



C A L I F O R N I A

DEPARTMENT OF JUSTICE

**Report on the Investigation into the
Death of William Nelson on September 17, 2023**

Humboldt County AB 1506

September 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. The public interest in such information is limited as it is not necessary to gain an understanding of the incident. Thus, the interest in nondisclosure outweighs any public interest in disclosure.

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

- Witness 1 (W-1): Passenger in Mr. Nelson's car.
- Witness 2 (W-2): Second passenger in Mr. Nelson's car.
- Witness 3 (W-3): Local resident who overheard shooting.
- Witness 4 (W-4): Civilian who overheard shooting.
- Witness 5 (W-5): Civilian who overheard shooting.
- Witness 6 (W-6): Civilian who overheard shooting.
- Witness 7 (W-7): Civilian who saw vehicle pursuit.
- Witness 8 (W-8): Civilian who saw traffic stop of Mr. Nelson's vehicle.
- Witness 9 (W-9): Civilian who overheard the shooting.

INTRODUCTION

On September 17, 2023, at approximately 7:30 AM, California Highway Patrol (CHP) Officer Neil Johnson fatally shot William Nelson in Hoopa Valley, Humboldt County. Officer Johnson followed Mr. Nelson in a high-speed pursuit after attempting to pull Mr. Nelson's vehicle over for traffic violations. Mr. Nelson fled his vehicle and entered a nearby wooded area. Officer Johnson pursued, and during this foot pursuit, Mr. Nelson resisted arrest and battered Officer Johnson. During a struggle on the ground, Mr. Nelson wrestled a taser away from Officer Johnson and deployed it against Officer Johnson and bit Officer Johnson on his right leg. Officer Johnson drew his duty pistol and fired four shots at Mr. Nelson's chest. Mr. Nelson died as a result of gunshot wounds.

DOJ investigated and reviewed the officer-involved shooting (OIS) pursuant to Government Code section 12525.3 (enacted by Assembly Bill 1506 (2019-2020 Reg. Sess.)). This report is the final step in DOJ's review of the fatal OIS of Mr. Nelson and is limited solely to determining whether criminal charges should be brought against the involved officer. The review does not encompass or comment on any potential administrative or civil actions. It does, however, include policy and practice recommendations as required by Government Code section 12525.3, subdivision (b)(2)(B)(iii). Upon thorough examination, and as discussed in detail below, we conclude that no criminal charges will be filed because the evidence is insufficient to prove that Officer Johnson committed a crime.

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

SUMMARY OF INCIDENT

September 17, 2023 – Day of Shooting Incident

On September 17, 2023, at approximately 7:28 AM, CHP Officer Johnson was seated in the driver seat of a marked CHP patrol vehicle, parked along the roadway across from the Hoopa Mini Mart, observing traffic on Highway 96. Humboldt County Sheriff's Office (HCSO) Deputy David Brooks was also parked at the same intersection in his own marked patrol vehicle. At that time, both Officer Johnson and Deputy Brooks observed a silver-colored Jetta, which they later determined was driven by Mr. Nelson, drive south past them, and noticed that the vehicle had a cracked windshield. Officer Johnson also observed that Mr. Nelson was not wearing a seatbelt. Officer Johnson and Deputy Brooks decided to pursue the Jetta to conduct a traffic stop based on the cracked windshield violation.



Photo depicting silver Jetta with broken windshield

Both Officer Johnson and Deputy Brooks activated their overhead lights and drove in pursuit of the Jetta, which was travelling south on Highway 96. The silver Jetta did not stop after Officer Johnson and Deputy Brooks illuminated their overhead lights.

At 07:28:46 AM, Officer Johnson activated his vehicle's overhead emergency lights which also activated the vehicle's Mobile Video Audio Recording System (MVARs).¹ The MVARs video recorded the Jetta proceeding south on a roadway that led away from the Hoopa Mini Mart and the substantial distance between the Jetta and the law enforcement vehicles. The Jetta did not appear to slow down until it reached an intersection and turned east onto a dirt road at 07:29:00 AM. This was the first time that the Jetta's brake lights illuminated. Only one brake light was operating.

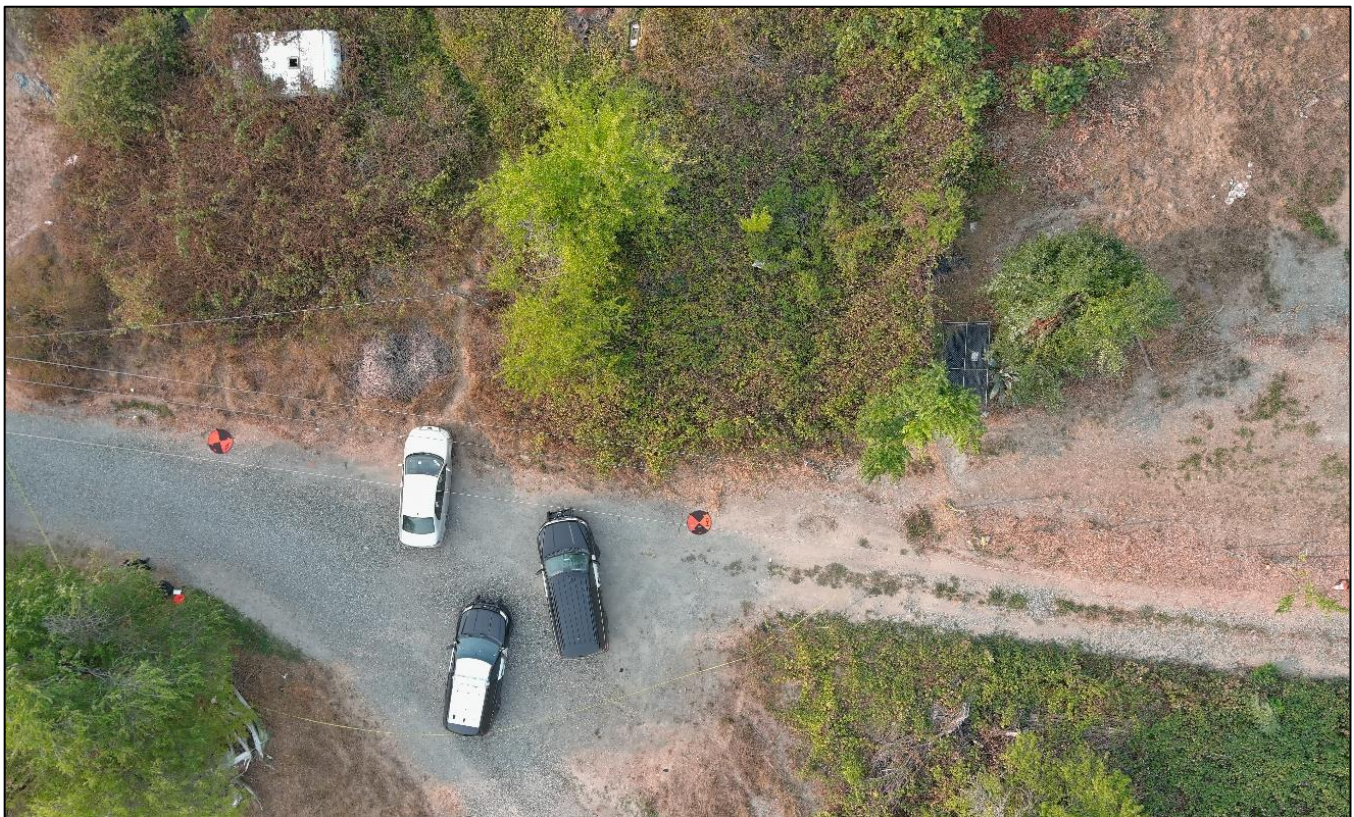
¹ When playing the recording, audio cannot be heard for the first minute, as the MVARs device is programmed to capture one minute of video prior to activation of its recording system but does not capture audio for this minute.

