Code section 12525.3, subdivision (b)(2). The review does not encompass or comment on any potential administrative or civil actions. Following the criminal investigation, comprehensive evidence review, and case evaluation, we have determined that there is insufficient evidence to support the filing of criminal charges against Officer Arenas, Officer Ashman, Officer Walker, and Corporal Green.

SUMMARY OF INCIDENT

On February 10, 2023, at approximately 1:03 AM, FPD Corporal Brandon Ramek and Officer Anthony Vega were on patrol in an unmarked black Ford Explorer in the city of Fullerton. While Corporal Ramek and Officer Vega were in the area of Chapman Avenue and Harbor Boulevard, they received a flock hit alerting them that a white Ford Explorer, listed as a felony vehicle, with a Nevada license plate #366E58, was in the area. The driver of the white Ford Explorer was later identified as Mr. Heiselman. The flock stated that the white Ford Explorer was used in an armed robbery in San Bernardino County. At approximately 1:04:50 AM, Corporal Ramek and Officer Vega observed Mr. Heiselman at a red light on North Harbor Boulevard and North Berkley Avenue in Fullerton.

At 1:05:13 AM, as Mr. Heiselman increased his speed, Corporal Ramek and Officer Vega activated their code-3² police lights and sirens and began a vehicle pursuit. At 1:05:40 AM, Mr. Heiselman pulled over to the east curb of North Harbor Boulevard, between 1010 North Harbor Boulevard and East Valley View Boulevard in Fullerton. W-1 exited the front passenger side door of Mr. Heiselman's vehicle. After W-1 exited, Mr. Heiselman immediately drove away, and the vehicle pursuit continued northbound on North Harbor Boulevard. Because Corporal Ramek and Officer Vega were in an unmarked police vehicle, they requested that marked police units take over the pursuit. Officers Ashman, Arenas, and Walker, and Corporal Green responded. Corporal Ramek and Officer Vega requested assistance from the Anaheim Police Department (APD) Air Support Bureau. APD Officers Brian Downs and James Elliott operated the air support unit known as Angel.

1 An "LPR" hit is often referred to as a "flock hit," which is an automated license plate reader that FPD uses. It alerts FPD of wanted vehicles involved in felonies in the area.

2 Code 3 means an emergency response with continuous use of lights and sirens.

At 1:08:08 AM, the body-worn cameras (BWCs) of Officers Ashman, Arenas, and Walker, and Corporal Green all recorded the dispatcher broadcasting, “The white Ford Explorer 366E58 - felony vehicle used in an armed robbery.”

At 1:08:46 AM, all four marked police vehicles arrived at the pursuit. Officer Ashman immediately took over the number one position behind Mr. Heiselman. Officer Ashman explained in his voluntary interview that the Ford Explorer was driving 50-70 miles per hour on the streets. Officer Ashman stated that when red lights were flashing, Mr. Heiselman would initially slow down and check each intersection before crossing. When Corporal Green and his K-9 arrived at the pursuit, he took over the number one position. Officer Ashman explained that if the vehicle in pursuit stopped and the driver started to flee on foot, Corporal Green could deploy his K-9, a less-lethal option, to stop the foot pursuit. Thus, when Corporal Green assumed the number one spot, Officer Ashman assumed the number two spot, Officer Walker assumed the number three spot, and Officer Arenas assumed the number four spot. At this time, all FPD Officers involved in the pursuit were in marked FPD vehicles, with their forward-facing lights and sirens activated throughout the pursuit.

Around 1:10:08 AM, Officer Ashman’s BWC captured Sergeant Joshua Ernest³ informing Officer Ashman, via radio, that he was authorized to execute a pursuit intervention technique (PIT maneuver⁴). At 1:10:30 AM, Officer Ashman’s BWC depicted him speeding up into the number one position to conduct the PIT maneuver. At 1:10:57 AM, Officer Ashman attempted the PIT maneuver by quickly maneuvering his vehicle into the rear driver’s side of Mr. Heiselman’s vehicle. Officer Ashman later explained that “the PIT maneuver failed because the suspect was slowing down very awkwardly, not maintaining a constant speed”

At 1:11:38 AM, 40 seconds after the PIT maneuver failed, Officer Ashman’s BWC depicted him slightly jerking his steering wheel and immediately broadcasting, “just flashed a handgun out the window.” The dispatcher then repeated, “[F]lashed a handgun out the window.” Corporal Green then immediately broadcast to everyone, “Keep a little more distance.” Officer Arenas’s, Walker’s, and Corporal Green’s BWCs all recorded Officer Ashman and the dispatcher’s warning about Mr. Heiselman displaying a handgun and to keep distance.

At 1:12:00 AM, as the pursuit continued, air support unit Angel reported that Mr. Heiselman was traveling westbound on Whittier Boulevard through Idaho Street, with no traffic. At 1:12:40 AM, Angel reported that Mr. Heiselman was traveling 60 mph, westbound on Whittier Boulevard, through Hacienda Boulevard, with no traffic. At 1:12:52 AM, Angel broadcast that Mr. Heiselman was traveling southbound down Beach Boulevard, through Whittier, through a red light, with no traffic. At 1:13:07 AM, Angel then broadcast, “Angel 10-97.”⁵

3 Sergeant Ernest was the Sergeant in the pursuit and at the scene of the shooting. Sergeant Ernest was also driving at the tail-end of the pursuit, behind all the shooting officers.

4 A “PIT Maneuver” is a pursuit tactic by which a pursuing car can force a fleeing car to turn sideways abruptly, causing the driver to lose control of their car and stop.

5 10-97 is Anaheim Police Department’s Angel Airship code indicating that their unit is “on scene or has arrived at the location.”

At 1:14:32 AM, while Mr. Heiselman entered the intersection of Beach Boulevard and Imperial Highway in the city of La Habra, Angel broadcast, “TC, major TC on Beach and Imperial.”⁶ Angel’s infrared camera depicted Mr. Heiselman’s vehicle colliding with a black four-door BMW sedan.



Still frame from Air Support Unit Angel showing Mr. Heiselman traveling southbound through the intersection at Imperial Highway and Beach Boulevard.



Still from Air Support Unit Angel showing Mr. Heiselman colliding with the BMW in the intersection of Imperial Highway and Beach Boulevard.

6 “TC” is police vernacular for Traffic Collision.

Mr. Heiselman's vehicle traveled in a southeasterly direction across the northbound lanes of Beach Boulevard. It came to rest on its side at the entrance of a Chevron gas station located at 1950 Imperial Highway in La Habra. The BMW came to rest on the southbound lanes of Beach Boulevard, just south of the intersection of West Imperial Highway and South Beach Boulevard.



Still from Air Support Unit Angel showing the position of the vehicles after the collision and arrival of officers.

When FPD Officers Ashman, Arenas, and Walker, and Corporal Green arrived at the traffic collision, their BWCs depicted Mr. Heiselman's vehicle flipped upside down at the Chevron entrance on Beach Boulevard. Within seconds, Mr. Heiselman's vehicle became engulfed in flames.

After hearing "Major TC," from Angel, Corporal Green parked and exited his patrol vehicle at 1:15:08 AM. Corporal Green removed his gun from his waistband and pointed it at Mr. Heiselman's vehicle. Corporal Green then stated, "Hey guys, get guns up, get guns up, someone get a long gun, get me a rifle, someone get a rifle."

In a voluntary interview, Corporal Green stated that he observed Mr. Heiselman crawling out of the back window of the vehicle and running southbound, away from FPD Officers, towards a cinder block wall. Corporal Green's BWC recorded him walking to the rear driver-side door of his patrol vehicle, opening it, and saying, "bleib bleib bleib" (stay), while removing his K-9 from the rear driver-side door. While holding onto his K-9's collar, Corporal Green said, "Where'd he go, where'd he go, where'd he go?" Corporal Green then said, "Hey, please stop or I'll send my dog" and released the K-9 at 1:15:10 AM. At 1:15:14 AM, Corporal Green's BWC depicted Mr. Heiselman standing south of the cinder block wall.



Still frame from Corporal Green's BWC capturing Mr. Heiselman standing on the south side of the cinder block wall.