Officer Johnson followed the Jetta in his marked patrol car, turning east onto the dirt road. At 07:29:12 AM, the MVARs began recording audio, and the sound of sirens coming from Officer Johnson's patrol vehicle can be heard. At 07:29:29 AM, Mr. Nelson continued driving, maneuvering around several boulder-sized rocks that were in the dirt road. Officer Johnson can be heard saying "failure to yield" on the MVARs audio recording.

At 07:30:01 AM, Mr. Nelson stopped his vehicle at the east end of Mesket Lane, a loose gravel road running east/west, approximately 900 feet in length, located east of Highway 96. Mr. Nelson parked the Jetta near an area where the gravel meets the dirt road on Mesket Lane, facing north, angled toward an area of dense scrub-like vegetation. Mr. Nelson opened the driver's side door of his vehicle and exited, fleeing on foot. He can be seen on the MVARs video running away from the Jetta, wearing camouflage clothing.

At 07:30:04 AM, Officer Johnson parked his patrol vehicle behind the Jetta, exited, and pursued Mr. Nelson on foot into an area with heavy brush. Deputy Brooks stayed behind to detain two passengers in the Jetta.

Officer Johnson was not wearing a body-worn camera or other recording device. The following facts directly before, during, and after the OIS are primarily garnered from Officer Johnson's own voluntary interview, unless otherwise indicated.



Overhead visual of vehicle pursuit termination point

Officer Johnson pursued Mr. Nelson on foot through an area with heavy vegetation until they reached a three-foot tall fence. As Mr. Nelson mounted the fence and crossed to the other side, Officer Johnson drew his taser and aimed it at Mr. Nelson. Officer Johnson warned Mr. Nelson that he would tase Mr. Nelson if he did not stop. Mr. Nelson ignored the warning and continued fleeing on foot.

Officer Johnson climbed over the fence and pursued Mr. Nelson, holding his taser in his left hand. As Officer Johnson pursued, he observed Mr. Nelson periodically looking over his shoulder and screaming aggressively at him. Officer Johnson caught up with Mr. Nelson near a gravel area in front of an abandoned residence, east of the 12,000 block of Highway 96. Officer Johnson pointed his taser at Mr. Nelson again. Mr. Nelson initially yelled “fuck you” at Officer Johnson but then appeared to surrender by turning to face Officer Johnson with his hands up, palms outward. Since Mr. Nelson appeared to be complying with his orders, Officer Johnson holstered his taser and approached, using his right hand to grab Mr. Nelson’s right arm.

As Officer Johnson attempted to physically direct Mr. Nelson to the ground and onto his stomach, Mr. Nelson abruptly jerked his arm out of Officer Johnson’s grip and struck Officer Johnson in the face, causing Officer Johnson to step backwards. Officer Johnson later told investigators that he felt the sensation of “seeing stars,” and he felt intense pain in his face.

After striking Officer Johnson in the face, Mr. Nelson fled again. Officer Johnson aimed his taser at Mr. Nelson and deployed a cartridge; both prongs struck Mr. Nelson, causing him to fall forward. Officer Johnson stated that, after he deployed his taser and Mr. Nelson fell, he felt fatigued and disoriented. He holstered his taser and walked toward Mr. Nelson, who was lying on the ground, and straddled Mr. Nelson’s legs to gain physical control over him. Mr. Nelson abruptly lifted his upper body from the ground and began punching Officer Johnson. Officer Johnson yelled for help and drew his taser with his non-dominant (left) hand, then attempted to “drive-stun” Mr. Nelson by pressing the taser against Mr. Nelson’s body and activating it, delivering an electric charge without deploying the taser’s barbs.

Mr. Nelson continued to grapple with Officer Johnson, using one hand to grab the taser while using the other hand to grab Officer Johnson’s duty belt and tourniquet holster. This section of the duty belt is close to the officer’s duty pistol holster. Officer Johnson believed that Mr. Nelson was reaching for the duty pistol. Mr. Nelson yanked Officer Johnson forward, causing the tourniquet and one pistol magazine to dislodge from the duty belt. Mr. Nelson obtained control of Officer Johnson’s taser and used it to “drive-stun” Officer Johnson’s left arm. Officer Johnson felt his body “locking up” as he fell to the ground, first onto the left side of his body, then onto his back. He was lying next to Mr. Nelson, who was also on his back.

When Officer Johnson fell, his left leg landed on Mr. Nelson’s head, with his right leg on Mr. Nelson’s chin. Mr. Nelson began biting and chewing on Officer Johnson’s right leg on the underside of his upper thigh, just above the back of his knee. Officer Johnson recalled that he experienced “excruciating pain” from the bite. Mr. Nelson was growling and shaking his head while latching onto Officer Johnson’s leg with his teeth.



Photos of Officer Johnson's right leg on 9/17/23 (left) and 9/22/23 (right)

After biting Officer Johnson, Mr. Nelson took control of the taser and aimed it at Officer Johnson. Officer Johnson told investigators that he believed that Mr. Nelson was going to stun him again, and he believed that Mr. Nelson would beat or shoot him to death if he became incapacitated. Officer Johnson drew his firearm, aimed at Mr. Nelson, and fired four times at close range.

Officer Johnson retrieved his taser from Mr. Nelson and tossed it away, deeper into the underbrush. Officer Johnson knelt next to Mr. Nelson, who said something to the effect of "just kill me," several times. Even after being shot, Mr. Nelson continued to actively resist, punching at Officer Johnson as he attempted to handcuff Mr. Nelson. Officer Johnson was so exhausted from fighting with Mr. Nelson that he was unable to perform life saving measures.

Deputy Matthew Froeming arrived at the OIS scene and observed Officer Johnson walking toward him and waving. Deputy Froeming observed Officer Johnson fall to his knees on the ground, coughing. Officer Johnson appeared to be out of breath. Mr. Nelson was rolled over onto his back, and Deputy Froeming observed that Officer Johnson had handcuffed Mr. Nelson. Officer Johnson had blood on his arms and was still breathing heavily.

Deputy Froeming observed that Mr. Nelson's chest was covered in blood, and he appeared to have been shot dead. Deputy Froeming checked Mr. Nelson for a pulse but could not locate it. Paramedics arrived on scene at approximately 8:10 AM and confirmed that Mr. Nelson was dead.