At 1:15:16 AM, Corporal Green stood in front of Mr. Heiselman and yelled, "Show your hands." Mr. Heiselman put both his hands out in front of him, extended them in a punched-out position, and pointed his hands towards Corporal Green.



Still frame from Corporal Green's BWC showing Mr. Heiselman facing him with his hands together, extended out in front of him, standing in a punched-out position.

In response, at 1:15:17 AM, Corporal Green fired several rounds towards Mr. Heiselman. After the shots were fired, Mr. Heiselman was lying face down while Corporal Green's K-9 was biting Mr. Heiselman's back. While the K-9 was biting Mr. Heiselman, Corporal Green kept repeating,

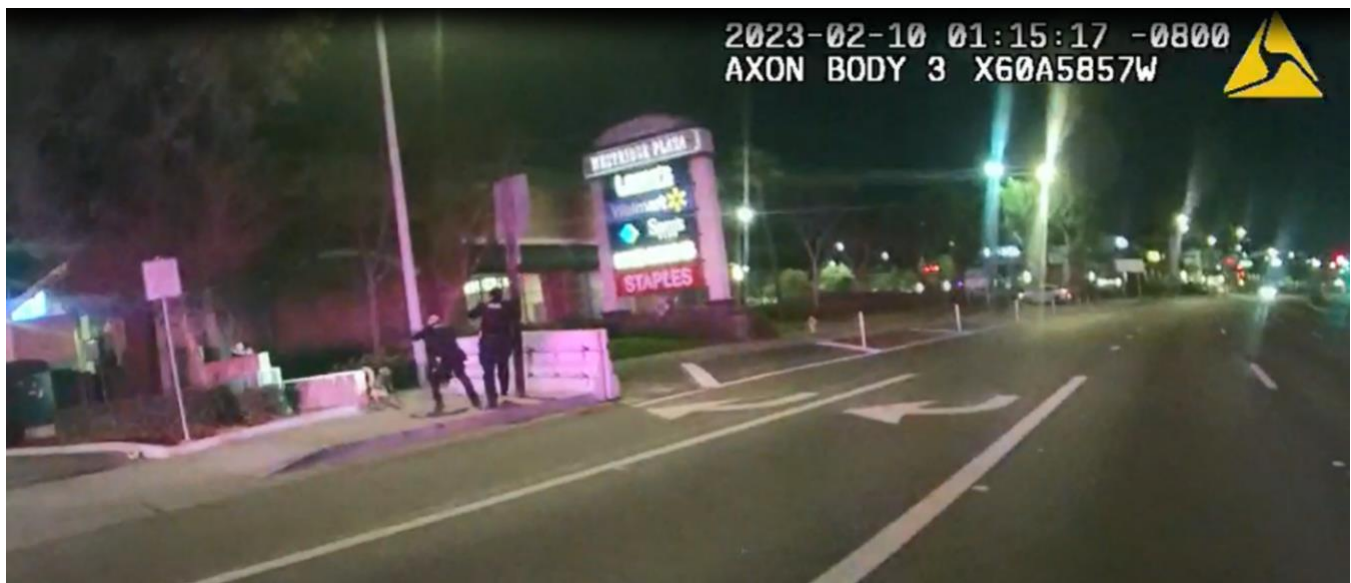
"I can't see his left hand." At 1:16:14 AM, Corporal Green approached his K-9 and pulled him off Mr. Heiselman while other police officers started to render aid.

At approximately 1:14:44 AM, Officer Arenas arrived at the traffic collision scene and immediately exited his patrol vehicle. Officer Arenas's BWC depicted him unholstering his firearm and aiming it towards Mr. Heiselman's overturned vehicle. At 1:14:55 AM, someone yelled, "We need a rifle." Officer Arenas responded, "Hey I got it, hold on him, hold on him." Once Officer Arenas grabbed his rifle, he immediately started running towards the cinder block wall. As soon as Officer Arenas arrived at the cinder block wall, he started yelling, "Let me see your hands, hands!" Officer Arenas's BWC was mostly blocked by the shotgun he was holding in front of his chest. However, after Officer Arenas yelled, "Let me see your hands," the BWC captures Mr. Heiselman's hands together in front of his chest. Officer Arenas immediately fired shots towards Mr. Heiselman.



Still Frame from Officer Arenas BWC depicting Mr. Heiselman's hands out in front of him.

Officer Ashman's BWC depicted him arriving at the collision site at 1:14:43 AM. Officer Ashman immediately exited his patrol vehicle, removed his firearm from his waistband, and pointed it towards Mr. Heiselman's vehicle. At 1:15:06 AM, Officer Ashman ran northbound behind his vehicle towards Officer Arenas's vehicle, and placed himself on the passenger side while pointing his firearm towards Mr. Heiselman's vehicle. At 1:15:12 AM, Officer Ashman yelled, "going southbound," while pointing his gun in the area of Mr. Heiselman's vehicle. Immediately after, Officer Arenas and Corporal Green started running southbound towards the cinder block wall, and Officer Ashman followed them.



Still frame from Officer Ashman's BWC depicting Mr. Heiselman behind the cinder block wall with his hands extended out in front of him, pointed towards Officer Arenas and Corporal Green.

At 1:15:18 AM, Officer Ashman fired several shots towards the cinder block wall. When Officer Ashman moved closer to Corporal Green and Officer Arenas, Mr. Heiselman was lying face down on the sidewalk while the K-9 was biting him.

At approximately 1:14:44 AM, Officer Walker's BWC depicted him exiting his patrol vehicle and immediately aiming his firearm towards Mr. Heiselman's overturned vehicle. At 1:14:55 AM, Officer Walker holstered his firearm, grabbed a rifle from his trunk, and aimed it towards Mr. Heiselman's vehicle while standing behind his open, driver-side door. Officer Walker then said, "He's coming out the rear, coming out the rear, there he goes." At 1:15:12 AM, Officer Walker began running southbound towards Mr. Heiselman, trailing Corporal Green and Officer Arenas, who were both running towards Mr. Heiselman.

At 1:15:16 AM, Officer Walker got closer to Mr. Heiselman, pointed his rifle in his direction, and fired several rounds.

Once Corporal Green pulled his K-9 off of Mr. Heiselman, Officers Walker and Ashman approached Mr. Heiselman, who was lying face down on the ground. At approximately 1:16:19 AM, FPD officers handcuffed Mr. Heiselman and immediately started performing CPR.

At this point, Officer Arenas said to Corporal Green, "You good partner? Let me check you, let me check you, come here." Officer Arenas shined his flashlight on different areas of Corporal Green's uniform, presumably to check for gunshot wounds. Corporal Green appeared to look at his right arm to see if he had any gunshot wounds. After Officer Arenas checked Corporal Green, he advised, "You are good."

At 1:21:49 AM, Engine 194 from the Los Angeles County Fire Department arrived and took over Mr. Heiselman's medical care.

At 1:25:00 AM, fire department personnel pronounced Mr. Heiselman deceased.

DOJ's Bureau of Forensic Services (BFS) searched Mr. Heiselman's vehicle. BFS collected a Kimar brand, blank-firing replica pistol with a silver slide from the front passenger floorboard.

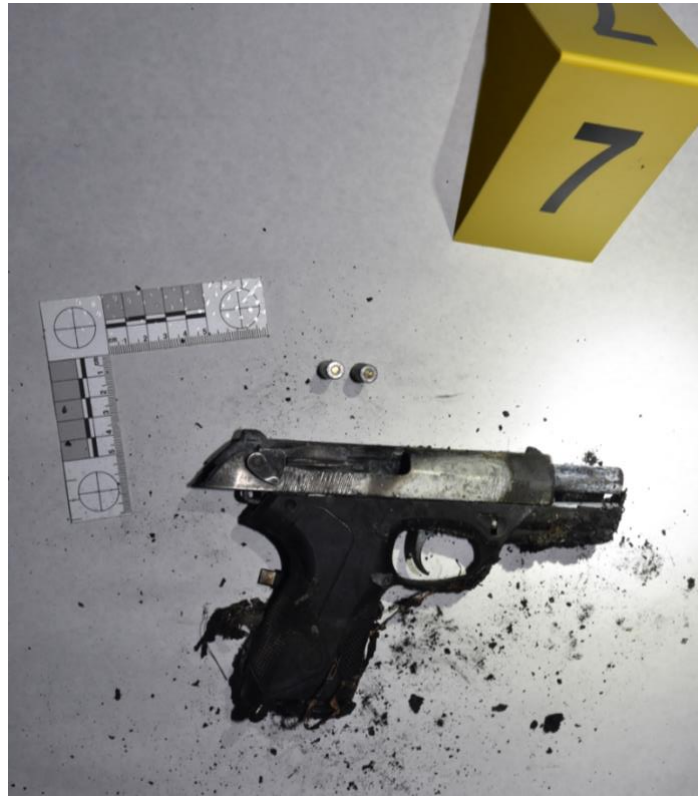


Photo of Kimar replica pistol with a silver slide found on the front passenger floorboard of Mr. Heiselman's vehicle.

BFS also located a Glock airsoft gun and magazine with a CO₂ cartridge from under the driver's seat of Mr. Heiselman's vehicle.



Photo of Glock airsoft gun found under the driver's seat of Mr. Heiselman's vehicle.

INVESTIGATION

Evidence Reviewed

Following Mr. Heiselman's death, DOJ received and reviewed extensive investigation materials related to this OIS incident. DOJ independently reviewed officer and civilian witness interviews; photographs of the crime scene and other evidence; video recordings (BWC footage from Corporal Green, Officer Walker, Officer Arenas, Officer Ashman and a video from Angel); communication evidence (printouts from the computer-aided dispatch system and corresponding radio calls); physical evidence (shell casings, fired bullet projectiles, and two guns found in Mr. Heiselman's vehicle), an autopsy report, a toxicology report, and ballistics and firearms analyses.

DOJ Response

After the OIS occurred on February 10, 2023, FPD and La Habra Police Department detectives were notified and responded to the scene. Soon after, DOJ's California Police Shooting Investigation Team (CaPSIT) was notified, and DOJ agents and special agent supervisors responded to the scene. FPD personnel walked the DOJ team through the shooting scene and showed them the OIS location and the BWC footage.

DOJ conducted an independent and thorough investigation of the facts and circumstances relating to the OIS incident, reviewed all the evidence, and applied the pertinent legal standards.

Incident Scene Description

The OIS occurred at approximately 1:15 AM near the intersection of West Imperial Highway and South Beach Boulevard in La Habra, CA 90631. Specifically, the shooting occurred in a narrow alley between the north side of the Bank of West at 1330 South Beach Boulevard and the south parking lot entrance of Chevron, 1950 Imperial Highway in La Habra.

OFFICER PROCESSING

Ballistic & Firearm Analyses

An Orange County District Attorney investigator processed all the officers for evidence at the FPD. A magazine count was conducted, and a round count sheet was completed.

- Officer Ashman carried a Glock 9mm semi-automatic pistol and three Glock magazines. The investigation determined that six cartridges were missing from Officer Ashman's pistol
- Officer Walker carried a Glock 9mm semi-automatic pistol and had two Glock magazines. Officer Walker did not use his pistol during the OIS; instead, he used his patrol rifle. The investigation determined that eight cartridges were missing from Officer Walker's patrol rifle.
- Officer Arenas carried a Glock 9mm semi-automatic pistol and had two Glock magazines. Officer Arenas did not use his pistol during the OIS; instead, he used his patrol rifle. The investigation determined that eight cartridges were missing from Officer Arenas' patrol rifle.
- Corporal Green carried a Glock 9mm semi-automatic pistol. Corporal Green also had two additional seventeen-cartridge capacity magazines. Corporal Green also carried a backup

weapon in his left pant pocket. It was determined that five cartridges were missing from Corporal Green's pistol.

Body-Worn Cameras

The four shooting officers' BWC footage was provided to DOJ and captured the OIS. The responding officers who arrived at the scene after the shooting occurred also wore activated BWCs.

AUTOPSY

On February 15, 2023, the Orange County Coroner's Office conducted an autopsy of Mr. Heiselman and determined he sustained five gunshot wounds, and the cause of death was multiple gunshot wounds to Mr. Heiselman's head and torso.

Toxicology testing on Mr. Heiselman detected traceable amounts of Cannabinol, delta-9-THC, delta-9-Carboxy-THC, Amphetamine, Methamphetamine, and Acetaldehyde.

INTERVIEWS OF INVOLVED OFFICERS

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

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

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.

Officer Ashman

On March 29, 2023, Special Agent Hernandez conducted a voluntary interview with Officer Ashman at the Fullerton Police Department. Officer Ashman's attorney – Christopher Kucharski, was present for the interview.

During his interview, Officer Ashman explained that he was at the police station when he observed the LPR hit with a picture of the vehicle and license plate, and the details that the vehicle was used in a robbery. Officer Ashman then entered his marked police vehicle and assisted in the pursuit of Mr. Heiselman. During the pursuit, Officer Ashman heard dispatch state that the "vehicle was wanted for robbery out of San Bernardino County, the weapon used in the robbery being a semi-automatic handgun."

During the pursuit, Sergeant Ernest advised Officer Ashman that he was cleared for a PIT. Officer Ashman immediately moved his vehicle into the number one position behind Mr. Heiselman. When

they got to Harbor and Whittier Boulevard, Officer Ashman attempted to conduct the PIT, but Mr. Heiselman started to “slow down very awkwardly, not maintaining constant speed, so it was hard to judge it,” and the PIT attempt failed.

At this point, Mr. Heiselman was “blowing through red lights” while Officer Ashman was still behind him. Suddenly, Mr. Heiselman stuck his hand out of his window and was waving around a semi-automatic handgun with a dark-chrome slide.

Officer Ashman stated that, at this point, he began to feel more threatened by Mr. Heiselman and his actions because Mr. Heiselman could now cause harm from a greater distance. Officer Ashman stated, “I took this as a sign – as a threat from the suspect ... basically don’t attempt another PIT maneuver on me or else I will start opening fire on you.” Because a PIT maneuver required him to be close to the suspect, where a bullet could easily hit him, Officer Ashman decided that it was unsafe to conduct another PIT. Officer Ashman stated that, because of the gun, the officers began backing up and giving Mr. Heiselman more space. Around this time, Angel arrived overhead and began calling out the pursuit.

When they approached the intersection of Beach and Imperial, Officer Ashman attempted to catch up with Mr. Heiselman when he noticed a solid red light for southbound traffic. Officer Ashman stated that a semi-truck was traveling westbound through the intersection. Mr. Heiselman swerved around the front of the semi-truck but collided with another vehicle in the intersection. Mr. Heiselman’s vehicle flipped over onto its side and came to a stop near the driveway of a Chevron gas station.

Officer Ashman explained that when he parked his vehicle, he pointed his gun at Mr. Heiselman’s vehicle and witnessed Mr. Heiselman exit from one of the windows. Because the Chevron station appeared open, and there was a strip mall south of the gas station, Officer Ashman believed people were nearby and that Mr. Heiselman might be a threat to them.

Next, Officer Ashman observed Corporal Green and his K-9 running toward a cinder block wall in the direction Mr. Heiselman had headed. Officer Ashman explained that the “wall starts off pretty low and incrementally gets higher and higher and becomes like a full-on eight-foot wall.” Officer Ashman stated that Mr. Heiselman was running southbound on the sidewalk, then turned left and started running along the wall toward the back of the business. Officer Ashman saw Corporal Green and Officer Arenas run toward the front of the wall, where they were in line with Mr. Heiselman.