INVESTIGATION

Overview

On September 17, 2023, at 9:05 AM, DOJ's Division of Law Enforcement (DLE) California Police Shooting Investigation Team (CaPSIT) received notification of an OIS in Hoopa Valley, located in Humboldt County, California. The incident involved an officer from the CHP and was determined to be a qualifying event within the meaning of Government Code section 12525.3. CaPSIT agents promptly responded to the incident scene to initiate a criminal investigation on behalf of DOJ. When CaPSIT agents arrived, the

incident location was secured by HCSO with the entire area blocked off with crime scene tape to preserve evidence.

DOJ's Bureau of Forensic Services (BFS) also responded to the scene to monitor the processing of the incident scene and the collection of evidence. CaPSIT agents walked the incident scene, reviewed the location of evidence, received a briefing on the incident from HCSO, and were assigned investigative tasks.

Over the course of several months, DOJ conducted an extensive investigation and reviewed comprehensive materials regarding the incident, including physical evidence; Computer Aided Dispatch (CAD) recordings and logs; patrol vehicle camera footage; security camera video; 3D scans of the shooting incident scene; photographs and video of the incident scenes; drone camera footage; interviews of officers and civilians; BFS reports; autopsy and forensic toxicology laboratory reports; and use of force policies.

Vehicle Pursuit Termination Point Scene Description

The vehicle pursuit ended at the east end of Mesket Lane, a loose gravel road, which runs east/west and is approximately 900 feet in length and located east of Highway 96 in Hoopa Valley, Humboldt County. At approximately 900 feet east of Highway 96, the loose gravel stops, and a dirt road continues east for approximately 250 feet. The Jetta driven by Mr. Nelson was parked near the place where the gravel meets the dirt, ending at Mesket Lane, facing a northern direction. A search of the Jetta revealed a loaded .22-caliber Ruger Single Six revolver (serial number 20-85251) located inside of a bag on the front passenger floorboard. The revolver contained three live .22-caliber rounds and two .22-caliber spent casings.



Photo of silver Jetta at vehicle pursuit termination point

Scene of the OIS

The OIS occurred at grassy patch of ground at the end of a gravel driveway, at the east end of Alameda Lane. Mr. Nelson's body had been removed prior to the arrival of CAPSIT personnel, but the location and positioning of his body was observed and recorded by a BFS Senior Criminalist. The scene was in view of a modular residence, with west-facing windows covered with plywood, and a front door in the center of the residence. The grassy lot was relatively square, with brush and small trees at its edges. The north side was bordered by a road or driveway that ended at the residence with boarded windows. The west and south sides of the lot were bordered by fences for adjacent properties. The eastern perimeter was bordered by the boarded windows residence at the northeast corner and an additional grassy lot with brush and small trees south of the residence. In the grassy area, in front of the residence and approximately 40 feet from the front door, was a deceased male subject, identified as Mr. Nelson. He was found on his back, with his hands secured behind his back with handcuffs. His body was surrounded by dried grass that appeared relatively untrampled except for the area immediately surrounding the body.



Aerial view of incident scene

Incident Scene Evidence Recovery

BFS was notified of the OIS, and criminalists responded to process the scene. They arrived at the location on September 17, 2023, at approximately 1:32 PM. The criminalists conducted an examination of the OIS scene for ballistic impacts, trajectories, and projectiles.

HCSO conducted an investigation alongside multiple local police departments, including Arcata Police Department (APD), Cal Poly Humboldt Police Department, Eureka Police Department (EPD), Fortuna Police Department, Rio Dell Police Department, and CHP. These departments primarily assisted by

canvassing the surrounding area and interviewing witnesses. Members of HCSO and APD conducted a visual inspection of Officer Johnson and a preliminary review of his clothing and equipment directly after the shooting incident.

A BFS Senior Criminalist supervised the processing and documentation of the crime scene, assisted by another BFS Criminalist. They searched the shooting scene, primarily focused on retrieving spent shell casings that were difficult to find in the long grass that grew around the shooting site. A CaPSIT Special Agent retrieved a download of the taser log with the assistance of a BFS Senior Criminalist at the Bureau of Firearm Safety office in Redding.

A CaPSIT Special Agent retrieved video that was recorded by Officer Johnson's dashboard-mounted MVARs device, as well as surveillance footage from the Hoopa Valley Mini Mart. CHP officers retrieved and processed Officer Johnson's equipment, including his duty pistol and ammunition.

An HCSO Deputy Coroner took custody of Mr. Nelson's body at 6:52 PM on September 17, 2023, and departed the scene. The criminalists continued to canvass the area and processed the vehicle pursuit termination location.

At the shooting scene, criminalists searched the grassy area around Mr. Nelson's body and found no weapons. Criminalists searched the surrounding area and located expended taser darts and identification tags scattered in the grass approximately 11 feet northwest of Mr. Nelson's body. They recovered Officer Johnson's taser approximately 25 feet southwest of Mr. Nelson's body, loaded with one expended cartridge and one intact cartridge.

Officer Processing

Officer Johnson was processed at approximately 3:15 PM on September 17, 2023. Officer Johnson was wearing a standard short-sleeved CHP uniform. On the front right side of the uniform shirt were name tags that read "Johnson." Officer Johnson had a CHP badge on the left breast of his uniform shirt and another patch on his right sleeve.

Officer Johnson carried a black Smith and Wesson M&P 40 as his duty pistol. As configured, the firearm had a 15-round capacity with one round in the chamber. Officer Johnson possessed two additional magazines, each with a capacity of 15 rounds. Officer Johnson's duty pistol had one live round in the chamber and 11 live rounds in the magazine, consistent with four rounds being fired during the incident.

Taser Evidence

A BFS Criminalist processed Officer Johnson's X2 Taser and performed a download of its internal data. The BFS Criminalist observed multiple stains consistent with blood on the surface of the device and performed chemical tests that confirmed they were of human origin. The Taser download revealed the following information:

- 07:32:10 AM – Trigger pulled and C1 Deployed – 5 seconds
- 07:32:24 AM – Arc – C1 Deployed, C2 25' Standard – 1 second
- 07:32:36 AM – Arc – C1 Deployed, C2 25' Standard – 1 second

- 07:32:28 AM – Arc – C1 Deployed, C2 25' Standard – 1 second
- 07:32:47 AM – Arc – C1 Deployed, C2 25' Standard – 1 second
- 07:52:56 AM – PowerSave – 20 Min Weapon Timer

The logs from Officer Johnson's Axon X2 Taser revealed that at 07:32:10, the trigger was pulled and "C1" [Cartridge 1] was deployed, with active current flowing through the taser wires for five seconds.

The log from Officer Johnson's taser indicates that it was "Arc" deployed for one second at 7:32:24 AM, which is approximately 14 seconds after the initial cartridge deployment. The taser logs indicate that the taser was deployed three times for one second each at 07:32:36 AM, 07:32:38 AM, and 07:32:47 AM. The "Arc" designation signifies the use of the taser in "drive stun" mode.

Video Recordings

The shooting incident was not captured on any video recording system. There was no surveillance video of the area. Per CHP policy, Officer Johnson was not wearing a body worn camera. Officer Johnson's dashboard MVARs camera recorded the initial vehicle pursuit and Mr. Nelson exiting his car and fleeing on foot, but nothing relevant after that.

Officers recovered surveillance video from the Hoopa Mini Mart that showed Officer Johnson sitting in his patrol car on September 17, 2023, at 7:28 AM. The video is one minute, 18 seconds long and showed Mr. Nelson's silver Jetta passing the Mini Mart. The video then showed Officer Johnson drive out and follow Mr. Nelson. Both vehicles turned east at an intersection just south of the Mini Mart and then drove out of view of the surveillance camera.

Communications Evidence

DOJ obtained and reviewed copies of dispatch calls, radio communications, CAD records, and message notifications related to the incident. The CAD printouts are consistent with the radio transmissions and provide a timeline of key events.

HCSO radios are not compatible with CHP radios, so Officer Johnson was unable to communicate with Deputy Brooks during the pursuit. Further, Officer Johnson was unable to send radio requests for assistance because his CHP communications equipment relied on a signal relayed by his vehicle, which was too far away from him to be effective at the time and location of the eventual OIS.

Coroner's Investigation

On September 22, 2023, Forensic Pathologist James Olson, M.D. of the Humboldt County Sheriff's Coroner's Office conducted an autopsy of Mr. Nelson. Mr. Nelson was a 43-year-old American Indian male, 5' 10" tall, weighing 200 pounds. The cause of death was determined to be "a gunshot wound to the chest," and the manner of death was ruled as "homicide." One round was recovered from Mr. Nelson's body, trapped between his shirt and sternum, attributed to Gunshot #1, described below.

A taser probe was observed in Mr. Nelson's upper right buttocks, and a second probe was found in his lower back region.

- Gunshot #1: bullet entry wound to the right center of the chest, with an exit wound below the left armpit. Stippling, tiny, punctate abrasions on the skin caused by unburnt or partially burnt gunpowder particles escaping a firearm's barrel during close-range discharge, was observed around the chest entry wound. The bullet exited in the left axilla (armpit) and was trapped beneath decedent's shirt, moving toward the anterior chest when the body was moved.
- Gunshot #2: a grazing wound in the lower left abdomen.
- Gunshot #3: a perforating wound in the right forearm just below the elbow, with a corresponding exit wound at the bottom of the right forearm. A bullet fragment was recovered from the right elbow/forearm.
- Gunshot #4: a bullet entry wound in the left arm, with an exit wound found on the top portion of the left arm.

The autopsy report concluded that Mr. Nelson appeared to have been shot four times.

A toxicology report analyzed a sample of Mr. Nelson's chest blood, which showed the presence of fentanyl, fentanyl metabolites, methamphetamine, methamphetamine metabolites, and THC metabolites.

INTERVIEWS OF OFFICERS

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

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

The following statements are summaries of interviews, which describe the incident from the point of view of the individual officers.

HCSO Deputy David Brooks

HCSO Deputy David Brooks was interviewed by DOJ Special Agent Daniel O'Tennant at the scene of the shooting incident on September 17, 2023, and gave a statement about the events that he witnessed. Deputy Brooks was parked in a marked HCSO patrol vehicle northwest of the Hoopa Mini Mart, observing traffic on Highway 96. He was parked next to Officer Johnson, who was in a CHP marked patrol vehicle, also facing traffic. Deputy Brooks observed Mr. Nelson driving a silver Volkswagen Jetta with a cracked windshield. Deputy Brooks followed behind Officer Johnson as he pursued the Jetta, and both of them activated their emergency overhead lights.

Deputy Brooks lost sight of Officer Johnson and the Jetta because dust was kicked up into the air when they drove onto a gravel road. Eventually he saw the Jetta parked where the gravel road met a dirt road. Deputy Brooks saw Mr. Nelson exit his car and saw Officer Johnson pursue Mr. Nelson on foot. The deputy saw two females inside the Jetta and detained them both. He recognized the one in the right front passenger seat as W-1, and the other identified herself as W-2. Deputy Brooks was unable to follow Officer Johnson in his foot pursuit of Mr. Nelson, as he needed to remain at the vehicles to detain the passengers.

A short time later, Deputy Brooks heard the sound of approximately three to four gunshots from the northwest, but he did not observe the shooting. One of the females told the deputy that the decedent was Willie Nelson.

Deputy Brooks received a cell phone call from Officer Johnson, who said he was in the area of a new building covered with Tyvek somewhere down the road. HCSO Deputy Matthew Froeming arrived and confirmed that there had been an officer involved shooting. Deputy Brooks then interviewed the passengers in Mr. Nelson's vehicle.

CHP Officer Neil Johnson

On September 22, 2023, DOJ Special Agent Allen Samano and DOJ Special Agent Supervisor TJ Lewis interviewed Officer Neil Johnson. Counsel for Officer Johnson was also present.

Officer Johnson worked for CHP for six years prior to the shooting incident and was a Field Training Officer (FTO), responsible for helping to train recruits who had recently graduated from the CHP Academy. As an FTO, he regularly reviewed "use of force" guidelines with his recruits.

On September 17, 2023, Officer Johnson was in the driver seat of his CHP patrol vehicle, stationary on the side of the road near the Hoopa Valley Mini Mart. He had received between seven and eight hours of sleep the night before his shift. He saw a silver Volkswagen Jetta driving past him and observed that the windshield was cracked, and the driver was not wearing a seatbelt. Officer Johnson pulled out and drove behind the Jetta, intending to conduct a traffic stop, turning on his emergency lights and siren. The driver of the Jetta, later identified as Mr. Nelson, ignored the lights and siren, refused to stop, and accelerated away from Officer Johnson.

Officer Johnson engaged in a vehicle pursuit that ended when Mr. Nelson abruptly stopped his vehicle in the middle of a gravel road, next to a grassy area overgrown with heavy underbrush and vegetation. Mr. Nelson exited his vehicle and fled on foot into the undergrowth. Officer Johnson exited his vehicle and pursued. He was not familiar with this area. He was concerned that Mr. Nelson might run into a nearby residence, endangering a resident and potentially causing a hostage situation.

Mr. Nelson ran from Officer Johnson until he reached a low fence. As he was climbing over the fence, Officer Johnson caught up with him and aimed his taser at Mr. Nelson, warning that if he did not stop, he would be tased. Mr. Nelson ignored the warning and fled at a full sprint. Officer Johnson jumped over the fence and pursued. During the chase, Mr. Nelson periodically looked back over his shoulder, yelling belligerently and aggressively. Officer Johnson aimed his taser at Mr. Nelson and ordered him to stop. Mr. Nelson stopped and feigned compliance with Officer Johnson's instructions, pretending to surrender. Mr. Nelson allowed Officer Johnson to approach, holding his hands out as if he were

surrendering, but when Officer Johnson grabbed Mr. Nelson's arm, he punched Officer Johnson in the face, causing him to step backward in a daze, "seeing stars."