When Mr. Heiselman was against the wall, Officer Ashman noticed Mr. Heiselman stopped running, stopped moving, turned around, and was now directly facing Corporal Green and Officer Arenas. Officer Ashman stated, “I saw the suspect’s hands come together in front of him ... around his eye level ... and both of his hands simultaneously punched out – pushed forward together ... what I would call a shooter’s stance ... that’s how you would shoot a semi-automatic handgun, much like the one I saw the suspect wave out the window earlier in the pursuit.” Officer Ashman further explained that, “from my vantage point, I saw what I perceived to be the handgun that I saw in the suspect’s hands at this point ... he was pointing it directly at Corporal Green, directly at Officer Arenas ... so I immediately feared for the safety of my partners ... I thought the suspect was going to open fire on Corporal Green and Officer Arenas and that, if he successfully was able to hit them, that I would be next, my partner, Officer Walker, would be next and then the general public after that.”

Officer Ashman added that at this point, “I stopped running ... aimed at the suspect, and fired approximately six rounds at this time”

Corporal Green

On March 21, 2023, Special Agent Hernandez and Special Agent Paul Zurawski conducted a voluntary interview with Corporal Green at the Fullerton Police Department. Corporal Green’s attorney – Christopher Kucharski, was present for the interview.

In a voluntary interview, Corporal Green explained that he was assisting with a DUI investigation when he heard a radio call from their Echo unit⁷ regarding a flock hit they had on a vehicle on Harbor and Chapman Blvd. The Echo unit requested backup and needed someone with a K-9. Since Corporal Green was equipped with his own K-9, he joined the pursuit. At some point, the Echo unit advised that the felony vehicle was believed to have been involved in an armed robbery out of San Bernardino. Since the call involved a felony vehicle with a driver who was possibly armed with a semi-automatic handgun, Sergeant Earnest requested four units and a K-9 to take over the pursuit from the Echo unit.

Corporal Green explained that K-9 units are requested in pursuits because, if the “guy pulled over or foot bailed ... [the] K-9 is in the best position to be utilized as a less-lethal option.” Corporal Green stated that once Officer Ashman attempted a PIT maneuver, Mr. Heiselman continued to run red lights and traveled 70 miles per hour. While on Whittier Boulevard, Officer Ashman, who was directly behind Mr. Heiselman, announced that Mr. Heiselman was waving a gun out of the window. Corporal Green stated that he took Mr. Heiselman waving his gun as a threat towards them, telling them to “back off or he is going to use it.” Thus, Corporal Green told Officer Ashman to keep a little more distance in case Mr. Heiselman decided to fire his weapon.

When Mr. Heiselman reached the intersection of Beach Boulevard and Imperial Highway, he collided with another vehicle traveling eastbound through the intersection, causing his car to flip several times.

After hearing “Major TC,” by Angel, Corporal Green parked and exited his patrol vehicle at 1:15:08 AM. Corporal Green removed his gun from his waistband and pointed it at Mr. Heiselman’s vehicle. Corporal Green’s BWC depicted him stating - “Hey guys, get guns up, get guns up, someone get a long gun, get me a rifle, someone get a rifle”

Corporal Green stated that he observed Mr. Heiselman crawl out from his back window and run southbound, away from FPD Officers.

During his interview, Corporal Green stated, “I see the guy is standing there, and he’s off towards us ... I can see he reaches down at his side as if he’s drawing ... he reaches up ... puts both hands to his chest and punches out ... you know, identical to a shooting ... taking a shooting stance, drawing a weapon and punching out ... getting ready to fire ... that is in no way any sign of anyone attempting to surrender.” Corporal Green further explained that “the only reason why someone would ever do something like that is they are drawing a weapon and/or a gun and they are, you know, getting ready to shoot ... it’s a vehicle involved with an armed robbery with a gun, he was waving the gun out during the pursuit, taking that shooting stance, appearing to be drawing a weapon ... I feared he was going to

⁷ FPD Echo Unit is their Economic Community Hope Operation unit that is a specialized team tasked with maintaining safety, order, and quality of life in Downtown Fullerton.

shoot one of us ... he had the drop on us, so I began, uh, firing, I fired approximately, uh, five, or I fired five rounds.” Corporal Green further stated that he believed if he did not discharge his firearm “we would have been shot and killed ... there is no doubt in my mind, you know, he was sitting there lying in wait.”

After Mr. Heiselman was shot, he lay face down on the ground, while Corporal Green continued to give the K-9 the bite command. Corporal Green explained that Mr. Heiselman’s arms were under his body, at the waistband area, and he had to be sure that Mr. Heiselman did not have any weapons in his hands. Once Mr. Heiselman was handcuffed, Corporal Green gave his K-9 the release command.

Officer Arenas

On March 21, 2023, Special Agent Hernandez and Special Agent Paul Zurawski conducted a voluntary interview with Officer Arenas at the Fullerton Police Department. Officer Arenas’ attorney – Christopher Kucharski, was present for the interview.

During his interview, Officer Arenas stated that on the night of the incident, he received a notification on his work phone regarding an LPR hit. When he opened up the flock notification, it provided a picture of an older white SUV that was a wanted felony vehicle. While in pursuit of Mr. Heiselman’s vehicle, Corporal Ramek stated on the radio that the vehicle they were following was involved in an armed robbery. Officer Arenas entered the chase and was the fourth vehicle in pursuit.

Officer Arenas stated that, after the PIT maneuver failed, one of the officers announced over the radio that the driver was waving a handgun out of the window. After the announcement about the gun, the vehicle speeds increased to about 70-80 miles per hour. While traveling down Beach Boulevard, Mr. Heiselman entered the intersection at Beach Boulevard and Imperial Highway and almost collided with a semi-truck. Although Mr. Heiselman missed the truck, Angel announced that there was a major traffic collision with an uninvolved vehicle behind the semi-truck.

Officer Arenas explained that, when he arrived at the scene, Mr. Heiselman’s vehicle was flipped over. When he exited his vehicle, Officer Arenas immediately unholstered his weapon because “it’s an armed 211, armed robbery suspect ... the weapon used in the armed robbery was a semi-automatic handgun ... he was waving the gun ... he was trying to evade the police ... he knows he’s getting evaded by the police to the ... PIT and the lights and sirens ... so at this point ... we don’t know ... I don’t know if he’s going to come out with the gun.” Officer Arenas further explained that when he moved to the rear of his vehicle, he was trying to obtain a better vantage point to safely place Mr. Heiselman into custody.

Officer Arenas stated that he heard Corporal Green say, “Somebody get a rifle,” and Officer Arenas responded, “I got it, I got my rifle.” Officer Arenas holstered his Glock 17, entered his patrol vehicle, got his rifle out, and immediately chambered a round. Officer Arenas observed Mr. Heiselman walk southbound from his overturned vehicle, hunched over with his hands at his waist, limping and jogging away from the traffic collision. At this point, Officer Arenas explained that, based on his training and experience, armed subjects carry their firearms in their waistband and appendix area so the weapon does not fall out while they are running.

Officer Arenas stated that Mr. Heiselman ran approximately 20 meters south of his overturned vehicle and turned to run toward the businesses. Officer Arenas ran with Corporal Green toward the suspect because Corporal Green’s K-9 was the less-lethal force, and Officer Arenas was the lethal coverage for

Corporal Green. Officer Arenas explained that when Mr. Heiselman started running against the four-to six-foot wall, he positioned himself to the right of Corporal Green, just slightly behind him, and he shouldered his rifle in a high-ready position. Officer Arenas stated that he yelled out, “Let me see your hands.” At this point, Officer Arenas observed the suspect standing in a “bladed position,” facing northbound, “then he deliberately punched his hands out ... hand gun position in my direction and Corporal Green’s direction.” Officer Arenas explained that as a certified FBI firearms instructor and with his military background, “I know what a solid shooting platform looks like, especially ... someone holding a handgun, I know that they are going to have a staggered stance, I know that sometimes they are going to hunch over, I know that their hands are going to come close together ... and make kind of a fist towards the direction of that threat ... they are going to lock their elbows out.” Officer Arenas stated that he was “ready to engage or shoot a threat.” So when Mr. Heiselman punched his hands out, Officer Arenas explained that “I perceived that he had a handgun ... and he was going to shoot, shoot my partner, kill me ... so at that point ... I stopped the threat, I shot approximately four to five times ... we were approximately seven yards away from the suspect.” Officer Arenas stated that he stopped shooting when he saw Mr. Heiselman fall because he determined that Mr. Heiselman “was no longer a threat to us.”

Officer Walker

On March 21, 2023, Agent Hernandez and Special Agent Michael Wyatt conducted a voluntary interview with Officer Walker at the Fullerton Police Department. Officer Walker’s attorney – Christopher Kucharski, was present for the interview.

In a voluntary interview, Officer Walker stated that he was at the Fullerton City Jail when he heard a dispatch that there was an LPR hit at Harbor and Chapman Boulevard. The LPR was for a felony vehicle that was used in an armed robbery involving a handgun. Since the station was close to that intersection, Officer Walker joined the pursuit.

Officer Walker recalled that Officer Ashman took over the number one spot, directly behind Mr. Heiselman, to conduct a PIT maneuver that eventually failed. Shortly after the attempted PIT maneuver, Officer Ashman advised that the suspect flashed a handgun out the window. At this point, Officer Walker believed Mr. Heiselman was the same suspect from the armed robbery.

While they were on Beach Boulevard, approaching Imperial Highway, Officer Walker stated Mr. Heiselman ran the red light and entered the intersection traveling southbound. Mr. Heiselman swerved out of the way of a semi-truck, and Officer Walker lost sight of Mr. Heiselman’s vehicle. Mr. Heiselman’s vehicle collided with a black BMW sedan.

Once parked, Officer Walker exited his patrol vehicle and immediately aimed his firearm toward Mr. Heiselman’s overturned vehicle. Officer Walker stated that he saw Mr. Heiselman running south on the east sidewalk; he could not see his hands, but only that Mr. Heiselman was wearing a black jacket with “some sort of stripe on the sleeve.” Mr. Heiselman approached a cinder block wall between the Chevron gas station and a bank. Officer Walker observed Mr. Heiselman go left into the alleyway, and he observed Corporal Green’s K-9 running toward Mr. Heiselman while Corporal Green followed his K-9. Officer Walker saw Mr. Heiselman move further into the alley, but he could only see him from the chest up – his shoulders, arms, and head. Officer Walker stated, “I see the suspect turn around, and I see his arms go up ... I could see his arms because of that white stripe ... and his arms go up, extended forward in what could be described as a stereotypical shooting stance ... I believed to see a gun in his

hand ... based on everything in that situation – him flashing a gun at us, me not seeing his hands, the crime, I believed to see a gun.”

Officer Walker added, “I see my partner, Matt Green, where he’s standing ... and I just remember thinking, oh, no, and see a flash of light, and in quick succession, I hear a bang, which I perceived to be a gunshot ... I am trying to say stop or no, but I can’t get any words out because it just happened so fast, and I’m scared that Matt’s getting shot ... at that point, I thought he was shot ... I thought he was down ... I thought he was trying to kill my partner ... so given that I had a good background of the bank, I fired three or four rounds in quick succession at the suspect, because I could see him through my aimpoint, and I was attempting to eliminate the threat to my partner’s life, at least try.” Officer Walker lastly stated that “I had to do something ... so I fired my rounds ... and then I no longer could see the suspect ... so I stopped firing.”

INTERVIEWS OF CIVILIAN WITNESSES

The following are summaries of the relevant civilian witness interviews, which describe the incident from the point of view of each person.

W-1: In an interview with CaPSIT Agent Alvin Hernandez, W-1 stated that she was at a friend’s house the night before the OIS when she asked Mr. Heiselman for a ride back to Paramount sometime around midnight. However, when they were driving, they exited the freeway and encountered several police, so Mr. Heiselman stopped at an intersection when the light turned green. W-1 asked Mr. Heiselman why he was not moving, but then a police officer got closer, so Mr. Heiselman took off. When they got to Harbor and Valley View, Mr. Heiselman pulled over and told W-1 to get out of the car. W-1 asked Mr. Heiselman what he was doing, but Mr. Heiselman responded, “I told you to get the fuck out of the car.” As soon as W-1 opened the door and exited the vehicle, Mr. Heiselman took off.

W-2: In an interview with CaPSIT Agent Paul Zurawski, Mr. Heiselman’s father explained that Mr. Heiselman called him around 1:00 AM on the day of the OIS and stated that the police were chasing him. Mr. Heiselman told W-2 that he was not going back to jail. Mr. Heiselman then asked to say goodbye to his mom. W-2 stated that he thought that was a sign, so he told his son, “Oh, wait a minute, Austin. Just pull over.” W-2 then went to wake his wife and Mr. Heiselman told them both, “Mom, I want you guys to know I love you. I’m sorry for everything I’ve done ... but this is not going to end well,” and hung up the phone. W-2 then called the La Habra Police Department. W-2 informed the dispatcher that his son, Austin Heiselman, told him the police were pursuing him and that he “wants to die by suicide by cop.”

EMERGENCY RESPONSE

Emergency Medical Attention

The Los Angeles County Fire Department was dispatched at 1:16:26 AM and was the first responder to arrive on scene. At 1:25 AM, paramedics arrived and pronounced Mr. Heiselman deceased based on obvious signs of death, including the cardiac monitor indicating Mr. Heiselman was in asystole and Mr. Heiselman’s penetrating head wound.

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

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

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

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

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

conduct or reputation for dangerousness may provide evidence to support a reasonable belief in imminent harm].)

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

Burden of Proof

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

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

LEGAL ANALYSIS

DOJ has completed an independent investigation and review of the facts and circumstances that led to Mr. Heiselman's death. This analysis is based on all the evidence obtained by DOJ in this matter, including police reports, witness statements, officer statements, forensic evidence, coroner's report, BWC footage, and aerial airship footage.

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

The Evidence Supports that the Officers Subjectively Believed It Was Necessary to Use Deadly Force to Prevent Imminent Death or Serious Bodily Injury

All four shooting officers gave voluntary statements indicating that they subjectively believed that deadly force was necessary to prevent imminent death or serious bodily injury to themselves, their partners, or civilians in the area. Their statements were also supported by the footage from their BWCs and other recordings memorializing their thoughts at the time of the OIS. Officer Ashman stated that, during the pursuit, when Mr. Heiselman displayed a firearm, he took it as a threat, as if Mr. Heiselman was trying to convey that if they attempted another PIT he would open fire on them.⁸ Officer Ashman explained that he did not conduct another PIT because it would have required his vehicle to get close to Mr. Heiselman's vehicle, and he deemed it unsafe because Mr. Heiselman was armed.

Officer Ashman stated that, after the collision, he was concerned when Mr. Heiselman exited his vehicle through the window because the Chevron appeared open, and there was a strip mall south of the Chevron; therefore, civilians could be in the area. Once Mr. Heiselman got to the cinder block wall, Officer Ashman witnessed Mr. Heiselman put his hands together and form a shooter's stance. Officer Ashman stated that Mr. Heiselman's stance is how you would shoot a semi-automatic handgun, which was the gun he saw Mr. Heiselman wave out of the window earlier in the pursuit. Officer Ashman added that at this point, from his vantage point, "I saw what I perceived to be the handgun ... he was pointing it directly at Corporal Green, directly at Officer Arenas ... so I immediately feared for the safety of my partners ... I thought the suspect was going to open fire on Corporal Green and Officer Arenas ... if he was successful ... I would be next ... [then] my partner, Officer Walker ... and then the general public" Therefore, Officer Ashman stated he fired shots at Mr. Heiselman.

Corporal Green stated that when Mr. Heiselman was near the cinder block wall, Mr. Heiselman reached down at his side as if he was drawing a weapon, then he put both hands at his chest area, in a punched-out position, getting ready to fire. Corporal Green added that Mr. Heiselman's vehicle was involved in an armed robbery with a gun, and he was waving the gun during the pursuit that just occurred; thus, when Mr. Heiselman took the shooting stance, he feared that he was going to shoot one of them. Therefore, Corporal Green began firing his firearm toward Mr. Heiselman. Corporal Green concluded that, if he did not discharge his firearm, "we would have been shot and killed ... there is no doubt in my mind, you know, he was sitting there lying in wait."