Mr. Nelson fled once again. Officer Johnson aimed his taser at Mr. Nelson and fired, making contact with and causing Mr. Nelson to fall to the ground. Officer Johnson attempted to gain physical control of Mr. Nelson, who violently resisted, raising his upper body and punching Officer Johnson. Mr. Nelson began reaching for Officer Johnson's duty belt and grabbing at the area near Officer Johnson's duty pistol. Officer Johnson believed that Mr. Nelson was attempting to gain control of the pistol. Mr. Nelson was also grabbing at Officer Johnson's taser, wrestling it away from him and using it to "drive stun" the officer. The taser caused Officer Johnson's body to seize up, and he flopped over and onto the ground next to Mr. Nelson, with one of his legs draped over Mr. Nelson's face. Mr. Nelson began biting Officer Johnson on the back of his right thigh hard enough to cause injury and was chewing and growling "like an animal."

Officer Johnson recalled being exhausted and experiencing intense pain from the bite. He knew that Mr. Nelson now had full control over the taser, and he was afraid that Mr. Nelson would use it to incapacitate him and then take his duty pistol. Officer Johnson told investigators that he feared for his life and so he drew his pistol and fired at Mr. Nelson multiple times.

Officer Johnson scrambled to his feet and placed handcuffs on Mr. Nelson, then attempted to render emergency medical assistance.

HCSO Deputy Matthew Froeming

On September 17, 2023, CaPSIT investigator Samano interviewed HCSO Deputy Matthew Froeming, who was the first law enforcement officer to arrive on scene after the shooting. Deputy Froeming stated that at approximately 7:30 AM, he heard Deputy Brooks over radio saying that he and CHP were conducting a vehicle stop behind the Hoopa Mini Mart, located at 12591 CA-96, in Hoopa. Deputy Froeming heard that the driver foot-bailed and CHP was in foot pursuit.

Deputy Froeming was in the process of responding with lights and siren activated when he heard Deputy Brooks announce that the location of the CHP Officer was now unknown, but that he was somewhere behind the Hoopa Tribal Police station, located at 12637 CA-96, Hoopa. Deputy Froeming's radio was not compatible with Officer Johnson's CHP radio, so he could not communicate directly with the officer at the time.

Deputy Froeming responded to a business called "Laura's Kitchen" and drove down a gravel road. He reached the end of the road and saw Officer Johnson walking toward him, waving. He saw Officer Johnson kneel on the ground, coughing. Officer Johnson appeared to be out of breath, had blood on his arms, and was breathing heavily. Deputy Froeming saw the body of Mr. Nelson lying on the ground, near Officer Johnson.

Officer Johnson rolled Mr. Nelson over onto his back and Deputy Froeming observed that Mr. Nelson was handcuffed. Mr. Nelson was wearing camouflage shirt and pants, black and red Jordan retro shoes, and a nylon military style tactical vest. Mr. Nelson's chest appeared to be covered in blood, and he appeared to have been shot dead. His shirt was raised slightly above his belt line, and there was a visible injury to the left side of his stomach. Deputy Froeming checked for a pulse and could not locate it.

Deputy Froeming removed Officer Johnson from the scene and walked him to Deputy Froeming's patrol vehicle, then used his radio to request medical aid for Mr. Nelson. Deputy Froeming was advised the estimated time of arrival for medical aid was 45 minutes.

Deputy Froeming noticed that Officer Johnson's taser was missing. Officer Johnson directed Deputy Froeming to where he had thrown his taser, and Deputy Froeming placed a flag where he found it lying on the ground. Deputy Froeming returned to Officer Johnson and observed that the left side of Officer Johnson's face was red and swollen. Officer Johnson told Deputy Froeming that he had sustained a bite wound on his leg or upper thigh. Deputy Froeming observed that Officer Johnson was missing a spare firearm magazine.

Humboldt County Sheriff's Officer Forensic Specialist Amber Mitchell

On September 17, 2023, HCSO Forensic Specialist Amber Mitchell responded to Saint Joseph's Hospital at approximately 10:20 AM to assist with the processing of Officer Johnson, recording her observations in a supplemental report. She observed that Officer Johnson had a bite mark to the back of his leg, bruising on the left side of his face, and several cuts on his hands, arms, and legs.

Arcata Police Department Evidence Technician Taron Brown

On September 17, 2023, APD Evidence Technician Taron Brown authored a supplemental report in which he recorded his observations of CHP Officer Johnson at approximately 11:40 AM at the St. Joseph's Hospital emergency room following the shooting incident. Technician Brown saw that Officer Johnson had cleaned some of the blood off himself prior to arriving at the hospital. Officer Johnson told Technician Brown that Mr. Nelson had punched Officer Johnson in the face and had bitten the back of Officer Johnson's right leg.

Technician Brown's observations were consistent with these statements. He examined Officer Johnson and observed red contusions to the side of Officer Johnson's face, near his left eye and cheekbone. He observed scratches to numerous places on Officer Johnson's body, including his left forearm, left side of his neck, left temple, left hand, left thigh, left shin, right hand and wrist, right thigh, and right inner calf.

Technician Brown confirmed that there was a bite mark located on Officer Johnson's back right thigh above the right knee. The bite appeared to be human, red in color, with several individual toothmarks that had broken the skin.

Eureka Police Department Officer Cory Crnich

EPD Officer Cory Crnich described his observations of Officer Johnson at St. Joseph's Hospital at approximately 11:40 AM on September 17, 2023, in a police report. Officer Crnich accompanied Evidence Technician Brown to the hospital, and independently inspected Officer Johnson. Officer Crnich observed that Officer Johnson had sustained bruising and discoloration to the left cheek, a 1/2-inch scratch on the left side of his neck, a 1-inch scratch on his left elbow, a 4-inch scratch on his left shin, a 1-inch scratch on his right wrist, a 1/2-inch scratch on top of his left thigh, a 1-inch scratch on top of his right thigh, and an abrasion on the inside of his right thigh, just above the knee.

The bruising on Officer Johnson's cheek was a red/maroon color. It appeared to be centered on his cheek and extended down from his upper cheek bone down towards his jaw. The bruising/discoloration was approximately the size of an egg.

Officer Johnson had an oval-shaped abrasion on the inside of his thigh, just above the knee, that he said was the result of a bite. Officer Crnich observed the abrasion and noted that it appeared to be consistent with a bite from a human.

INTERVIEWS OF CIVILIAN WITNESSES

Numerous civilian witnesses were interviewed by DOJ, HCSO, Cal Poly Humboldt Police Department, EPD, and Rio Dell Police Department investigators. The following are summaries of the relevant civilian witness interviews, which describe the incident from the point of view of each person.

W-1

On September 17, 2023, shortly after the vehicle pursuit ended, HCSO Deputy Brooks interviewed W-1, who is Mr. Nelson's ex-girlfriend and was in the front passenger seat of the silver Jetta during the vehicle pursuit. She explained to him that Mr. Nelson had taken her vehicle and was in possession of it for the past two days, then at 6:00 AM on September 17, 2023, he showed up at her house. They argued and verbally fought, as W-1 was angry that Mr. Nelson had disappeared and had taken her car.

W-2 was also present and asked to be taken home. W-1 did not want Mr. Nelson to take the car without her, so she joined. Mr. Nelson was driving when they saw lights and heard sirens and noticed that they were being pursued by police. Both W-1 and W-2 were yelling at Mr. Nelson to stop running from the police, but he refused. W-1 did not know why.

W-1 spoke with HCSO Investigator Scott Hicks at approximately 12:40 PM on September 17, 2023, and revealed that she believed Mr. Nelson was under the influence of narcotics and had not slept in days. Mr. Nelson had acknowledged that he knew he was being pursued by police, saying words to the effect of "the cops are behind me," and "they pulled out behind me." W-1 acknowledged that she could hear a siren behind them while Mr. Nelson was driving. She was scared and yelled repeatedly at Mr. Nelson to stop.

W-2

On September 17, 2023, at approximately 12:30 PM, Rio Dell Police Department Sergeant John Beauchaine and HCSO Deputy Jennifer Taylor interviewed W-2, who stated that she was a passenger in the vehicle driven by Mr. Nelson but was asleep when the pursuit began. She woke up to the car going "boom boom boom" due to it running over bumps. She declined to provide any further details.

W-3

On September 17, 2023, some time after 12:30 PM, HCSO Deputy Buihner interviewed W-3, who lived near the scene of the shooting incident and overheard some of the events leading up to the shooting. She heard someone shouting commands to the effect of "put your hands up," before hearing at least two gunshots in rapid succession. She then heard similar commands several more times, spoken more aggressively.

W-4

On September 17, 2023, at approximately 2:40 PM, Cal Poly Humboldt Police Department Officer Peter Cress interviewed W-4 when she came to the Tribal Police Department to make a statement. W-4 lives on Alameda Lane in a blue house with boarded up windows. She was in bed when she heard footsteps at 7:30 AM running outside near her front yard, sounding like they were approaching from Highway 96.

She heard two men yelling, and one of them yelled something to the effect of “Get on the ground!” She heard an electrical clicking that sounded like a taser, then heard someone say “Aaah, that fucking hurts!” She heard a male voice say, “Get on your stomach” and “you need to show me your hands.” She heard someone crying in pain, moaning, and groaning. Another man said, “get on your stomach.” The groans continued, then things were relatively quiet until she heard four to five gunshots from the same area. She did not hear anyone identify themselves as a police officer. She never looked outside.

W-5

On September 17, 2023, at approximately 4:11 PM, Cal Poly Humboldt Police Department Officer Cress spoke with W-5, who lives at the Alameda Trailer park, near the shooting incident. W-5 stated that she heard two men arguing and swearing at each other in the yard north of her trailer around 7:34 AM. She heard a popping sound and then a man with a deep voice say something to the effect of “That wasn’t enough for you?” 15-20 seconds later, she heard five gunshots and someone gasping. She said the incident lasted about a minute.

W-6

On September 17, 2023, at approximately 4:20 PM, Cal Poly Humboldt Police Department Officer Cress spoke with W-6, who lives at the Alameda Trailer park, near the shooting incident. W-6 said that he heard two men screaming and a faint female voice. The screaming lasted for five to ten minutes, and then he heard a faint popping sound. The argument continued for two to three minutes, then he heard five loud pops, and then quiet.

W-7

On September 17, 2023, some time shortly after 2:00 PM, EPD Officer Crnich interviewed W-7, who was at the Hoopa Mini Market when the vehicle pursuit started. At 7:30 AM on September 17, 2023, W-7 was outside the Hoopa Mini Mart, near the back of his store, and saw a sedan make a left turn from Highway 96 onto the east/west roadway located just north of the Hoopa Food Distribution facility. W-7 observed a CHP vehicle make the same turn, following behind the sedan. Moments later, he heard the CHP vehicle activating its sirens. W-7 saw the sedan stop at the end of the road east of the market. He saw a man in dark clothing exit the car and flee north on foot, pursued by a CHP officer. One to two minutes later, he heard gunshots.

W-8

On September 17, 2023, some time shortly after 2:00 PM, EPD Officer Crnich interviewed W-8, who was at the Hoopa Mini Mart when the vehicle pursuit started. W-8 did not see the pursuit but did see a sedan and a police vehicle stopped on the road to the east. Two minutes later, he heard the sound of gun fire, which he thought was four to five gunshots.

W-9

September 17, 2023, at approximately 1:40 PM, Rio Dell Police Department Officer Beauchaine interviewed W-9, who lived in a property within sight of the scene of the shooting. W-9 reported he was asleep when at about 7:30 AM, he heard the sound of between five and six gunshots. He opened his door and saw an officer on top of Mr. Nelson, attempting to handcuff him. Mr. Nelson was on his stomach with the officer on his back. The officer was telling Mr. Nelson to “give me your other arm.” Mr. Nelson kept repeating, “I’m done, I’m dying, just let me die.”

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.)

Burden of Proof

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

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

LEGAL ANALYSIS

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

Because a prosecuting agency would need to affirmatively prove beyond a reasonable doubt that Officer Johnson did not act in lawful defense of himself or others, this is the primary issue in determining whether criminal charges should be filed. A detailed analysis of the evidence pertaining to the OIS demonstrates that a prosecution could not establish that Officer Johnson was objectively unreasonable in determining that lethal force was necessary to protect himself, or that he did not actually hold this view. Therefore, the evidence is insufficient to support criminal charges.

Although Officer Johnson did not have a body-worn camera or other recording devices on at the time of the OIS and there were no other witnesses to the event, the available evidence is consistent with his voluntary statement. Specifically, the injuries to Officer Johnson's face and leg are consistent with him being struck and bit by Mr. Nelson. The log entries for Officer Johnson's taser are also consistent

with how he described them being deployed and the use of the drive-stun feature. Further observations of Officer Johnson in the immediate aftermath of the OIS were consistent with the struggle and resistance described.

Subjective Belief

The evidence is consistent with Officer Johnson's actual belief in the need to use deadly force to defend against the threat of great bodily injury or death. Officer Johnson gave a voluntary statement in this case and in this interview, he indicated his belief in the need to use deadly force.

Officer Johnson stated in his interview that at the moment Mr. Nelson fled on foot, his concern was that Mr. Nelson would force his way into a nearby residence in an attempt to evade arrest, potentially leading to a dangerous hostage situation. Officer Johnson stated that it "was a safety concern [Mr. Nelson] running towards those [houses] because he could barricade himself inside those residences or take hostages, anything like that." Officer Johnson believed that he had no choice but to pursue Mr. Nelson into unknown territory, without backup, and without knowing whether Mr. Nelson was armed.

Officer Johnson feared for his safety when Mr. Nelson punched him in the face, describing it as "the hardest punches that I've ever taken, and it felt like he was extremely strong, not... not human-like almost." Officer Johnson described the fear that he felt when grappling with Mr. Nelson on the ground, recalling that Mr. Nelson "was completely overpowering me, the way that he grabbed it and took control of [the taser]. It was impressive how strong he was at the time."