Officer Arenas explained that after the PIT maneuver failed, one of the officers broadcast that the driver was waving a handgun out of the window, and the speed then increased to about 70-80 miles per hour. Officer Arenas said that when he arrived at the collision scene, he unholstered his weapon because "it's an armed 211, armed robbery suspect ... the weapon used in the armed robbery was a semi-automatic handgun ... he was waving the gun ... he was trying to evade the police ... he knows he's getting evaded by the police to the ... PIT and the lights and sirens ... so at this point ... we don't know ... I don't know if he's going to come out with the gun." When Officer Arenas saw Mr. Heiselman running towards the cinder block wall, he was hunched over, holding onto his waistband. Based on his training and experience, he knew that subjects carry their firearms in their waistband area so they hold it in an effort to make sure the gun does not fall out while running.

⁸ A handgun was later found in Mr. Heiselman's vehicle.

Thus, because Corporal Green's K-9 deployment constituted a less-lethal use of force, Officer Arenas followed behind Corporal Green, who was following his K-9, and provided lethal coverage for Corporal Green. When Mr. Heiselman reached the cinder block wall, Officer Arenas yelled, "Let me see your hands." At that point, Officer Arenas noticed that Mr. Heiselman "deliberately punched his hands out ... handgun position in my direction and Corporal Green's direction." When Mr. Heiselman punched out his hands, Officer Arenas said that he "perceived that he had a handgun ... and he was going to shoot, shoot my partner, kill me ... so at that point ... I stopped the threat, I shot approximately four to five times ... we were approximately seven yards away from the suspect."

Officer Walker stated that, shortly after the PIT maneuver, Officer Ashman advised that the suspect flashed a handgun out the window. At this point, Officer Walker believed that Mr. Heiselman was the same suspect from the armed 211. When Mr. Heiselman was running south on the sidewalk towards the cinder block wall, he could not see his hands; he could only see his black jacket with a stripe on the sleeves. When Mr. Heiselman turned into the alleyway against the cinder block wall, he saw him turn around, and because of his white stripes, he could see him raise his arms and extend them forward, demonstrating a stereotypical shooting stance. Officer Walker explained, "I believed to see a gun in his hand ... based on everything in that situation ... him flashing a gun at us, me not seeing his hands, the crime, I believed to see a gun." Officer Walker added that he noticed Corporal Green was standing when he observed a flash of light in quick succession and heard bangs, so he perceived them to be gunshots. Officer Walker was scared that Corporal Green was getting shot; he thought Corporal Green was down and that Mr. Heiselman was trying to kill my partner. Thus, he fired rounds toward Mr. Heiselman to eliminate the threat to his partner's life.

The evidence supports the officers' statements that they subjectively believed they needed to use deadly force to protect themselves and others. Officer Arenas's broadcast that Mr. Heiselman had displayed a gun was recorded. Further, the officers' statements that Mr. Heiselman had adopted a shooter's stance were supported by the BWC footage of Corporal Green and Officers Arenas and Ashman, which showed Mr. Heiselman in the stance the officers described. Consequently, it is not possible to disprove beyond a reasonable doubt that the officers subjectively believed the use of deadly force was necessary.

The Evidence Supports that the Officers' Belief that Deadly Force Was Necessary Was Objectively Reasonable

The evidence also supports that the officers' belief that Mr. Heiselman presented an imminent threat to them and others was reasonable. The officers responded to a felony flock hit, stating that there was a felony vehicle in the nearby area that was wanted for robbery with a firearm. When the pursuit began, the BWCs of Officers Ashman, Arenas, and Walker, and Corporal Green all captured the dispatcher broadcasting that "the white Ford Explorer 366E58 - felony vehicle used in an armed robbery."

Mr. Heiselman fled from officers with their lights and sirens on in a high-speed pursuit, during which he displayed a firearm. Mr. Heiselman was speeding and disobeying traffic laws for nine minutes and 19 seconds. Mr. Heiselman refused to pull over, starting at 1:05:13 AM until he ran a red light and crashed into the black BMW at 1:14:32 AM. The officers' BWCs and Angel recorded the chase.

After Mr. Heiselman crashed his vehicle, he crawled out from one of the windows and ran toward the cinder block wall. Despite the shooting officers' warnings to stop and show his hands, Mr. Heiselman stood in a shooting position, put his hands together, and raised them out in front of his chest as if he were pointing a firearm. In response, all four officers fired their guns, killing him. Mr. Heiselman's actions were captured on the BWC footage of the officers.

Thus, a reasonable officer could have believed that deadly force was necessary to prevent imminent death or serious bodily injury under these circumstances. Viewed from the perspective of a reasonable officer on the scene, and in light of the rapidly evolving and dangerous circumstances, deadly force could be objectively reasonable to prevent an imminent threat of death or serious bodily injury to the officers and any civilians at nearby businesses. The totality of the evidence shows that Officers Arenas, Ashman, and Walker, and Corporal Green all held the subjective belief that deadly force was necessary to defend themselves and others from an imminent threat of death or serious bodily injury, and that their belief was an objectively reasonable response under the circumstances.

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 Officers Ashman, Arenas, and Walker, and Corporal Green. 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
Fullerton Police Department Related to the
Officer-Involved Shooting of Austin Heiselman
on February 10, 2023**

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 through its Police Practices Section conducts a review of the information obtained through the criminal investigation, which may include a review of policies concerning body-worn camera footage, interview recordings, video recordings, witness statements and other records, as well as the publicly available policies of the agency employing the officers who are subject to the criminal investigation. The Police Practices Section uses the review process to identify applicable recommendations, including any recommendations to modify policies and practices that may reduce the likelihood that officers use deadly force, as well as recommendations to address any other deficiency or concern related to the officers’ conduct or the agency’s response. The Police Practices Section’s goal is that these recommendations will assist the agency and the officers involved in the incident in understanding, from an independent perspective, improvements that may be made to address what was observed through this incident.

As background, on February 10, 2023, Fullerton Police Department (Fullerton PD) Corporal Brandon Ramek and Officer Anthony Vega were patrolling in an unmarked black vehicle in Fullerton. At 1:03:44 a.m., they received an automated license plate recognition alert for a SUV as a “felony vehicle”¹ about a mile south of them, traveling northbound.² Dispatch advised the vehicle was wanted “in an armed robbery investigation.” Officer Vega and Corporal Ramek requested two marked units and a helicopter. Dispatch further advised the vehicle was involved in an armed robbery with a handgun that took place at a smoothie business a week earlier. The vehicle was flagged as “Felony Stop, Armed and Dangerous.”

After receiving the alert, Corporal Ramek and Officer Vega observed the SUV stopped at a red light. They activated their code 3 lights and sirens and initiated a vehicle pursuit. At 1:05:40 a.m., the SUV pulled over for a few seconds to let out a female passenger. The vehicle pursuit then continued. At 1:05:56 a.m., Corporal Ramek requested assistance from the neighboring Anaheim Police Department’s (Anaheim PD) Air Support Bureau and then requested two marked Fullerton PD units to take over the pursuit when available. At 1:08:46 a.m., four marked Fullerton PD units took over the pursuit, each vehicle separately operated by Fullerton PD Officers Nicholas Ashman, Joshua Walker, Juan Arenas, and Corporal Matthew Green.

1 A “felony vehicle” is a vehicle involved in the commission of a felony, or subject to seizure based on a court order or warrant. (Department of Justice, *Stolen Vehicle System Terminal Operator’s Guide* (Jan. 20, 2023), § 1.5.6.)

2 When an Automated License Plate Recognition camera identifies certain vehicles, including felony vehicles, it alerts officers in the entire city. Officers typically receive email or text message notifications with the vehicle information. Dispatch also receives and shares those notifications over the radio. On this occasion, Officer Vega and Corporal Ramek advised over the radio that they got such notification before dispatch broadcasted it.

Officer Ashman attempted a Pursuit Intervention Technique (PIT maneuver),³ which was unsuccessful at stopping the SUV. Officer Ashman then broadcast over the radio that he observed Mr. Heiselman waving a semi-automatic handgun out of the driver window. At 1:13:04 a.m., Anaheim PD's helicopter caught up to the vehicle pursuit.