Once Mr. Nelson wrestled the taser away from Officer Johnson, he used it to drive-stun Officer Johnson in the hand, causing him to feel like "it fully locked up my left side, and it just – it's a major shock" Officer Johnson fell over with his right leg laying across Mr. Nelson's jaw and felt Mr. Nelson biting his leg. "I felt the pain, and as I looked, I saw that his mouth was attached to my leg ... he began growling I was unable to get my leg away from him because of the solid grip." Officer Johnson felt a "very intense pain" from the biting, and "thought [Mr. Nelson] was going to take a complete chunk out of [Officer Johnson's] leg." Officer Johnson said he felt like he was fighting with Mr. Nelson for an "eternity" and that Mr. Nelson was "overpowering [Officer Johnson] with his strength," causing Officer Johnson to lose complete control of his taser. Officer Johnson recalled that he was "the most exhausted that I've ever been in my life." Officer Johnson believed that Mr. Nelson was so difficult to physically subdue because he was under the influence of methamphetamine, due to his rapid yelling, profuse sweating, and excessive energy.

Officer Johnson was extremely concerned that he was not hearing anything from his radio during the struggle, because he could not call for assistance if he were to be fully overpowered. When the taser was pointed at him, he "didn't think [he] was going to make it out alive." Officer Johnson believed that if Mr. Nelson were to gain control of the taser and "tased me, I would be completely incapacitated, and he could beat me with my Taser or grab my gun and shoot me."

Officer Johnson believed there was no option for him to retreat due to the continued threat from the taser. He believed there was no opportunity to use a less lethal option such as a knife or baton due to awkwardness of his position while grappling with Mr. Nelson, which prevented him from reaching tools on his belt other than his firearm.

As soon as he lost control of his taser, Officer Johnson drew his sidearm and fired what he believed were three rounds. Even after Mr. Nelson had been shot, Mr. Nelson continued yelling that he wanted to kill Officer Johnson.

Officer Johnson's actions were consistent with an actual belief in the need for self-defense. By the time deadly force was utilized, Officer Johnson had pursued Mr. Nelson by car and by foot, given multiple commands, attempted to gain physical compliance and utilized a less lethal option. In that time, Mr. Nelson had continued fleeing multiple times, ignored verbal commands, physically battered Officer Johnson, and commandeered Officer Johnson's taser, which he could have used to incapacitate and then kill Officer Johnson.

Objective Reasonableness

Moreover, it was not unreasonable for the shooting officer to believe, based on the totality of the circumstances, that deadly force was necessary to defend against an imminent threat of death or serious bodily injury to the officer.

A reasonable officer in the same situation as Officer Johnson could have believed that Mr. Nelson was armed and had the present ability to immediately cause him death or serious bodily injury. At the point of the OIS, Mr. Nelson had already fled, refused commands, physically battered Officer Johnson, bit Officer Johnson, and used Officer Johnson's taser against him. If Officer Johnson had been further incapacitated by his own taser, a reasonable officer could conclude as Officer Johnson did, that Mr. Nelson could have used Officer Johnson's other weapons, including his duty weapon, to cause him death or great bodily injury.

Similarly, a reasonable officer in the same situation as Officer Johnson could have believed that Mr. Nelson had the apparent intent and opportunity to immediately cause death or serious bodily injury. Mr. Nelson had already led law enforcement officers on an extended vehicle pursuit and then foot pursuit. Mr. Nelson's actions manifested more than an intent to flee, because when apprehended, he not only disregarded Officer Johnson's commands, but he also physically resisted by battering Officer Johnson by striking him, biting him, and using a taser on him. Mr. Nelson also exhibited signs of enhanced physical strength and erratic behavior due to the possible influence of methamphetamines.

A reasonable officer could view Mr. Nelson's escalatory behavior, from flight to verbal abuse to physical violence, as strong evidence of intent to harm Officer Johnson. Mr. Nelson's willingness to deceive Officer Johnson by engaging in a false surrender could lead a reasonable officer to believe that Mr. Nelson had engaged in a calculated decision to use violence as a means to escape arrest and therefore posed a heightened safety risk to any officer attempting to apprehend him. Given Officer Johnson's observations of Mr. Nelson grabbing at his duty belt, it was not unreasonable for an officer in these circumstances to believe that Mr. Nelson would use the officer's deadly weapons against him if given the opportunity.

A reasonable officer in the same situation as Officer Johnson could have reasonably believed that Mr. Nelson had the apparent intent to immediately cause death or serious bodily injury to the officer in the moment before the OIS.

Thus, the totality of the evidence shows that Officer Johnson held the subjective belief that deadly force was necessary to defend himself from imminent deadly force, and that such belief was not objectively unreasonable. A prosecution, therefore, could not prove beyond a reasonable doubt that the officer's use of force was unlawful.

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 Officer Neil Johnson. 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
California Highway Patrol Related to the
Officer-Involved Shooting of William Nelson on
September 17, 2023**

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

September 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 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 September 17, 2023, at approximately 7:30 a.m., California Highway Patrol (CHP) Officer Neil Johnson attempted to conduct a traffic enforcement stop on State Route 96 of a car driven by William Nelson. Officer Johnson observed Mr. Nelson driving with a cracked windshield and without a seatbelt. Mr. Nelson failed to stop, leading to a vehicle pursuit. Humboldt County Sheriff’s Office Deputy David Brooks followed behind Officer Johnson in a separate patrol vehicle. The vehicle pursuit continued for approximately one minute, at which time the driver exited the vehicle and fled. Deputy Brooks noticed two female passengers in Mr. Nelson’s vehicle and stayed with the passengers.

Officer Johnson alone chased Mr. Nelson in the foot pursuit, which covered approximately one tenth of a mile and lasted less than two minutes.¹ Then Mr. Nelson turned to face Officer Johnson in a fighting stance, and punched Officer Johnson with a closed left fist. Officer Johnson attempted to use his TASER, but Mr. Nelson gained control of the TASER and drive-stunned Officer Johnson’s left arm. Then Mr. Nelson bit Officer Johnson’s left thigh, as the two struggled for control of the TASER. Officer Johnson was unable to regain control of the TASER from Mr. Nelson, and he was physically exhausted. When Mr. Nelson pointed the TASER at Officer Johnson, Officer Johnson feared Mr. Nelson would incapacitate him and then use his service weapon to kill him. Officer Johnson drew his firearm, fired it four times, and struck and killed Mr. Nelson.

1 The interaction between Officer Johnson and Mr. Nelson occurred outside the view of the patrol vehicle’s dash camera. As a result, neither the shooting nor any part of the physical altercation was captured on video. At the time of this incident, CHP did not equip all its officers with a body worn camera (BWC). Subsequently, CHP’s updated BWC policy, dated April 29, 2025, provides that “Sworn employees working in an enforcement capacity, to include warrant service, shall be equipped with a BWC for the duration of their shift.” Much of the description about what transpired herein is based on Officer Johnson’s interview.