Traveling southbound, the SUV ran the red light at the intersection of South Beach Boulevard and West Imperial Highway in La Habra at 1:14:31 a.m. and collided with a black sedan. The SUV careened across the northbound lanes of South Beach Boulevard, flipped over, came to rest on its side by the entrance of a gas station, and became engulfed in flames. The four pursuing officers positioned their units in a spread formation, facing the SUV. Two additional Fullerton PD units, driven by Corporal Lloyd Bouchet and Sergeant Josh Earnest, arrived and positioned their units behind the other units seconds later. At 1:14:45, Sergeant Earnest directed officers to initiate a high-risk stop by the code, "960 X-ray," which dispatch immediately relayed over the radio.

At 1:14:59 a.m., the suspect—later identified as Austin Heiselman—fled from the SUV and Corporal Green pursued him on foot with his canine. Corporal Green released his canine and gave his canine the "bite" command. Officers Ashman, Walker, and Arenas followed close behind Corporal Green on foot. Less than 20 seconds later, Mr. Heiselman stopped in an enclosed area in front of a building, turned to face the officers, and raised his arms to chest level, which the four pursuing officers perceived to be a shooting stance with a handgun pointed at Corporal Green. At 1:15:17 a.m., Corporal Green and Officers Ashman, Walker, and Arenas shot Mr. Heiselman multiple times with their firearms. Although Corporal Green gave his canine the "bite" command before the shooting, the canine did not actually apprehend Mr. Heiselman until after the shots fired and Mr. Heiselman fell to the ground.

Corporal Green continued to give the "bite" command and the canine continued biting and thrashing Mr. Heiselman's motionless body for almost a minute, until the officers approached and handcuffed Mr. Heiselman. Then Fullerton PD officers provided medical aid, but Mr. Heiselman died at the scene. Officers found a folded four-inch knife in Mr. Heiselman's pants pocket. A search of his vehicle uncovered a replica pistol in the front passenger floorboard and an airsoft handgun under the driver's seat.

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), advises Fullerton PD to review and implement the following four recommendations:

Recommendation One: Develop and Implement Policy and Training for High-Risk Felony Stops

Although the involved officers articulated an intent to execute a high-risk stop during this incident, Fullerton PD does not have any written policy or written training materials on high-risk stops. Therefore, the Police Practices Section recommends that Fullerton PD develop and implement appropriate written policies and training materials for high-risk stops that include guidance on

3 A Pursuit Intervention Technique is "a low-speed tactic designed to apply lateral pressure to the rear quarter panel of a fleeing vehicle, causing it to spin out, stall, and come to a stop (also known as Precision Immobilization Technique)." (Fullerton PD Policy Manual (May 5, 2026), § 307.1.1.)

whether, when, and how officers should contain and apprehend subjects that are non-compliant or flee on foot.

Once the traffic collision occurred, Sergeant Earnest directed the officers to initiate high-risk stop procedures.⁴ Before they could do so, Mr. Heiselman fled the traffic collision, and the officers pursued him on foot.

The California Commission on Peace Officer Standards and Training (POST) discourages foot pursuits of fleeing suspects during a high-risk stop because it may “[d]raw officer(s) into potentially unsafe (uncleared) areas, and [c]ause the peace officer to run past the contact vehicle while occupants who may be armed are still inside, and [c]ompromise the safety of peace officer(s).” Instead, where a suspect flees on foot from a high-risk stop, “peace officers should consider establishing a perimeter of the area and initiating a systematic search of the area.” (POST Basic Course Workbook Series, Learning Domain 22: Vehicle Pullovers, Chapter 3: High-Risk Vehicle Pullovers (July 2025), at p. 3-11.) Thus, in developing policy and training, a high-risk stop protocol should address contingency plans when suspects are non-compliant or flee on foot.

POST also recommends officers take several safety precautions while conducting high-risk stops, including among other things:

- “Develop a plan of action,”
- “Move slowly and methodically,”
- “Use available cover and concealment,”
- “Always maintain a position of advantage,”
- “Do not rush,”
- Ensure “[t]he roles and responsibilities of each peace officer ... [are] clear,” and
- “[O]fficers must effectively communicate with one another” including regarding the “[s]afest approach to the scene.”

(*Id.* at pp. 3-1 to 3-13.)

Fullerton PD’s policy manual at the time of the incident and currently does not cover high-risk or felony vehicle stops. The only reference to “high-risk stop” in either version is in the Use of Force Policy in the context of displaying firearms. (Fullerton PD Policy Manual (May 5, 2026), § 300.4.2; Fullerton PD Policy Manual (Dec. 7, 2022), § 300.4.2.) In response to the Department of Justice’s request, Fullerton PD indicated that although it conducts in-person training on high-risk stops, it does not have any related written training materials. Nor does Fullerton PD have a written policy or written training

⁴ A high-risk or felony stop is conducted in any situation where patrol officers perceive a greater level of risk, and typically occurs when an officer has a reason to believe that one or more of the occupants of the car may be armed, represent a serious threat to the officer, or have committed a felony. (POST Basic Course Workbook Series, Learning Domain 22: Vehicle Pullovers, Chapter 1: Introduction to Vehicle Pullovers (July 2025), at p. 1-6.)

materials about making contingency plans for apprehension of *non-compliant* or *fleeing* subjects in the context of a high-risk stop. In the absence of any written materials, it is unclear whether the training on high-risk stops adequately prepares its officers to deal with such situations.

The Police Practices Section recommends that Fullerton PD develop and implement a written policy and written training materials for high-risk stops. This should include guidance on whether, when, and how officers should contain and apprehend subjects that are non-compliant or flee on foot. Such policy and training should also prepare officers to develop tactical plans and consider response options in rapidly evolving situations, where suspects may be armed and/or non-compliant following a high-risk stop. Fullerton PD should adjust training as necessary to correspond with this written policy.

Recommendation Two: Amend Vehicle Pursuit Policy to Leverage Air Support

The Police Practices Section recommends that Fullerton PD amend its vehicle pursuit policy to further leverage air support when feasible.

The Police Practices Section commends Fullerton PD for having recently made improvements to its vehicle pursuit policy since this incident, including (1) simplifying the analysis to determine whether to initiate and/or terminate a vehicle pursuit, (2) placing greater emphasis on safety and slower speeds during vehicle pursuits, and (3) clarifying that a PIT maneuver “should not be conducted at speeds greater than the speed at which the officer has received training.”⁵ (Fullerton PD Policy Manual (May 5, 2026), §§ 307.3, 307.5, 307.5.1, 307.9.2(a), 307.10.)

Although the availability of air support is one of the factors officers must consider when initiating or terminating a vehicle pursuit, Fullerton PD’s vehicle pursuit policy does not recommend that ground units should stop their code 3 operation and reduce their speed once air support is established. (Fullerton PD Policy Manual (May 5, 2026), §§ 307.3, 307.4.5; 307.10; Fullerton PD, *Critical Issues Training—Vehicle Pursuits* (Oct. 2020), at pp. 2-3.)

Several large Southern California law enforcement agencies’ vehicle pursuit policies provide that once air support has been established, ground units should or shall discontinue their code 3 operation and allow the air unit to take over the primary pursuit. (See, e.g., Los Angeles County Sheriff’s Department Policy Manual (2026), § 5-09/210.15 [“Once surveillance mode [by the Aero Bureau unit] has been established, all vehicles involved in the pursuit shall cease their pursuit, discontinue their code 3 operation, reduce their speed, and allow the Aero Bureau unit to monitor the suspect vehicle.”]; Orange County Sheriff’s Department Policy Manual (Nov. 14, 2024) § 314.3.9 [“Once the air unit established visual contact with the pursued vehicle, it should assume control over the pursuit. The primary and secondary ground units should consider ... whether to continue the pursuit.”]; Los Angeles Police Department Manual (Oct. 14, 2025) § 555.10 [“Upon arrival, air units shall immediately assume responsibility for tracking a suspect’s

⁵ According to officer interviews, Officer Ashman attempted the PIT maneuver at speeds between 50-70 miles per hour on city streets, even though Fullerton PD’s policy manual identifies a PIT maneuver as a “low speed tactic” and training directs that 35 miles per hour is the maximum speed at which one should perform the maneuver. (Fullerton PD Policy Manual (May 5, 2026), § 307.1.1; Fullerton PD Policy Manual (Dec. 7, 2022), § 307.1.1; Fullerton PD, *Critical Issues Training—Vehicle Pursuits* (Oct. 2020), at p. 1.)

vehicle” while ground units “should reduce their speed” and remain “out of the line-of-sight of the suspect’s vehicle”].)