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 California Highway Patrol to review and implement the following three recommendations:

Recommendation One: Provide Additional Training on Initiating Foot Pursuits

The Police Practices Section recommends that California Highway Patrol provide additional training regarding the factors to be considered in deciding whether to initiate a foot pursuit.

After Mr. Nelson fled from his vehicle, Officer Johnson pursued him on foot. The foot pursuit was in a rural area with substantial vegetation and no other people present. These factors contributed to Officer Johnson's vulnerability to the threats posed by Mr. Nelson, particularly once the physical altercation began. Notably, Officer Johnson pursued a subject who was only suspected of minor traffic infractions at the time of the initial vehicle pursuit. Officer Johnson pursued Mr. Nelson on foot for approximately 566 feet, alone and without backup. This incident is illustrative of the inherent danger in foot pursuits, which put the officer, and potentially others, at risk of physical harm.

The decision as to whether and when to engage in a foot pursuit will depend on a multitude of factors, as addressed in California Highway Patrol Manual 70.6, Chapter 8.² For example, officers should assess the risk presented to the officer in deciding whether to continue a foot pursuit. Officers should also continually weigh the risk to public safety against law enforcement's duty to enforce the law and apprehend violators. Officers should consider, among other factors, the seriousness of the crime and the type of area involved in the pursuit, whether the officer is acting alone, whether there are conditions, such as poor lighting that would reduce visibility.³ An officer should also consider whether known information about the subject might enable apprehension at a later time. The Police Executive Research Forum (PERF) has recognized the utility of tactical disengagement when a suspect's identifying information is known and an arrest can be made at a later time.⁴

Under the circumstances presented here, the officer engaged in a foot pursuit while acting alone, following a brief vehicle pursuit. In doing so, the officer placed his safety in jeopardy. Furthermore, the vehicle pursuit could have enabled law enforcement to identify the subject or vehicle by the license plate and other identifying factors, allowing law enforcement to apprehend the subject at a later time with the assistance of backup officers and other resources.

The Police Practices Section recommends that California Highway Patrol provide additional training on weighing the risk to officer and public safety against the factors to be considered in deciding whether to initiate a foot pursuit.

2 California Highway Patrol does not make this portion of its policy available to the public, but it allowed the Police Practices Section to review the policy in its assessment of this incident.

3 [International Association of Chiefs of Police, Considerations Document: Foot Pursuits \(Jul. 2019\)](#).

4 [PERF, Critical Issues in Policing Series: Guiding Principles on Use of Force \(March 2016\)](#) at pp. 11 & 39; [PERF, Critical Issues in Policing Series: Re-Engineering Training on Police Use of Force \(Aug. 2015\)](#) at pp. 5 to 6.

Recommendation Two: Provide Additional Training on Disengagement of Foot Pursuits

The Police Practices Section recommends that California Highway Patrol provide additional training regarding the factors to be considered in deciding whether to disengage from a foot pursuit.

There also are several factors which would have supported disengaging from the foot pursuit in this incident. California Highway Patrol Manual 70.6, Chapter 5 outlines circumstances under which an officer should consider disengagement. For example, officers should consider the potential risk to the subject, the officer, and the public. In making this evaluation, an officer should balance the risks presented against the known offense and perceived need for apprehension.

The California Peace Officer Standards and Training Commission (POST) also recognizes disengagement as a de-escalation tactic. POST recommends that officers “Know when and how to use disengagement as a technique/tactic” and “Consider disengagement as avoiding a battle to subsequently win the war.”⁵ It recommends that agencies provide training on strategic disengagement, including “the skills to recognize and act upon circumstances in which police withdrawal may be the most effective tactic.” (*Id.* at p. 90.)

Again, under the circumstances presented, the officer continued a foot pursuit into conditions which presented clear risks to the safety of the officer, the subject, and possibly the public. At the start of the foot pursuit, the known offenses were limited to minor traffic infractions, as well as the failure to yield to the officer during the vehicle pursuit. As a result, the need for immediate apprehension was relatively low. Nonetheless, Officer Johnson engaged and continued the foot pursuit while acting alone in an unfamiliar, rural area. Officer Johnson chased Mr. Nelson through heavy brush and over a fence. By the time Officer Johnson approached Mr. Nelson, he was at least 558 feet away from Deputy Brooks. All of these factors contributed to the danger presented to Officer Johnson in continuing the foot pursuit.

The Police Practices Section recommends that California Highway Patrol provide additional training regarding the factors to be considered in deciding whether to disengage from a foot pursuit.

Recommendation Three: Ensure Radio Communication Between CHP and Law Enforcement Agencies

The Police Practices Section recommends that California Highway Patrol review its radio communication with other law enforcement agencies, ensure that the systems are compatible, and determine if additional training is necessary to ensure communication with partner agencies.

During the vehicle pursuit and foot pursuit, Officer Johnson was in contact with California Highway Patrol dispatch via radio. California Highway Patrol dispatch requested a canine unit and air support once the foot pursuit began. Dispatch also coordinated with the Humboldt County Sheriff’s Office during the foot pursuit. However, Officer Johnson was unable to communicate directly with Deputy Brooks by radio, due to the incompatibility of the radio systems used by the two agencies. During the

5 POST, *De-Escalation Strategies and Techniques for California Law Enforcement* (2020) at p. 68.

investigation of this incident, several Humboldt County Sheriff's Office (Humboldt County) deputies noted that communication between California Highway Patrol and Humboldt County was limited by the incompatibility of the radio systems used by the two agencies because the radio systems do not operate on the same channel. As a result, Humboldt County deputies were unable to receive direct California Highway Patrol radio communications, including communications from Officer Johnson.

The Police Executive Research Forum has published a guide for law enforcement agencies to develop and implement pursuit policies that best manage vehicle pursuits and their associated risks, including the danger they place on the lives of officers, suspects, and innocent bystanders.⁶ PERF recommends agencies should coordinate shared radio channels and regular trainings for specialty units to familiarize officers with interagency communication during joint tactical operations. Coordinating communication procedures in advance enables agencies to avoid disorganization and maximize efficiency and time during emergency situations requiring multiple agencies. (*Id.* at pp. 44 to 46.) The California Commission on Peace Officer Standards and Training also recommends that law enforcement agencies consider communication and notification among the agencies involved in creating interagency pursuit policies and trainings.⁷

The Police Practices Section recommends that California Highway Patrol review its radio interoperability with other law enforcement agencies, including Humboldt County, and ensure that the systems are compatible. The Police Practices Section further recommends that California Highway Patrol review the issues identified herein to determine if additional training is necessary to ensure communication with other partner agencies. Additionally, if radio systems are not compatible with other agencies, California Highway Patrol is encouraged to review resources for countywide system equipment and compatibility.

⁶ PERF, *Vehicular Pursuits: A Guide for Law Enforcement Executives on Managing the Associated Risks* (2023) at p. 13.

⁷ POST, *California Law Enforcement Vehicle Pursuit Guidelines* (2022) at p. 22.