Here, the officers engaged in a high-speed vehicle pursuit of Mr. Heiselman whose vehicle reached speeds of about 70 to 90 miles per hour on city streets and went through red lights. Mr. Heiselman’s vehicle collided with another vehicle, whose driver was transported to the hospital for minor injuries. During the vehicle pursuit, an Anaheim PD helicopter tracked Mr. Heiselman’s movements and called out his location over the radio, which the responding officers on the ground heard. Although the officers promptly requested air support once the vehicle pursuit began, the helicopter caught up to the pursuit eight minutes in and shortly before the pursuit ended in a traffic collision, after which the incident unfolded rapidly. In other contexts, additional policy guidance may enable Fullerton PD officers to more heavily rely on air support and allow ground units to slow down to safer speeds.

The Police Practices Section recommends that Fullerton PD amend its policies to include language that once air support is established and tracking the suspect vehicle, officers may discontinue their code 3 operation and reduce speeds until they can safely take the suspect into custody, when feasible and appropriate. Greater reliance on air support, when feasible, can avoid the need for a vehicle pursuit altogether, makes apprehension more effective,⁶ increases safety for the officers and the public,⁷ and can track a fleeing suspect even when they are fleeing on foot.

Recommendation Three: Further Training on Canine Policy

The Police Practices Section recommends that Fullerton PD provide further training on its canine policy and when it is appropriate to give a release command following a canine bite.

At the time of the incident and currently, Fullerton PD’s canine policy states:

In all applications, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, the handler should secure the canine as soon as it becomes reasonably practicable. If the canine has apprehended the suspect with a secure bite, and the handler believes that the suspect no longer poses a threat, the handler should promptly command the canine to release the suspect.

(Fullerton PD Policy Manual (May 5, 2026), § 309.6; Fullerton PD Policy Manual (Dec. 7, 2022), § 309.6.) This language is appropriate and in line with best practices.

⁶ For example, the California Highway Patrol reported in 2023 that police pursuits statewide involving air support reported an apprehension rate of 78.6%, while pursuits not involving air support reported an apprehension rate of 46.6%. California Highway Patrol reported similar trends in 2022 and 2021. (California Highway Patrol, Report to the Legislature, [Senate Bill 719—Police Pursuits](#) (June 2023) at p. v; California Highway Patrol, Report to the Legislature, [Senate Bill 719—Police Pursuits](#) (Dec. 2022), at p. v; California Highway Patrol, Report to the Legislature, [Senate Bill 719—2020 Police Pursuits](#) (Nov. 2021) at p. v.)

⁷ In 2020, three officers and 529 other people died as a result of police vehicle pursuits in the United States. More than 5,000 bystanders and passengers were killed in police pursuits from 1979 through 2013, and tens of thousands were injured. From 2015 to 2020, there was an average of 370.5 fatal crashes per year due to police pursuits. (City and County of San Francisco, [National Survey of Vehicle Pursuit Policies](#) (Nov. 1, 2023).)

The canine handler, Corporal Green, gave his canine the “bite” command as he released the canine and shortly before shots were fired. The canine ran amidst the gunfire, biting Mr. Heiselman as he fell to the ground. While Mr. Heiselman was on the ground—silent, motionless, and visibly bleeding from his head—Corporal Green continued to give and repeat the “bite” command for almost a minute. The canine at times thrashed Mr. Heiselman’s otherwise motionless body. Corporal Green and Officer Arenas each told Mr. Heiselman once to show his hands. Mr. Heiselman did not respond or move. After the officers approached Mr. Heiselman, Corporal Green physically pulled his canine off Mr. Heiselman and gave the “release” command.

Corporal Green said in his interview that he continued to give the “bite” command because he could not see one of Mr. Heiselman’s hands or whether there was a weapon in that hand. However, at this point, Heiselman had been shot multiple times, dropped to the ground, was bleeding extensively from his head, and appeared to be unconscious or incapacitated. Given these facts, under the terms of Fullerton PD’s canine policy, Corporal Green should have called off his canine sooner. Under existing case law, continuing to use canine force against an individual who no longer appears to pose an immediate threat can constitute excessive force. (*Zion v. Cnty. of Orange* (9th Cir. 2017) 874 F.3d 1072, 1075-76; *see also Tovar v. City of San Jose* (N.D. Cal. Sept. 24, 2024) No. 5:21-CV-2497, 2024 U.S. Dist. LEXIS 172678, at *24-31 [permitting canine to attack decedent for over two minutes after he had been shot multiple times and while several officers stood watching with their rifles pointed, and the individual was on the ground motionless, mortally wounded, and unresponsive, constituted excessive force]; *Burns v. City of Concord* (N.D. Cal. Nov. 28, 2017) No. 14-CV-535, 2017 U.S. Dist. LEXIS 195389, at *37-38 [“a reasonable jury could find that [the officer] deployed a dog [for ten to fifteen seconds] on an incapacitated, dying individual who posed no threat to officers and, in doing so, violated clearly established law.”].) Even if an officer is unsure whether the individual is only bluffing or temporarily subdued, an officer should reassess the situation before continuing to use force. (*Zion, supra*, 874 F.3d at p. 1076.) In addition, the Ninth Circuit has found that “excessive duration of the bite and improper encouragement of a continuation of” a canine bite—lasting between as little as ten and thirty seconds— “could constitute excessive force.” (*Watkins v. City of Oakland* (9th Cir. 1998) 145 F.3d 1087, 1090-93.)

Accordingly, the Police Practices Section recommends that Fullerton PD should provide further training to its canine handlers on its canine policy, including when a canine’s bite should be called off, and applicable legal standards around the use of force against unconscious or incapacitated individuals.⁸

8 The Department of Justice generally recommends agencies adopt “find and bark” policies, whereby canines are trained and deployed to alert by barking, rather than biting a suspect as a first response, and then circling and barking until the handler takes control. Fullerton PD should consider adopting a “find and bark” approach or alternatively limiting or discontinuing “find and bite” techniques, for canine utilization through written policy and training. (See Department of Justice, *Sacramento Police Department Report and Recommendations* (2019), at pp. 31-32, 79; Department of Justice, *Attorney General Becerra Calls for Broad Police Reforms and Proactive Efforts to Protect Lives* (June 15, 2020); *People v. County of Kern et al.* (Super. Ct. Kern Cnty. Dec. 22, 2020), No. BCV-20-102971, *Stipulated Judgment*, at pp. 10-11 ¶ 12; *People v. City of Bakersfield et al.* (Super. Ct. Kern Cnty. Aug. 27, 2021), No. BCV-21-101928, *Stipulation for Entry of Final Judgment and Permanent Injunction*, at pp. 9-10 ¶ 10.)

Recommendation Four: Website Posting of Agency Policies

The Police Practices Section recommends that Fullerton PD post its current policies on its website, as required by state law.

Fullerton PD's latest Policy Manual, dated May 5, 2026, is not available on Fullerton PD's website, rather the August 20, 2025, policy manual is posted. In addition, the policy manual in effect at the time of this incident was dated December 7, 2022. However, it appears that an older version dated December 22, 2020, was posted on the website until at least May 29, 2023.⁹ California law requires Fullerton PD to "conspicuously post on [its] internet websites all current standards, policies, practices, operating procedures, and education and training materials that would otherwise be available to the public if a request was made pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code)." (Pen. Code, § 13650.) The Police Practices Section recommends that Fullerton PD ensure the policies in its manual are updated to include the most recent versions of the policies, and that it "conspicuously post" the manual on its website, as required by law.

⁹ [Fullerton Police Department Policies and Procedures - Policy Manual, archived May 29, 2023 at the Wayback Machine](#) (visited August 5, 2026).